



**Brighton & Hove
City Council**

Planning Committee

Title:	Planning Committee
Date:	16 March 2011
Time:	2.00pm
Venue	Council Chamber, Hove Town Hall
Members:	<p>Councillors: Hyde (Chairman), C Theobald (Deputy Chairman), Carden (Opposition Spokesperson), Alford, Cobb, Davey, Hamilton, Kemble, Kennedy, McCaffery, Simson and Steedman</p> <p>Co-opted Members: Mr Philip Andrews (Conservation Advisory Group)</p>
Contact:	<p>Jane Clarke Senior Democratic Services Officer 01273 291064 jane.clarke@brighton-hove.gov.uk</p>

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AGENDA

238. 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.

239. MINUTES OF THE PREVIOUS MEETING

1 - 20

Minutes of the meeting held on 23 February 2011 (copy attached).

240. CHAIRMAN'S COMMUNICATIONS

241. APPEAL DECISIONS

21 - 50

(copy attached).

242. LIST OF NEW APPEALS LODGED WITH THE PLANNING INSPECTORATE

51 - 54

(copy attached).

243. INFORMATION ON INFORMAL HEARINGS/PUBLIC INQUIRIES

55 - 56

(copy attached).

244. INFORMATION ON PRE APPLICATION PRESENTATIONS AND REQUESTS

57 - 60

(copy attached).

PLANNING COMMITTEE

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

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

(copy circulated separately).

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

248. 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

PART TWO

249. VARIATION OF A SECTION 106 AGREEMENT - EXEMPT CATEGORY 5 61 - 70

Exempt category 5 (copy attached).

250. PART TWO ITEMS

To consider whether or not any of the above items and the decisions thereon should remain exempt from disclosure to the press and public.

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

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For further details and general enquiries about this meeting contact Jane Clarke, (01273 291064, email jane.clarke@brighton-hove.gov.uk) or email democratic.services@brighton-hove.gov.uk.

Date of Publication - Tuesday, 8 March 2011

BRIGHTON & HOVE CITY COUNCIL

PLANNING COMMITTEE

2.00pm 23 FEBRUARY 2011

COUNCIL CHAMBER, HOVE TOWN HALL

MINUTES

Present: Councillors Hyde (Chairman), C Theobald (Deputy Chairman), Barnett, Carden (Opposition Spokesperson), Alford, Cobb, Davey, Hamilton, Kennedy, McCaffery, Older and Steedman

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

Officers in attendance: Jeanette Walsh (Head of Development Control), Roger Dowty (Design & Conservation Team Manager), Claire Burnett (Area Planning Manager (East)), Pete Tolson (Principal Transport Planner), Guy Everest (Senior Planning Officer), Maria Seale (Major Projects Officer), Jo Thompson (Major Projects Officer), Francesca Iliffe (Sustainability Officer), Alison Gatherer (Lawyer) and Jane Clarke (Senior Democratic Services Officer)

PART ONE

221. PROCEDURAL BUSINESS

221a Declarations of Substitutes

221.1 Councillor Older declared she was substituting for Councillor Kemble.

221.2 Councillor Barnett declared she was substituting for Councillor Simson.

221b Declarations of Interests

221.3 Councillor Hyde declared a personal and prejudicial interest in application BH2010/03947, 5 Chailey Avenue, Rottingdean arising from being the applicant. She left the meeting during consideration of this item and did not take part in the debate and voting thereon.

221c Exclusion of the Press and Public

221.4 In accordance with Section 100A of the Local Government Act 1972 ("the Act"), the Planning Committee considered whether the public should be excluded from the meeting during consideration of any item of business on the grounds that it is likely in view of the business to be transacted or the nature of the proceedings, that if

members of the public were present during it, there would be disclosure to them of confidential information as defined in Section 100A (3) of the Act.

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

222. MINUTES OF THE PREVIOUS MEETING

222.1 **RESOLVED** – That the Chairman be authorised to sign the minutes of the meeting held on 23 February 2011 as a correct record.

223. CHAIRMAN'S COMMUNICATIONS

223.1 There were none.

224. PETITIONS

224.1 There were none.

225. PUBLIC QUESTIONS

225.1 There were none.

226. DEPUTATIONS

226.1 There were none.

227. WRITTEN QUESTIONS FROM COUNCILLORS

227.1 There were none.

228. LETTERS FROM COUNCILLORS

228.1 There were none.

229. NOTICES OF MOTION REFERRED FROM COUNCIL

229.1 There were none.

230. APPEAL DECISIONS

230.1 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.

231. LIST OF NEW APPEALS LODGED WITH THE PLANNING INSPECTORATE

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

232. INFORMATION ON INFORMAL HEARINGS/PUBLIC INQUIRIES

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

233. INFORMATION ON PRE APPLICATION PRESENTATIONS AND REQUESTS

233.1 The Committee noted the information on pre-application presentations and requests.

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

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

Application:	Requested by:
BH2010/03911, 52 Downland Road, Woodingdean	Councillor Hyde

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

(i) TREES

235.1 There were none.

(ii) SUBSTANTIAL OR CONTROVERSIAL DEVELOPMENT OR DEPARTURES FROM POLICY

A. Application BH2010/03744, The Open Market, Marshall Row and St Francis Street, Brighton - Redevelopment of Open Market and Francis Street car park comprising: a new partly covered market with 44 permanent market stalls, 12 B1/A1 (light industrial/retail) workshops, 8 loading bays, central square/market space, public toilets, offices and meeting room, ancillary market accommodation and plant, new entrance canopies and gates to Marshalls Row and Ditchling Road entrances and 87 residential units in 3no 1-6 storey blocks, refuse and recycling stores, cycle parking, 5 car ports together with landscaping including alterations to carriageway and footway in Francis Street. Proposals to include a temporary market on Francis Street car park during construction.

(1) This application was the subject of a site visit.

(2) The Major Projects Officer, Ms Seale, introduced the application and presented plans, elevational drawings and photos. She referred to additional representations included in the Late List including an additional letter of objection, a petition of 435 signatures, 6 letters of support, four additional supporting representations and two objection representations. Additional conditions and informatives were recommended following this information.

Ms Seale stated that the application was for a mixed use scheme to include commercial and residential elements. The area was already high in density, with some tall buildings further afield. A new covered market with 44 permanent stalls and up to 64 temporary stalls was proposed. Occasional special events were anticipated with a maximum of 12 per year being held in the market square. Eight loading bays were provided with the scheme and a condition was included to ensure the stalls would not be used before 07:00. Existing public toilets on site would be replaced and enhanced. The residential element would be car free and enhancements to St Francis Street would be included.

The scheme was designed across 1-6 storey high buildings with the 6 storey high building set back from the London Road frontage. The materials were predominantly brick, with timber for the loading bays. Concerns had been raised around the canopy design and this would now be agreed by condition. The development would be phased and a temporary market would be set up during this time.

The principle for development had been identified on site in the master plan and there were clear economic benefits for developing the site. The housing element was enabling and there would be 40% affordable housing provided with the scheme. Financial information had been provided to show that 40% affordable housing would be viable. As there were limited finances with the scheme not all S106 commitments could be met. The design was acceptable and the impact on the wider landscape acceptable for the conservation area. Whilst some development would be very close to existing development, and the relationship was not ideal, it was not inappropriate either, and would have a limited impact on such a dense area. There were restrictions proposed to limit the operation of the market to ensure amenity for future residents was not unduly disturbed, and this included a management plan. There would be no significant increase in car trips to the market generated by the proposals. The scheme would achieve BREEAM excellent rating, and the residential element would achieve code 3 or 4 for sustainable homes.

- (3) Mr Stringer, co-owner of the Druids Head public house, attended and spoke against the application. He had lived and worked in the area for 10 years and operated the pub as a successful local business. He felt the development would create a loss of light and amenity for users of the pub, and there would be insufficient noise insulation to protect future residents from the activities of the pub. Mr Stringer was concerned that conditions would be placed on his licence limiting the activities of the pub and he asked that a small outside space be provided as a barrier between the residential element and the pub.
- (4) Mr Woodgate, co-owner of the Druids Head public house, also attended and spoke against the application. He stated that his main concern was loss of light for the pub and loss of views, especially up to St Peter's church. The pub currently ran several live music nights that were very successful and Mr Woodgate felt that these would be compromised by the development. He also felt that pollution and disturbance whilst building the development would occur and was concerned the refuse from future residents would be left outside the doors of the pub as there was no provision elsewhere.

- (5) Councillor Mrs Theobald asked how often there was live music in the pub and Mr Woodgate replied it was run on Wednesday, Thursday, Friday, Saturday and Sunday nights.
- (6) Councillor Steedman asked if the developer had considered their request for additional soundproofing. The Head of Development Control, Ms Walsh, responded that this request had not been identified as something that would mitigate the impact of the development. However, if members felt this was important they could consider including this as a condition.
- (7) Mr Shaw, agent for the applicant, spoke in favour of the application and stated that the need to improve the site had been identified 7 years ago and the application proposed maximised the potential of the site. Hyde Housing was committed to providing 100% housing on site and had been granted central funding for this if the application was approved.
- (8) Mr Street, a market trader, spoke in favour of the application and stated that he had run a family business from this site for 30 years. The freehold traders had been involved with the process throughout and this was considered a new way forward to enhance and improve the local community. There would be an increased footfall in the local area, bringing economic benefits, and the affordable homes element would enhance the character of the town centre.
- (9) Mr Reynolds, a market trader, also spoke in favour of the application and stated that the development would be an anchor for local businesses and would be run by a Community Interest Company (CIC). Any profit would be reinvested back into the market for long term viability and there would be an active involvement in the running of the CIC by traders. He believed the development would kick-start regeneration of the wider area.
- (10) Councillor Alford asked whether the restriction on operating hours would affect the existing businesses at the market. Mr Street replied that he sometimes opened his own stall early in the morning, but there were hardly any customers around at that time. Mr Reynolds added that the stalls would be more like permanent lockable shops and would require little setting up in the mornings. The temporary stalls would be set up beforehand.
- (11) Councillor Mrs Theobald asked if the loss of parking space was acceptable and Mr Reynolds replied that two traffic surveys had been completed showing that there was very limited call for parking spaces from users of the market. Most would walk or use public transport.
- (12) Councillor Mrs Theobald asked if the traders would lose parking space as well, and Mr Reynolds replied this was possible, but there was a multi-storey car park in the vicinity that could be used.
- (13) Councillor Steedman asked why code 4 for sustainable homes had not be achieved for all the flats and Mr Shaw replied that whilst 79 of the flats were at code level 3, they were very close to code level 4. Hyde Housing was looking at opportunities to include retrofitting of photovoltaics.

- (14) Councillor Kennedy asked about the funding to provide 100% affordable housing and Mr Shaw replied that the HCA were providing £4.5 million of funding, although Hyde would make a marginal loss on the scheme. He added that this would be balanced out by other schemes coming forward that were not 100% affordable housing.
- (15) Councillor Barnett asked about the loss of car parking and for more details on the CIC. Mr Reynolds replied that the need for parking at the market had changed a lot over the years. Deliveries from large lorries was no longer necessary and many of the perishable goods would be permanently set up on the stalls. The CIC membership would include traders from the market, a council officer and a Member of the Council, a representative from Hyde Housing, and people from the community with an interest in the market, such as bankers or legal professionals.
- (16) Councillor Steedman referred to the objections from the Druids Head and asked what was being done to address these concerns. Mr Shaw replied that a noise survey had been conducted and the buildings had been designed around this to mitigate the impact of sound. No habitable rooms would be overlooking the public house. A space could be reserved to accommodate picnic tables.
- (17) Councillor Davey asked about the temporary market accommodation. Mr Reynolds replied that there would be space for 6 months on St Francis Street for the market to continue to operate whilst the initial works were being done. This would then move inside the part completed market. He agreed that the situation was not ideal as there was not enough accommodation for all of the current stalls, but it was important to keep a trading presence whilst work was being undertaken.
- (18) Councillor Barnett asked why there was no play area for the residential element. Mr Shaw replied that amenity had been considered and a S106 contribution had been made to mitigate the effects of this. The priority was rebuilding the market, with the housing acting as an enabling element.
- (19) The Chairman asked about the issue of refuse collection. Mr Shaw replied that the refuse would be left in a fully enclosed space and would be equidistant between the residential flats and the public house.

Questions/Matters on Which Clarification was Sought

- (20) Councillor Cobb asked about car parking provision and Ms Seale confirmed that there would be 5 parking spaces on site, however details would be confirmed via condition and there was the potential to provide 9 spaces.
- (21) Councillor Mrs Theobald asked whether there would be noise created from the loading bays for future residents, for details on the cycle racks, whether the Fire Service had responded with comments and whether the loading bays in St Francis Street would cause an obstruction to lorries. Ms Seale replied that the acoustic report covered the loading bays extensively and conditions were included to mitigate any noise. Each residential unit would have access to cycle parking. The Fire Service had not responded during the consultation period, but she understood that

they were generally happy with the scheme. Any potential obstruction to St Francis Street would be clarified by conditions.

- (22) Councillor Steedman asked why code level 4 for sustainable homes had not been achieved across the site. The Sustainability Officer, Ms Illiffe replied that there was the aspiration to achieve code level 4 across the site but viability issues had been raised. The energy credits achieved on site were holding the scheme back from achieving code 4 but photovoltaics were being considered for retrofitting if capital investment was secured for the scheme from the start.
- (23) Councillor Barnett asked why a play area had not been included on site. Ms Seale replied that there was no on site recreation space but money had been contributed to enhance the open space on the level to mitigate this. There was a viability issue for the developer in providing open space and policy HO6 allowed for contributions to be made off site where this was the case.
- (24) Councillor Davey asked about the temporary market for existing stall holders. The Project Manager, Mr Davies, replied that the temporary accommodation would be available for existing leaseholders only, but could not accommodate all of the traders.
- (25) Councillor Alford referred to a number of comments in the report that indicated the development provision was not suitable and asked for more information on this. Ms Seale replied that there was a concern around where the disabled bays were located, but discussions were underway to achieve a new location on the south side of the development. The lift access to the meeting room would comply with DDA standards, but would not be able to hold a buggy. Consideration had been given to providing an on site wheelchair to ensure that disabled people using buggies would still be able to access the meeting rooms. Cityclean were generally happy with the arrangements for refuse removal, but there were concerns over the northern block arrangements. Suggestions had been made to site the bins here in a more accessible location.
- (26) Councillor McCaffery asked why there were bedrooms located over the loading bays. Ms Seale replied that the acoustic report had indicated that sound levels would be adequate in this area.
- (27) The Chairman asked for more information on the loss of views of St Peters Church. The Conservation and Design Manager, Mr Dowty, replied that the original street view would in fact be reinstated as it would have been if St Francis Street had not been damaged. The Church would be increasingly revealed and become more dominant as you progressed down the street.
- (28) The Chairman noted that some of the separation distances were as little as 5 metres away at some points. Ms Seale agreed that the relationship was not ideal, but it was not uncharacteristic of the area. On balance, it was acceptable for this scheme.
- (29) The Chairman asked why there had been a reduction in the number of temporary stalls proposed and Mr Davies replied that the overall footprint for the site was the same, but there was an increase in space to the market square.

Debate and Decision Making Process

- (30) Councillor Carden felt the application was ideal and badly needed to bring the market into the 21st century. Affordable homes were also greatly needed for families in this area, and the Level provided ample play space. He gave the application his full support.
- (31) Councillor Cobb felt the design was poor, with buildings that were too high and too dense. There was a significant loss of light for existing residents and the units appeared small. A lack of car parking and out door space were also shortfalls of the scheme. She felt the development was seeking to cram too much into the space and was concerned about the location of bedrooms above loading bays.
- (32) Councillor Alford felt that this scheme was more about the housing than the Open Market and was not ideal. He was concerned that there were a number of outstanding issues to be resolved.
- (33) Councillor Kennedy supported the application and stated it had been developed over a long period. There were some areas of compromise, but on balance it was a very good scheme, with additional funding secured.
- (34) Councillor Hamilton noted that a scrutiny panel had looked into redevelopment of the Open Market 10 years ago, and at that time it had been agreed that work needed to be done on the site. He agreed the application was not perfect, but on balance it was acceptable.
- (35) Councillor Barnett felt the flats were very small and she was very unhappy with the lack of play area provision for children.
- (36) Councillor Mrs Theobald had reservations about the scheme including the lack of car parking. She felt more disabled parking units needed to be provided, and concerns over the Druids Head needed to be resolved. The 6 storey development was too high and she agreed that more space needed to be provided, but accepted that the current market was in an appalling condition and this development could kick start regeneration of the area.
- (37) Councillor Davey agreed that the area was generally in decline and this application would help to arrest that situation by providing new housing and local jobs for residents. He felt the market would die out without this scheme and there would be a resulting increase in anti-social behaviour in an area already troubled with this.
- (38) The Chairman of the Conservation Advisory Group, Mr Andrews, stated that CAG was happy with the proposals and the housing would improve the landscape of the city.
- (39) The Solicitor to the Committee, Ms Gatherer, stated that funding for the project was not a material consideration that Members should take into account.

(40) Ms Walsh stated that the Committee could consider an informative to encourage ongoing discussions with the applicant and the public house, and that viability issues were concerned with the housing provision, and not the market itself.

(41) Councillor Steedman requested that an informative be included to encourage the attainment of code level 4 for Sustainable Homes for the whole of the development.

235.2 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in paragraph 8 of the report and resolves that it is minded to grant planning permission subject to completion of a Section 106 Planning Obligation, with the Heads of Terms and conditions and informatives as listed in the report, and two extra informatives to read:

1. The developer is advised to liaise with the operators and users of the Druids Arms Public House to seek to secure a satisfactory outcome with regard to a) refuse storage and arrangement for collection, and b) the provision of an area of outdoor space for customers.

2. The developer is advised to explore all options and use every endeavour to seek to achieve Code for Sustainable Homes Level 4 throughout all the residential part of the scheme, including exploring the use of additional photovoltaics and the feed-in tariff.

B. Application BH2010/03324, Royal Alexandra Hospital, 57 Dyke Road, Brighton
– Demolition of all existing hospital buildings and erection of 137 residential units (including 55 affordable units) and 745 sqm of commercial floor space for a GP surgery and pharmacy, together with associated access, amenity space and parking.

(1) This application was withdrawn by the applicant.

C. Application BH2010/03325, Royal Alexandra Hospital, 57 Dyke Road, Brighton
– Demolition of all existing hospital buildings.

(1) This application was withdrawn by the applicant.

D. Application BH2010/03379, Royal Alexandra Hospital, 57 Dyke Road, Brighton
– Conversion of main hospital building to provide 20 residential units, demolition of all other buildings and new development consisting of 99 residential units (including 14 affordable units) with associated access, amenity space and parking.

(1) This application was the subject of a site visit and was taken together with application BH2010/03380, Royal Alexandra Hospital, 57 Dyke Road, Brighton.

(2) The Major Projects Officer, Ms Thompson, introduced the application and presented plans and elevational drawings. Following a pre-application presentation on 30 June 2009 it was identified that an up-to-date planning brief would be needed for the site. A consultation process was undertaken and key principles for the site were identified. There was a need for the scheme to be viable in the conservation area setting, and the preferred approach was to retain the main hospital building and provide 20% affordable housing on site.

- (3) The Planning Officer, Mr Everest, continued and referred to updates on the Late List that included additional objections and representations, no objection from the Environmental Health Team and additional or amended conditions proposed in response to the representations. The application would make a positive contribution to the conservation area, and would provide basement level parking for 65 cars. Cycle parking was also provided. There would be no displacement parking as the scheme was located in a Car Parking Zone. There were no transport infrastructure contributions needed due to the site location and private amenity would be achieved through terraces or balconies.

The scheme would deliver 15% affordable housing, which was less than the key principle in the planning brief, but the applicants had demonstrated that 20% affordable housing would not be viable at this time. Materials for the development were not yet confirmed, and amendments were proposed to conditions 11 and 12 to ensure that development would be completed prior to occupation.

The design of the scheme stepped down in the interior of the site to overcome concerns about neighbouring amenity, and whilst the 1920s Villa to the north of the site would be lost, overall the scheme would have a significant benefit to the wider conservation area. Landscaping and boundary treatments were included to mitigate the impact on neighbours and obscure glazing proposed for the rooms closest to residents of Clifton Hill.

- (4) Mr Amerena, a local resident, spoke in support of the scheme and stated it had taken a long time to come to fruition. He felt this was a great retention of architectural heritage. Attention needed to be paid to the Cliff Hill junction and retention of the main staircase, and Mr Amerena requested that the bricks from the demolition be reused wherever possible for construction of the other buildings.
- (5) Mr Hamer, Chairman of the Montpelier and Clifton Hill Residents Association, spoke in support of the scheme, and stated he was speaking on behalf of several other local organisations. He noted that more than 90% of local residents wanted conversion of the building to go ahead and this scheme would restore the façade to its original. Balconies that were part of the development would replicate original open air tuberculosis wards and he felt the building could be listed once restored. The loss of the villa was regrettable, but the main building was the main consideration and he was satisfied overall with the scheme.
- (6) Dr Cramp, partner at the Montpelier and Clifton Hill Surgery, spoke against the scheme and stated that the provision of a GP surgery had originally been included as part of the development brief. The current surgery was not accessible for disabled people, lacked sound-proofing and was not big enough for the services needed. It was likely that the building would not meet new regulations and would be closed in 2012. There were no other suitable sites in the vicinity and full funding had been granted from the PCT to support development of a new surgery. She asked that inclusion of a surgery on site was considered as part of the plans.
- (7) Councillor Cobb asked how many GP surgeries there were in the area. Dr Cramp replied that there were three including her surgery.

- (8) Councillor Kennedy asked if the surgery had consulted with Planning Officers as to possible locations for the surgery and Dr Cramp agreed that they had.
- (9) Councillor Kitcat spoke in support of the scheme as Local Ward Councillor and stated that whilst the scheme was a compromise he felt it should be supported. He agreed there were issues including the loss of the villa and reduced affordable housing, but the scheme was a long way from demolition of the site, which had been a possibility, and all major aspects of the scheme had been addressed. He recognised that Clifton Hill residents were unhappy with aspects of the scheme, but did not feel there was an easy solution. The provision of a GP surgery was not a material planning consideration, but as Ward Councillor he would continue to work with the surgery to find an alternative site. He asked that a residents working group be set up with the developer during the construction to ensure any problems were resolved in co-operation. He felt the application was good with the conditions suggested and urged approval of the application.
- (10) Mr Brown, Director of Taylor Wimpy, the applicants, spoke in support of the application and stated that this application had been developed following numerous consultations with the community and the Council. The scheme did include conversion of the main building, but there were competing elements on site and not all requirements could viably be met. The applicants had done as much as possible to address the concerns of the residents and they were eager to commence with construction as soon as possible. The demolition scheme had been withdrawn and the applicant was fully committed to achieving conversion of the site. He understood the condition to require completion before first occupation, but added that conversion of the main building could not take first as structural changes, including building the underground car park needed to be made to the site beforehand.
- (11) Councillor Alford asked if the bricks from demolition would be reused on site. Mr Brown replied that this was possible and the tiles could be included, particularly on the scarred building. Reuse in the new buildings would be more complex however. Salvage for other schemes could be included in the management plan however.
- (12) Councillor Mrs Theobald asked whether the works on the main building could be performed at the same time as the rest of the demolition work. Mr Brown replied that although there had been some vandalism to the main building despite security on site, it remained structurally sound. Significant demolition and clearing of the area needed to take place before any restoration works could take place, and although any essential repairs would be performed to ensure the main building did not deteriorate further, it would not be the first part of the development to be completed.
- (13) Councillor Barnett asked why more car parking spaces and play areas were not provided. Mr Brown replied that there would be some space for a casual play area, but structured play would not be feasible for the limited space on site. A contribution would be made for off site facilities.
- (14) Councillor Kennedy asked if the applicant would accept a site liaison group set up with residents of Clifton Hill to be included in the Construction Environment Management Plan and Mr Brown agreed to this and suggested bi-monthly meetings.

- (15) Councillor Cobb asked if security would continue on site to protect the buildings. Mr Brown replied that if planning permission were granted the site would quickly become a construction site and health and safety laws would apply, making the site much less accessible than it currently was.

Questions/Matters on Which Clarification Was Sought

- (16) Councillor Older asked for details on materials and Mr Everest replied that the front extension would be cobbled, the buildings would be mainly white rendered with terracotta tiles. Councillor Older indicated that she did not like terracotta tiles. Mr Dowty added that the materials typical of the area were cream or white renders with terracotta cladding or accents. Metal cladding had been proposed, but this was a matter for consideration and he asked for Members views on this.
- (17) Ms Walsh addressed the Committee and stated that the materials palette was conditioned for final agreement with Officers, but this agreement could be done in consultation with Ward Councillors and the Chairman of the Committee, and this was agreed.
- (18) Councillor Cobb asked if the restoration work could be done first and whether the refuse collection was accessible. Mr Everest replied that a condition was included to ensure there was no occupation of the residential units until the full development was completed, which was considered adequate.
- (19) Councillor Kennedy asked if a condition could be included to limit the hours of operation on site and Mr Everest replied that this would be part of the management plan to include reduction in disturbance of dust and noise.
- (20) Mr Andrews raised a concern about the proposed metal cladding and felt that terracotta and bricks would be much more appropriate for this area. He asked if the north wall of the rear elevation would be exposed. Mr Everest replied that it was currently unclear what would be happening to this elevation and so a condition had been included to ensure that if the elevation was exposed it would be restored to match the adjacent elevation. Mr Dowty added that the survey drawings were not accurate but the intent had always been to restore the original fabric of the building and whatever features needed restoring on the façade. If the north wall elevation was not exposed and remained internal it was likely that this would be plastered however.
- (21) Councillor McCaffery asked if retention of the villa had been explored. Mr Everest replied that the villa had been of secondary importance and its retention would compromise the restoration of the main building. The development already had limited viability.
- (22) Councillor Mrs Theobald asked whether a green space was included in the application, why money was included for education provision and whether the concerns of the East Sussex Fire and Rescue Service (ESFRS) had been dealt with. Mr Everest replied that a play space had been provided at the front but there was no fixed play or sports facilities on site, and dry risers had been recommended to

address the concerns of ESFRS. He added that the Education Team had concluded how many children would need primary or secondary education as a result of this development and S106 contributions had been worked out accordingly.

- (23) Councillor McCaffery asked why an education contribution was necessary on this application and not on the previous demolition applications that had been withdrawn. Ms Walsh replied that the planning brief had been developed and consulted on. As a result of this appropriate contributions had been identified, including the affordable housing element acceptable on the scheme. Necessary contributions had not been identified for the demolition scheme as this had been recommended for refusal and not approval.

Debate and Decision Making Process

- (24) Councillor Kennedy felt that whilst this application was not perfect, it was much better than previous applications that had come forward. She thanked Committee Members for insisting on a better resolution for this site and praised Officers for developing the planning brief. She regretted the loss of some of the materials, and doctor's surgery but felt this would be addressed in due course.
- (25) Councillor Alford felt that the developers had tried to accommodate as many points of view as possible, but it was not possible to please everyone on all counts. As such, he felt he could support the application.
- (26) Councillor Mrs Theobald regretted the loss of the villa and felt more parking spaces should have been included, but she was pleased that the developers had worked with the community and consulted widely.
- (27) Councillor Older acknowledged the contributions of Councillors and Officers, but felt that the civic societies that had inputted greatly into this process needed to be thanked, and she extended her thanks in particular to Montpelier and Clifton Hill Resident's Society for their ceaseless work and commitment.
- (28) Councillor Hamilton noted that the building had severely deteriorated and needed urgent repairs. He agreed that the application was not perfect but felt this was the best compromise and was happy to support it.
- 235.3 **RESOLVED** – That the Committee has taken into consideration and agrees with the recommendation set out in paragraph 8 of the report and resolves it is minded to grant planning permission subject to the applicant entering into a Section 106 Planning Obligation Agreement and to the conditions and informatives listed in the report, an additional condition and amendments to conditions 11 and 12 as suggested by the case officer. Members also agreed to give the Head of Development Control delegated authority to attach a further condition if necessary to ensure materials that could be reused on site would be.

Condition 11: Unless otherwise agreed in writing no development shall take place until a schedule of restoration works for the retained southern building has been submitted to and approved in writing by the Local Planning Authority. The agreed schedule of works shall allow for replacement timber windows; pipes; replacement

cast iron rainwater goods; and facades, exposed following the removal of later extensions, to be restored to match adjacent detail and finishes. The works shall be carried out in strict accordance with the approved details and be completed prior to the occupation of the development.

Reason: To ensure a satisfactory appearance to the development and to comply with policies QD1, QD2 and HE6 of the Brighton & Hove Local Plan.

Condition 12: No development shall commence until constructional details of the proposed works of restoration to the cupolas, gabled roof dormers, and projecting verandah have been submitted to and agreed in writing by the Local Planning Authority. The works shall be carried out in strict accordance with the approved details and be completed prior to the occupation of the development.

Reason: To ensure a satisfactory appearance to the development and to comply with policies QD1, QD2 and HE6 of the Brighton & Hove Local Plan.

Additional Condition: Unless otherwise agreed in writing by the Local Planning Authority no cables, wires, aerials, pipework (except rainwater downpipes as shown on the approved plans), meter boxes or flues shall be fixed to any elevation facing the highway.

Reason: To safeguard the appearance of the building and the visual amenities of the locality and to comply with policies QD1 and HE6 of the Brighton & Hove Local Plan.

- E. Application BH2010/03380, Royal Alexandra Hospital, 57 Dyke Road, Brighton**
– Retention and conversion of main hospital building and demolition of all other buildings.
- (1) The application was the subject of a site visit and was taken together with application BH2010/03379, Royal Alexandra Hospital, 57 Dyke Road, Brighton.
- 235.4 **RESOLVED** – That the Committee has taken into consideration and agrees with the recommendation set out in paragraph 8 of the report and resolves that it is minded to grant conservation area consent subject to the issuing of planning permission in respect of application BH2010/03379 and the conditions and informatives listed in the report.
- F. Application BH2010/03714, 88 – 92 Queens Road & 4 Frederick Place, Brighton**
– Application to extend time limit for implementation of previous approval BH2007/00998 for the demolition of existing building (former casino) and construction of a 140 bedroom hotel accommodated over eleven floors.
- (1) There was no presentation given with this application.

Debate and Decision Making Process

235.5 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in paragraph 8 of the report and resolves that it is minded to grant planning permission subject to the applicant entering into a Section 106 Agreement and to the conditions and informatives listed in the report.

G. 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 presentation for this application had been received at the preceding Committee and had been deferred for a site visit.
- (2) Mr Boyes, agent for the applicant, spoke in favour of the application and stated that the flat had previously suffered a fire and it was identified that a secondary escape was needed. On discussions with planning officers the principle of installing a balcony had been agreed and work had been carried out. A retrospective planning application had been submitted but had been refused. Following this the bamboo screening had been removed and black railings included, and a new application submitted. Mr Boyes stated that the change from a window to a door was a minor change and the street scene already had a mix of styles. He asked the Committee to agree the change in principle and suggested that detailing of the scheme could be agreed with Officers. Letters of support had been submitted for the scheme.
- (3) Ms Walsh addressed the Committee and stated that there had been no records of pre-application discussions with the applicant, which were normally recorded by the department and subject to Freedom of Information requests. The applicant had also declared on the application forms that there had not been discussions.
- (4) Councillor Older asked Mr Boyes if he was aware that planning permission was required, regardless of any other conversations, and Mr Boyes agreed.
- (5) The Area Planning Manager (East), Ms Burnett, gave a brief outline of the application to Members and stated that there had previously been a sash window, which had been converted into a door and balcony. The Conservation and Design Team had objected to the development and their comments were included in the report. The scheme occupied a prominent position and the loss of the Victorian window reduced the detailing of the building. Although there was further terracing along the street these did not have planning permission and were being inspected by the Enforcement Team.

Questions/Matters on Which Clarification Was Sought

- (6) The Chairman referred to the building on which the balcony sat and asked if this was an infill and not originally part of the building. She also referred to the signage and writing on the building and felt the whole effect was negative to the area. Ms Walsh replied that a lot of enforcement action was taking place in the city and certain

aspects of the buildings in this area were against policy. Mr Dowty added that the Committee needed to be careful when agreeing loss of windows and if replacements were agreed they needed to be very high quality. In this case the balustrading was top heavy and overly dominant.

- (7) Councillor Alford asked what the age of the front windows were and Mr Dowty agreed that these were later additions.

Debate and Decision Making Process

- (8) Mr Andrews stated that he had visited the site and agreed it was a very unfortunate addition that was economic and utilitarian. He felt that the conservation policies needed to be preserved, and if this application was agreed in principle, the door should be set back in the frame and appropriate detailing included for a balconette.
- (9) Councillor McCaffery did not feel the conversion of the window into a doorway did not harm the building, and felt that the signage and lighting on the building was far worse. She felt that a compromise could be reached on this application.
- (10) Ms Walsh stated that the Committee needed to decide on the application before them and they could not amend the scheme via condition.

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

1. The proposed terrace and railings, by reason of their inappropriate design and positioning, together with the removal of the window, would form incongruous additions, detrimental to the character and appearance of the existing property, street scene and surrounding East Cliff Conservation Area. The development is therefore contrary to policies QD1, QD2, QD14 & HE6 of the Brighton & Hove Local Plan.

Informative: This decision is based on drawing nos. 01, 02 and site plans submitted on 12 November 2010.

H. Application BH2010/03279, Former Connaught House site, Melbourne Street, Brighton – Erection of 6no three bedroom residential houses and associated works.

- (1) Ms Burnett introduced the application and presented plans and elevational drawings. She stated that there had been a number of planning applications for the site and although efforts had been made to incorporate the building this had not been possible, and the Council could not insist on this. The principle of development was accepted on site. Significant negotiations had been conducted to improve the design and there were separation distances of 18.5 metres. There had been six letters of objection and additional conditions were recommended on the Late List.

Questions/Matters on Which Clarification Were Sought

- (2) Councillor McCaffery asked if permission had been given to demolish the Church and Ms Burnett replied that it did not need permission.

Debate and Decision Making Process

- 235.7 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in paragraph 8 of the report and resolves it is minded to grant planning permission subject to the applicant entering into a Section 106 Planning Agreement and to the conditions and informatives listed in the report.
- I. Application BH2010/03968, 13 – 15 Old Steine, Brighton** – Alterations to shop front including new entrance doors and ATM cash machine, replacement of existing opening on Old Steine elevation with glazed panel and removal of existing awnings.
- (1) There was no presentation given with this application.
- 235.8 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in paragraph 8 of the report and resolves to grant planning permission subject to the conditions and informatives listed in the report.
- J. Application BH2010/03462, rear of 23 Falmer Road, Rottingdean** – Erection of single storey 2no bedroom detached dwelling house with associated parking and landscaping.
- (1) This application was withdrawn from this agenda.
- K. Application BH2010/03911, 52 Downland Road, Brighton** – Hip to gable loft extension with front and rear dormers and rooflights to front elevation (part retrospective).
- (1) This application was deferred for a site visit.
- L. Application BH2010/03947, 5 Chailey Avenue, Brighton** – Demolition of existing bungalow, outbuildings, shed and greenhouse. Erection of 2no detached two storey, 4no bedroom houses, with site subdivided into 2no separate plots and associated landscaping, car parking and bicycle storage.
- (1) Ms Walsh addressed the Committee and stated that this application had been brought to Committee for transparency reasons only. There had been no objections or representations regarding the application.
- (2) Ms Burnett introduced the application and presented plans, elevational drawings and photos. She stated that the area was characterised by different styles, but dominant rooftops were a feature. Planning permission was sought for demolition of the existing bungalow and replacement with two, two storey detached houses. The

buildings would infill the plot to some extent, but there would be no significant loss of light for neighbours and views would be oblique and distant. Adequate garden areas were provided with both applications and the houses complied with lifetime homes standards. Code level 4 for sustainable homes would be achieved.

Questions/Matters on Which Clarification Was Sought

- (3) Councillor Kennedy asked if a standard condition for bat and bird boxes on site to enhance site ecology and biodiversity could be added and the Committee agreed.

Debate and Decision Making Process

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

1. No development shall commence 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.

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

- 236.1 **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.]

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

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

Application:	Requested by:
BH2010/03462, Rear of 23 Falmer Road, Rottingdean	Councillor Hyde
Astoria	Head of Development Control
Redhill Close	Head of Development Control

The meeting concluded at 6.05pm

Signed

Chair

Dated this

day of

APPEAL DECISIONS

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Application BH2010/02381, 13-16 Vine Street, Brighton – Appeal against refusal to grant planning permission for conversion and extension of the existing building with office (Class B1) use on the ground floor and two floors of residential accommodation. **APPEAL DISMISSED** (delegated).



Appeal Decision

Site visit made on 25 January 2011

by Christopher Gethin MA MTCP MRTPI

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

Decision date: 14 February 2011

Appeal Ref: APP/Q1445/A/10/2140160
8 St Aubyns, Hove, Sussex BN3 2TB

- 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 Ms S Nimmy against the decision of Brighton and Hove City Council.
 - The application ref. BH2010/02102, dated 8 July 2010, was refused by notice dated 6 September 2010.
 - The development proposed is a single-storey rear extension.
-

Decision

- 1 I allow the appeal, and grant planning permission for a single-storey rear extension at 8 St Aubyns, Hove, Sussex BN3 2TB in accordance with the terms of the application, ref. BH2010/02102, dated 8 July 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 approved drawing numbered 200.
 - 3) No development shall take place until details of the materials and finishes to be used for 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.

Main Issues

- 2 The principal issues are
 - a) the effect of the proposed development on the character and appearance of the host building and the area, bearing in mind the location of the appeal site within the Old Hove Conservation Area and adjoining a listed building
 - b) its effect on the living conditions of the occupiers of adjoining dwellings.
-

Reasons

- 3 The appeal site is part of the rear garden of a mid-terraced building near the seafront in Hove. The building is part of a fine late Victorian terrace arranged in four storeys over basement; the terrace curves round the corner (towards St Aubyns Gardens) and the corner properties nos 2, 4 and 6 (adjoining no.8) are listed Grade II. The site is located within the Old Hove Conservation Area, characterised in this locality by imposing stuccoed terraces.
- 4 The proposal is for an extension to the rear ground-floor flat. It would comprise two elements – a block set close to the sunken courtyard to the rear of the basement flat, and a linking passageway to the existing (single storey over basement) rear return of the building. The main block would be set 0.8m away from the boundary with the adjoining listed building, and would have a shallow mono-pitched roof. The existing incongruous blockwork wall and steps would be demolished.
- 5 In the context of the undistinguished rear façade of the terrace, I consider that the simple, legible and uncluttered design of the two elements of the proposed extension would be entirely acceptable. While its form and size might be inappropriate elsewhere, I consider that on this particular site it would appear neither bulky, intrusive or disproportionate in relation to the four storeys of the terrace and the long rear garden.
- 6 I conclude that the proposed development would be acceptable by reference to 'saved' policies QD14, HE3 and HE6 of the 2005 Brighton and Hove Local Plan. It would preserve the character and the appearance of the Old Hove Conservation Area and would not harm the setting of the adjoining listed building.

Living conditions

- 7 The main block of the extension would be set 2.3m away from the edge of the basement courtyard. From the window in the rear elevation of the basement flat, the block would be just visible beyond the rear wall of the courtyard. I consider that the proposed development would not materially harm the outlook from this window, nor take daylight from it.
- 8 In the context of the existing boundary wall on the north side and the fire escape which projects into the garden from the rear of no.10, I consider that the proposed development – at a maximum height of 2.9m – would not have an unduly overbearing effect on this property. The main block would be set 0.8m away from the southern boundary and likewise would not have an unacceptably overbearing effect on the tapering ends of the adjoining rear gardens.
- 9 I conclude that the proposed development would not materially harm the living conditions of the occupiers of adjoining dwellings, and would be acceptable by reference to policy QD14 of the Local Plan.
- 10 For the above reasons, and taking all other matters into consideration, I conclude that the appeal should succeed. For the avoidance of doubt and in the interests of proper planning, it is necessary to include a condition requiring that the development be carried out in accordance with the approved drawings.

I consider that the Council's suggested condition requiring the submission of samples of the materials and external finishes is reasonable and justified in order to ensure a satisfactory external appearance.

Christopher Gethin

INSPECTOR



Appeal Decision

Site visit made on 1 February 2011

by L Rodgers BEng CEng MICE MBA

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

Decision date: 22 February 2011

Appeal Ref: APP/Q1445/A/10/2120834

29 Medina Villas, Hove, East Sussex, BN3 2RN

- 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 Gramm Ltd against the decision of Brighton & Hove City Council.
 - The application Ref BH2009/01359, dated 8 June 2009, was refused by notice dated 12 October 2009.
 - The development proposed is erection of a 5 storey, 4 bedroom dwelling with integral garages at lower ground floor level with ramped access.
-

Decision

1. I dismiss the appeal.

Procedural matters

2. The address above reflects that given on the application. Although the site is later described on the Council's decision notice and the appeal form as "Land to the rear of 29 Medina Villas," the site area is clearly shown on the submitted drawings and no confusion should arise.
3. The application was submitted with the intention of using the basement floor for garaging. However, this feature was omitted during the course of the application process and permission is now sought for a 4 storey detached property with 4 bedrooms. The Council has confirmed that this was the basis on which it reached its decision. I shall do likewise.
4. The Appellant has submitted a planning obligation made pursuant to Section 106 of the Town and Country Planning Act 1990. This is in the form of a Unilateral Undertaking dated 21 May 2010.

Main Issues

5. I consider the main issues to be the effect of the development on the living conditions of neighbouring residents and, bearing in mind that the appeal site lies within the Cliftonville Conservation Area and the statutory test which requires that special attention be paid to the desirability of preserving or enhancing the character or appearance of the Conservation Area, the effect of the development on the character and appearance of the area.

Reasons

The living conditions of neighbouring residents

6. The proposed building would be set around 13.5m away from the main rear elevation of No 29 Medina Villas and would be considerably closer to its low level rear projection. Given this limited separation and the height and mass of the proposed building I consider that the occupiers of No 29 would see it as a dominant and imposing feature.
7. Notwithstanding that the development would include partial obscure glazing to some of the rear facing windows it is also my view that the residents of No 29 would feel as though they were being overlooked at very close quarters. In my view, even perceived overlooking at this range is likely to make residents feel that their privacy has been severely compromised.
8. For these reasons I find that the impact of the proposed development on the living conditions of neighbouring residents would be unacceptable and contrary to Policy QD27 of the Brighton and Hove Local Plan 2005 (LP). This says, amongst other matters, that planning permission will not be granted for development where it would cause material nuisance and loss of amenity to adjacent residents and occupiers.
9. Notwithstanding the effect on the residents of No 29, the use of obscure glazing in the rear facing bedrooms of the proposed development would itself result in poor living conditions for users of those bedrooms. This adds to my overall level of concern with the proposal.

Character and appearance

10. The proposed building would be similar in height and depth to the adjacent building at No 34 Albany Villas and its design would reflect a number of features found locally in the conservation area. Notwithstanding that it would be considerably narrower than No 34 and there would be no obvious alignment of floor levels I consider it would have a 'quirky' appearance in the street scene that would not be unduly out of place with some of the other nearby buildings and the general character of the area.
11. Despite the hardstanding in front of the adjacent block of garages I do, however, share the Council's disquiet that the frontage treatment shown on the submitted drawings would not reflect the mostly softer treatments of the other residential properties nearby. I am also concerned that when seen from Albany Villas over the adjacent garage block, the relationship of the proposed building and 29 Medina Villas would appear cramped.
12. I accept that the current untidy and overgrown nature of the appeal site currently detracts from the character and appearance of the area and may lend itself to unsociable behaviour. In this respect the proposed development would represent an improvement. However, I find on balance that the concerns expressed above would outweigh any such improvement and the proposal would not, contrary to LP Policy HE6 and the statutory test, preserve or enhance the character or appearance of the conservation area.

Conclusion

13. The proposed development would have an unacceptable effect on the living conditions of neighbouring residents and it would fail to preserve or enhance

the character or appearance of the conservation area. I therefore see no need to determine whether the submitted Unilateral Undertaking is necessary and meets the other requirements of Circular 05/2005 and the Community Infrastructure Levy Regulations 2010.

14. Against this background, and having had regard to all other matters before me, including the more efficient use of land in a sustainable urban location, I find nothing to alter my conclusion that the appeal should fail.

Lloyd Rodgers

Inspector



Appeal Decisions

Site visit made on 20 December 2010

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

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

Decision date: 9 February 2011

Appeal A: APP/Q1445/C/10/2138935 &

Appeal B: APP/Q1445/C/10/2138937

Land at rear of 19 and 21 Lloyd Road, Hove BN3 6NL

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeals are made by Mr Tim Harding (Appeal A) and Mrs Harding (Appeal B) against an enforcement notice issued by Brighton & Hove City Council.
 - The Council's reference is 2010/0050.
 - The notice was issued on 9 September 2010.
 - The breach of planning control as alleged in the notice is (a) the installation of solar panels raised at an angle to the roof of the dwellinghouse and (b) failure to clad a section of the dwellinghouse in cedar timber in accordance with details approved under application BH2007/00029.
 - The requirements of the notice are 1) apply cedar timber cladding in accordance with condition 4 of the approval BH2007/00029 to the south-west, north-west and north-east elevations of the 'garage' section at the north-western end of the development, to match the approved drawings 203 and 207 of application BH2007/00029 that were approved on 22nd March 2007 and 2) lay the solar panels flat on the roof of the dwellinghouse in accordance with drawing number 203 of application BH2007/00029 that was approved on 22nd March 2007.
 - The period for compliance with the requirements is three months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a) and (f) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period for Appeal B, the application for planning permission deemed to have been made under section 177(5) of the Act as amended does not fall to be considered. The application for planning permission deemed to have been made under section 177(5) of the Act as amended is to be considered for Appeal A.
-

Decision

Appeal A - Ground (a)

1. The main issue is the effect of the development on the character and appearance of the surrounding area and the effect of the solar panels on the living conditions of neighbouring occupiers, with particular respect to glare.

Character and Appearance

2. The development plan includes the Brighton and Hove Local Plan [LP] 2005. LP Policy QD1 relates to design and quality of development and notes that design aspects will take into account the quality of materials and visual interest, particularly at street level. LP Policy QD2 relates to key principles for design for neighbourhoods.

3. The building generally is an attractive modern design, but it is a long, large structure with a substantial area of white-rendered walls and no visible roof to provide relief and balance. While there is some relief provided by the articulation of the elevations, the dominant feature is the 'hard' white rendered surfaces and the articulation of the elevations is not sufficient to relieve the visual impact of this large mass of building. This is more important as the end part of the building is taller than the majority of the building and some relief of this part of the building is necessary to provide some visual interest to the building. Given the scale and variety of designs and materials used in other nearby buildings where there is generally a minimum of roof and wall materials, I consider the current arrangement is harmful to the character and appearance of the surrounding area.
4. While I note that a significant part of the design ethos is the clean lines and articulated elevations, the cladding would not significantly alter those lines or the shadows produced by the articulation. The 'softer' material of the cladding with natural surface variation would provide contrast and visual relief, balancing the 'hard' and large areas of white render. In my view, the lack of the cedar cladding results in a large, unrelieved block and the render finish throughout does not provide sufficient visual interest as required by LP Policy QD1.
5. I accept that the building is set behind other buildings, but it is visible from these surrounding buildings and part of the building is visible through the entrance position from the road, including the part that should be clad with cedar.
6. I conclude that the building without the cedar cladding unacceptably harms the character and appearance of the surrounding area and conflicts with the aims and objectives of LP Policies QD1 and QD2. In this respect the appeal on ground (a) fails.

Living Conditions

7. LP Policy QD27 relates to protection of amenity and notes that planning permission should not be granted where it would cause material nuisance and loss of amenity to adjacent residents or occupiers. The solar panels were originally placed at an angle of about 45^o, which resulted in complaints from the neighbouring property about reflective glare from the panels. This was demonstrated by a photograph and I acknowledge that this has harmed neighbours' living conditions.
8. The appellant argues that the council has failed to provide an analysis of the impact of the solar panels. However, evidence has been provided by an interested party that harm has been caused and it is for the appellant to demonstrate on the balance of probability that the harm identified is not occurring or does not warrant the enforcement action taken.
9. The appellant has realigned the panels and reduced the angle of incline to about 35^o. I accept that this is likely to have a significant effect on the likely incidence of glare being caused to neighbours, but without detailed information or testing of the situation, I am unable to conclude that the alterations will have satisfactorily resolved the problem and that glare will not continue to be harmful to neighbours' living conditions.

10. I conclude, given the significant potential benefits of providing efficient alternative means of energy, that it is reasonable, as put forward by the appellant, to allow the appeal, but with a condition limiting the permission to 12 months. This will enable the alterations to be tested over a full year. In this respect the appeal on ground (a) succeeds.

Ground (f)

11. The appellant's ground (f) case relates to the solar panels. As I have allowed the appeal in relation to these under ground (a), there is no need to consider this aspect.

Decision

12. I direct that the enforcement notice be varied by deleting from Section 3 - paragraph (a) and from Section 5 - paragraph 2. I allow the appeal on ground (a) insofar as it relates to the solar panels and I grant 'temporary' planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended, for the installation of solar panels raised at an angle to the roof of the dwellinghouse, subject to the condition that the solar panels hereby permitted shall be laid flat on the roof of the dwellinghouse in accordance with drawing number 203 of application BH2007/00029 that was approved on the 22 March 2007, on or before 1 January 2012 and thereafter maintained in that situation.

13. I dismiss the appeal and uphold the enforcement notice as varied insofar as it relates to the failure to clad a section of the dwellinghouse in cedar timber in accordance with details approved under application BH2007/00029, and I refuse planning permission in respect of the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Graham Dudley



Appeal Decision

Site visit made on 25 January 2011

by Christopher Gethin MA MTCP MRTPI

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

Decision date: 16 February 2011

Appeal Ref: APP/Q1445/A/10/2140268

2 Withyham Avenue, Saltdean, Brighton BN2 8LF

- 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 Lureland Properties Ltd against the decision of Brighton and Hove City Council.
 - The application ref. BH2010/01051, dated 9 April 2010, was refused by notice dated 7 July 2010.
 - The development proposed is a studio flat above an existing flat-roofed garage.
-

Decision

- 1 I dismiss the appeal.

Main Issues

- 2 The principal issues are
 - a) the effect of the proposed development on the character and appearance of the host building and the area
 - b) its effect on the living conditions of the occupiers of the adjoining first-floor flat at 7 Longridge Avenue
 - c) the acceptability of the proposed flat by reference to the Council's policy and Planning Advice Note regarding accessible housing and lifetime homes.

Reasons

- 3 The appeal site is at the rear of a three-storey building containing shops at ground floor level and flats above. The building occupies a roughly triangular corner site, with the flats accessed via a flight of steps on the side elevation which fronts on to Withyham Avenue. The proposal is for a small flat-roofed bedsit flat sharing this access: it would be formed partly by converting an unused sunroom into living accommodation, and partly by building over a terrace and a flat-roofed garage at the tapering rear of the site.
 - 4 I consider that the proposed development would appear in keeping with the existing three-storey building and would improve its existing massing. It would, accordingly, enhance the street scene. Although none of the adjoining
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properties along Longridge Avenue have two-storey extensions, the corner location and the rising ground make the subject extension visually acceptable.

- 5 I conclude that the proposed development would accord with the relevant parts of 'saved' policies QD1 and QD14 of the 2005 Brighton and Hove Local Plan.

Living conditions

- 6 The proposed extension would introduce a wall on the northeast side of the stairwell which at present opens out onto a terrace. The wall would be about 3m from the only window for the rear bedroom of the adjoining first-floor flat. I consider that the proposed extension would intrude to an unacceptable degree into the outlook from this window.
- 7 I conclude that the proposed development would harm the living conditions of the occupiers of the adjoining first-floor flat at 7 Longridge Avenue, in terms of loss of outlook, contrary to policies QD14 and QD27 of the Local Plan.
- 8 The occupiers of 4 Withyham Avenue express concern that their property would be overlooked from the proposed bedsit. French windows would give access to a balcony about 0.9m deep, with oblique overlooking of no.4. The nearest point of the tapering garden of this property would be about 12m from the balcony, and the nearest part of the dwelling would be about 28m away. Bearing in mind that the garden is already overlooked at a closer distance by the first-floor windows of nos 11 to 21 Longridge Avenue, I consider that the additional oblique overlooking which would result from the proposed development would not constitute a reason for refusal.

Lifetime Homes

- 9 Policy HO13 of the Local Plan distinguishes between new dwellings, which must be built to a lifetime homes standard if planning permission is to be forthcoming, and conversions or changes of use to provide residential accommodation, where the applicant will be expected to demonstrate that (wherever practicable) lifetime homes criteria have been incorporated into the design. The policy does not refer to extensions, or schemes which include part-conversions: in my view, the subject proposal has more in common with the 'conversion/change-of-use' category than with the 'new dwellings' category. I am therefore inclined to the view that the design of the proposed bedsit, incorporating (where possible) the relevant criteria, is acceptable by reference to policy HO13. Although the staircase giving access to the proposed first-floor flat would not appear to comply with these criteria, it would not be practicable to alter it.
- 10 If this issue were the only matter standing in the way of planning permission, I might have concluded that the shortcomings of the access stairway would be outweighed by the benefits from providing a small, cheap unit of accommodation in a sustainable location. However, the harm to residential amenity is the decisive issue in this case.
- 11 For the above reasons, and taking all other matters into consideration, I conclude on balance that the appeal should not succeed.

Christopher Gethin INSPECTOR



Appeal Decision

Site visit made on 1 February 2011

by **L Rodgers BEng CEng MICE MBA**

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

Decision date: 11 February 2011

Appeal Ref: APP/Q1445/D/10/2143263

10 Lustrells Close, Saltdean, East Sussex BN2 8AS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mrs S Hinds against the decision of Brighton & Hove City Council.
 - The application Ref BH2010/02750, dated 24 August 2010, was refused by notice dated 9 November 2010.
 - The development proposed is a raised decking terrace area – north side rear.
-

Decision

1. I dismiss the appeal.

Procedural matters

2. The appeal concerns development that has already been carried out.
3. Although the application refers to Lustrells Close I confirmed on my visit that the correct spelling is as shown above and on the appeal form.

Main Issues

4. The effect of the development on the living conditions of neighbouring residents and on the character and appearance of the area.

Reasons

5. The topography of the area means that No 10 sits on a plot which falls steeply from front to rear. In consequence, whilst the dwelling appears as a single storey building from the front, it has a two storey appearance at the rear. The raised decking terrace area is set on a level with the living and kitchen areas. Seen from the rear this is, in effect, at first floor. As such the raised terrace sits above the boundary fences separating the garden of No 10 from its neighbours. Whilst inset somewhat from the boundary with No 8 the terrace extends up to the boundary with No 12.
6. The fact that the decked terrace area has far reaching views over the landscape and is easily accessed from the living and kitchen areas means that it is likely to be well used for socialising, entertaining and sitting out. Its size is such that it could accommodate a large number of people and given its position relative to the boundary fences, particularly No 12, the resultant overlooking of neighbouring properties is likely to be significant in terms of frequency, volume and proximity.

7. Clearly the local topography means that several rooms in the property already offer overlooking of neighbouring gardens and I note that there was previously a raised deck and stairwell at the property, albeit on a smaller scale. However, the overlooking offered by these features would not be as intrusive or on the same scale as that allowed by the terrace. Although the Appellant also suggests that there are many decks of this size in the area I have not been provided with any further details and those decks I was able to see during my visit appeared significantly smaller than that at No 10.
8. I also saw on my visit that a solid screen had been installed on the decking adjacent to the boundary with No 12. However the front portion of this screen is at a height that would not prevent overlooking of No 12 and does not affect my view that, for the reasons above, the decking results in overlooking which is materially harmful to the privacy of neighbouring residents and contrary to Policies QD14 and QD27 of the Brighton and Hove Local Plan 2005 (LP).
9. The deck is large relative to the dwelling and, with its centrally positioned staircase, forms a dominant feature of the property - particularly when seen from its rear garden. Its scale, height and proximity to the immediate neighbours, and No 12 in particular, are likely to also make it a dominant feature when seen from the neighbouring gardens. This is contrary to LP Policy QD14 which requires development to be well designed, sited and detailed in relation to the property and adjoining properties.
10. I am conscious that a number of the existing neighbours have voiced support for the development and the Appellant points out that access to the rear garden would in any event require some kind of deck and stairwell. However I must assess the development before me on its own merits and I must also bear in mind future neighbours. Consequently neither of these matters alters my findings.
11. It is obvious that considerable thought and effort have gone into the layout of the rear garden - of which the terrace is a significant element. Nevertheless, having had regard to all other planning matters before me, including the Appellant's concerns over the planning process and the absence of any previous planning history, I find nothing to overcome the development plan conflict and I conclude that the appeal must fail.

Lloyd Rodgers

Inspector



Appeal Decision

Site visit made on 26 October 2010

by Isobel McCretton BA(Hons) MRTPI

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

Decision date: 15 February 2011

Appeal Ref: APP/Q1445/A/10/2131115

Land rear of 67-81 Princes Road, Brighton BN3 20J

- 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 Carelet Ltd against the decision of Brighton & Hove City Council.
 - The application Ref. BH2010/00083, dated 11 January 2010, was refused by notice dated 15 June 2010.
 - The development proposed is construction of 6no. three-storey, two bedroom terraced houses with pitched roofs and solar panels. Provision of private communal gardens, waste and refuse facilities and erection of a street level lift gatehouse with cycle store.
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Procedural Matters

1. The appellants have submitted a S106 Undertaking which will secure financial contributions towards sustainable transport measures in the city. I return to this matter below.
2. Planning permission for 4 dwellings¹ on the site was granted in 2009. This is a fallback position for the appellants and is a material consideration in my determination of this appeal.

Application for costs

3. An application for costs was made by Carelet against Brighton and Hove City Council. This application is the subject of a separate Decision.

Decision

4. I dismiss the appeal.

Main Issues

5. Although local residents have objected to the visual effect of the development, the Council takes no issue with the visual effect of the proposal and I have no reason to disagree with this view. The design and massing of the scheme now proposed would, in my opinion, sit comfortably on the site. I am satisfied that the character and appearance of the Round Hill Conservation Area would be preserved and that the significance of this designated heritage asset would not be harmed. Thus I consider that the main issues are whether the proposed development would provide satisfactory living conditions for future occupiers in terms of external living space and noise and disturbance, and whether the

¹Ref.BH2009/00847 dated 22/7/09

proposal provides for the future travel and parking demands which would be created as a result of the development.

Reasons

6. The appeal site comprises a roughly rectangular plot of land to the rear of nos.67-81 Princes Road. Land levels fall from west to east with this terrace of houses stepping down the hill, but there is an even greater fall in land levels to the rear so that the houses between the appeal site and the highway have an additional 1-2 storeys at the rear. The Brighton-Lewes railway is to the north, in a cutting below the appeal site, beyond which is the Hollingdean Waste Transfer Station and Materials Recovery Facility (MRF), while below, to the east, is an industrial area, the nearest building being a car repair garage and MOT testing station. Access to the site (pedestrian only) is from alongside no.81 Princes Road and there is a horse Chestnut tree on the frontage which is protected by a Tree Preservation Order (TPO).

Living Conditions

7. The second reason for refusal was not specific in detailing what was meant by '*a cramped standard of accommodation for future residents*', but the Council's representations set out concerns about the external living space. The changes in land levels, and the need to screen the development from the railway line and the MRF, mean that there would be a series of retaining walls to the front of the houses and a planted embankment at the rear. The garden areas of the proposed houses would be smaller than those in the approved 4 unit scheme (the Council estimates the smallest to be 27.5m² as opposed to 50m² previously).
8. Some of the garden space would be taken up by raised planters to the sides and rear, but these would have a softer appearance than walls or fences. There would also be a small patio and a semi-private garden area for each house at the front, and a broad belt of communal landscaping with a wildlife pond. The Council does not have specific minimum garden space standards. In my view the proposed garden areas would be adequate for the day to day needs of the future residents and, with good quality planting and landscaping which the Council could control, I do not consider that the outlook for future occupiers would be unduly enclosed and oppressive, or that the amenity space would be inadequate. The 4.5 metre high retaining wall near the house at the rear of no.67 referred to by the Council, appears to be to the rear of the communal landscaped area and fronted by planting, and that end house would have more space to the side and rear. Given that the footprint of the proposed development is broadly similar to that of the approved scheme, I do not consider that the outlook for the future residents of the appeal scheme would be materially different.
9. The third reason for refusal referred to the impact of noise from the nearby MRF, the activities at which have given rise to complaints about noise and odours from existing residents. The noise climate at the site is dominated by the railway line and the MRF, but the houses in this case would not be any closer to either noise source than those already approved, and there is no evidence that noise levels have worsened since the 4-house scheme was determined. The Council refers to a noise diary from one local resident, but I note that was completed in July 2009 around the time that the previous permission was granted. Moreover, both this and the observations of a local

Councillors are unquantified and it is possible that some of the problems highlighted may be addressed through stricter enforcement of conditions relating to the MRF.

10. The appellants submitted a detailed noise assessment with the previous application which has been updated to take account of the fact that there would be second floor bedrooms in the appeal scheme. The noise assessments acknowledge that the $L_{Amax,F}$ night-time guideline level of 45dB given in the World Health Organisation (WHO) Guidelines (above which sleep would be likely to be disturbed) could be exceeded with the windows open. However this would be overcome by the installation of appropriate double glazing and mechanical ventilation. In my experience this is common practice in situations such as development adjoining busy roads or railway lines and there has been no objection on the part of the Council's Environmental Health Officer.
11. In its representations the Council notes that the noise assessment submitted with the previous scheme found that the mean survey results were 5dB and 4dB lower for the day and night-time periods than previous noise measurements undertaken in October/November 2006. On this basis the Council claims that the gardens would be in a similar position to the noise measurements taken in 2006 and argues that if the average daytime readings in 2006 were 5dB higher, then rather than the mean monitored levels of 54dB $L_{Aeq,16}$ taken in 2009 (the noise level which, according to the WHO Guidelines, could cause moderate annoyance in outdoor living areas) the noise experienced in the gardens could be estimated as 59dB which could cause serious annoyance.
12. The appellants account for the difference by the fact that the proposed dwellings would be 6 metres further from the railway. Also a planted boundary wall is proposed along the rear of the development adjoining the railway embankment. While, as the Council points out, it is slightly lower in relation to the rear garden at the bottom end of the proposed terrace, the relationship to the rear gardens is the same as in the previous scheme. As a minimum, the wall would be just below the height of the rear patio doors of the end house and there are no other changes to the details which would lead me to conclude that the relationship between these rear gardens and the railway embankment would be any less acceptable than in the approved scheme or that the occupiers of the appeal proposal would be subjected to more noise.
13. I conclude that the proposed development would provide acceptable living conditions for the future occupiers in terms of amenity space and noise and disturbance and would not conflict materially with Local Plan² policies HO4 and QD27 which, among other things, allow higher density development subject to a number of criteria, including a high standard of design and architecture, and seek to protect the amenity of future occupiers.

Parking

14. With regard to parking, the site is not within a Controlled Parking Zone (CPZ) and the Council's SPG³ sets a normal requirement for the provision of up to 9 spaces (i.e. 1/dwelling and 1 visitor space/2houses), 3 more than the extant

² Brighton and Hove Local Plan 2005. The policies cited have been saved under the terms of a Direction pursuant to paragraph 1(3) of Schedule 8 of the Planning and Compulsory Purchase Act 2004.

³ Supplementary Planning Guidance SPGBH Note 4: Parking Standards (2000) (SPG)

- scheme. The parking standards are expressed as a maximum, the city's aim being to reduce excessive parking provision that encourages the non-essential use of the car, especially for peak time travel.
15. The site is in a reasonably accessible location, being within 4 minutes walk of Ditchling Road which is an arterial north-south bus route through Brighton, and around 485 metres from the London Road railway station. On-site cycle storage would be provided to meet the Councils' standards and the submitted S106 undertaking would secure contributions towards sustainable transport measures contained in the Local Transport Plan. I am satisfied that such contributions are reasonably and proportionately related to the development and that they accord with the tests for planning obligations set out in Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 and policy Q28 of the Local Plan.
 16. As with the extant scheme there would be no vehicular access to the site and no on-site parking provision. Local Plan policy HO7 indicates that the Council will grant permission for car-free housing in accessible locations where there are complementary on-street parking controls and where it can be demonstrated that the development would remain genuinely car free over the long term. However the appellants are not claiming that the development would be car free, rather that there is sufficient capacity in the available on-street parking in the area to absorb the likely parking demand from the proposed development.
 17. The Highway Authority did not disagree with the conclusions of the appellants' submitted Technical Note (TN), updated since the previous application was considered. The study found that there would be sufficient on-street capacity to accommodate the extra parking which may be generated. However there are a number of references in the appellants' TN, and in later submissions, to the fact that there is on-street capacity for 6 spaces, estimated from extrapolated census data as being the likely level of car ownership for the development, whereas the adopted standard would require up to 9.
 18. Residents accept that, during the day time, on-street spaces are more readily available in the vicinity of the site, but they consider that, overall, the on-street parking which currently takes place has been underestimated by the appellant. Their particular concern is with night time parking when demand is heaviest and when problems of double parking, parking on pavements and close to junctions are exacerbated. This time period has not been covered by the appellants. A community parking survey was carried out by a group of residents in July 2010. Unlike the survey conducted for the appellants, it was not carried out by a specialist independent traffic survey company and, although advice on the methodology was obtained at the outset from the Council's Principal Transport Planner, it has not been endorsed by the Highway Authority since being completed. I therefore treat the findings with some caution.
 19. PPG13⁴ notes that local authorities should not require developers to provide more car parking spaces than they themselves wish unless there are exceptional circumstances, for example where there are significant implications for road safety which cannot be resolved through the introduction of on-street parking controls. The Highway Authority did not consider that there were

⁴ Planning Policy Guidance 13: Transport (PPG13)

significant circumstances in the surrounding area which would be exacerbated by the proposal. Nevertheless, the residents' survey bears out the local concerns that demand for on-street parking is heaviest in the very late evening. More importantly, in my view it highlights the fact that, because of the high demand, indiscriminate parking in places which could prejudice vehicle and pedestrian safety is already taking place: I observed several instances for myself within the study area during the daytime when going to and from my site visit.

20. Moreover, I am aware that since the application was determined a CPZ has been introduced some 400 metres from the appeal site. In my experience, it is highly probable that some displacement parking, both from commuters and from residents within the CPZ who cannot get/do not wish to purchase permits, will take place within the vicinity of the site.
21. I am also cognisant of the fact that another Inspector, in determining a previous appeal⁵ in respect of proposals for 8 houses on the site, expressed the view that parking stress in the area would be likely to be exacerbated in the absence of any guarantee that the development would be genuinely car free. In that case the estimated demand was 7 spaces.
22. To conclude I do not consider that it has been adequately demonstrated that the proposal provides for the future travel and parking demands which would be created as a result of the development in accordance with Local Plan policy TR1.

Conclusion

23. Although I have not found harm in respect of the living conditions for future occupiers, I am not persuaded that there would be sufficient capacity in the available on-street parking to meet the future parking demands of the development. For the reasons given above, I consider that the appeal should be dismissed.

Isobel McCretton

INSPECTOR

⁵ APP/Q1445/A/08/2073223



Costs Decision

Site visit made on 26 October 2010

by Isobel McCretton BA(Hons) MRTPI

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

Decision date: 15 February 2011

Costs application in relation to Appeal Ref: APP/Q1445/A/10/2131115 Land rear of 67-81 Princes Road, Brighton BN3 2OJ

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Carelet Ltd for a full award of costs against Brighton & Hove City Council.
 - The appeal was against the refusal of planning permission for construction of 6no. three-storey, two bedroom terraced houses with pitched roofs and solar panels. Provision of private communal gardens, waste and refuse facilities and erection of a street level lift gatehouse with cycle store.
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Decision

1. I allow the application for an award of costs in the terms set out below.

Reasons

2. Circular 03/2009 (C3/09) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. Para B20 of C3/09 states that planning authorities are not bound to accept the recommendations of their officers. However if officers' professional or technical advice is not followed, authorities will need to show reasonable planning grounds for taking a contrary decision and produce relevant evidence on appeal to support the decision in all respects. In addition, para 16 of C3/09 states that reasons for refusal should be complete, precise, specific and relevant to the application. Planning authorities will be expected to produce evidence at appeal stage to substantiate each reason for refusal with reference to the development plan and all other material considerations.
4. The Council's second reason for refusal was that 'the proposal, by reason of it having 6 dwellings on the site, would result in a cramped standard of accommodation for future residents, contrary to policies QD27 and HO4 of the Local Plan'. Exactly what was meant by a '*cramped standard of accommodation*' was not clear. The policies cited are of a fairly general nature. Policy QD27 indicates that planning permission will not be granted where it would cause material nuisance and loss of amenity to the proposed, existing and/or adjacent users, residents, occupiers or where it is liable to be detrimental to human health. Policy HO4 sets out that to make full and effective use of the land available (in accordance with policy QD3), residential development will be permitted at higher densities than those typically found in

- the locality where it can be adequately demonstrated that the proposal: a) exhibits high standards of design and architecture; b) includes a mix of dwelling types and sizes which reflect local needs; c) is well served by public transport, walking and cycling routes, local services and community facilities; and d) reflects the capacity of the local area to accommodate additional dwellings.
5. However in its statement the Council's concern is confined to the size and quality of the outdoor amenity space and the outlook from certain windows. There is also some conflict in the reasoning in that the poor outlook and a sense of enclosure would result from the high walls and embankment but in respect of the third reason for refusal, that at one end the embankment would be lower and thus mean that the occupiers would be more likely to be subjected to noise from the railway line and the nearby Materials Recovery Facility (MRF).
 6. As the reason for refusal was not precise and the Council does not have specific space standards, the appellant carried out unnecessary work regarding internal space and density. I consider that this was because of unreasonable behaviour on the part of the Council in not giving a precise reason for refusal.
 7. In terms of reason 3 the dwellings proposed in this appeal would not be closer to the MRF than the dwellings in the extant permission. The acoustic report submitted with the application shows that, on the basis of the readings taken, the site is within Noise Exposure Category¹ (NEC) A for daytime and NEC B for the night time period i.e. noise is not a determining factor during the daytime and at night should be taken into account and where appropriate, conditions imposed to ensure an adequate level of protection. The Council's Environmental Health Officer accepted that the noise experienced within the dwellings could be addressed by conditions. Attaching such conditions is common practice in such situations.
 8. The MRF appears to be contentious, having given rise to a number of complaints about noise and odour from local residents in the area. However the facility is subject to conditions regarding noise and operating practices and no evidence has been submitted to show that these are not effective or not enforceable. The only evidence submitted by the Council are 2 subjective, unquantified observations about noise from a local resident and a Councillor. As Members refused the proposal against the recommendation of officers I do not consider it unreasonable for the Council to include evidence from one of the Members in its submissions. However the Council adduced no evidence to show that the noise climate in the area is materially different from when permission was given for the extant scheme. I consider this to be unreasonable.
 9. The first reasons for refusal focussed on parking. No on-site parking is proposed, and the Highway Authority accepted the appellant's assessment that there was available capacity in on-street parking in the area to meet the demand which would be likely to arise from the new development. Again I do not consider it unreasonable for the Council to have included the evidence from a local Member. While I have treated the residents' Community Parking Survey with some caution, it was done after consultation with the Highways department and has highlighted some issues which were not fully addressed by

¹ As defined in Planning Policy Guidance 24: Planning and Noise.

the appellants. In terms of the appeal it is a matter which the appellants would have had to address in that it was also included in third party submissions. Thus in this regard I do not consider that the appellants were put to unnecessary expense.

10. C 3/09 states that while planning authorities are expected to consider the view of local residents when determining planning applications, the extent of local opposition is not, in itself, a reasonable ground for resisting development. The appellants are concerned that the decision was taken because undue pressure from local residents prior to an election. It is clear that there has been longstanding opposition to development on this site, but the Council granted planning permission for a development in 2009. I have set out above whether or not I consider there was evidence to substantiate the application for costs. There are other channels if the appellants are concerned about the propriety of the decision taken. However, the Council states that none of the election candidates who were interviewed by the Roundhill Society for its website were members of the planning committee which made the decision.
11. I conclude that unreasonable behaviour has not been demonstrated in terms of the issue of the evidence produced with regard to parking. However I consider that the imprecision of the reason for refusal in respect of cramped living accommodation and the lack of any technical evidence to support the reason for refusal on noise was unreasonable behaviour on the part of the Council which led to unnecessary expense for the appellants at appeal. As Such I consider that a partial award of costs is justified.

Costs Order

12. In exercise of my powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other powers enabling me in that behalf, I HEREBY ORDER that Brighton & Hove City Council shall pay to Carelet Ltd, the costs of the appeal proceedings limited to those costs incurred in addressing matters on density, accommodation standards and noise, such costs to be assessed in the Senior Courts Costs Office if not agreed. The proceedings concerned an appeal more particularly described in the heading of this decision.
13. The applicant is now invited to submit to Brighton & Hove City Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

Isobel McCretton

INSPECTOR



Appeal Decision

Site visit made on 25 January 2011

by Christopher Gethin MA MTCP MRTPI

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

Decision date: 16 February 2011

Appeal Ref: APP/Q1445/A/10/2140875 13-16 Vine Street, Brighton BN1 4AG

- 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 J Oliver against the decision of Brighton and Hove City Council.
 - The application ref. BH2010/02381 dated 2 August 2010 was refused by notice dated 8 October 2010.
 - The development proposed is the conversion and extension of the existing building with office (Class B1) use on the ground floor and two floors of residential accommodation.
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Decision

- 1 I dismiss the appeal.

Main Issue

- 2 The principal issue is the design and massing of the proposed development and its effect on the character and appearance of the area, having regard to the location of the appeal site within the North Laine Conservation Area.

Reasons

- 3 The appeal site lies in a densely built-up area adjoining the town centre. The existing single-storey building has a pitched roof and was formerly industrial premises, most recently in use as a vehicle workshop: there is a gated yard used for car parking at the northern end. Adjoining this yard is a terrace of two-storey houses. Abutting the southern end of the existing building is a two-storey flat-roofed commercial building, which appears to date from the 1950s. The site is located within the North Laine Conservation Area, characterised by narrow streets with two- and three-storey buildings and a mix of uses.
 - 4 The proposal is for the ground floor to be converted to office use, with an extension which would enclose the existing yard and abut the adjoining end-of-terrace house. A three-bedroom apartment and roof terrace would be provided on two floors to be constructed above. An existing planning permission (ref. BH2009/01379) allows for office and storage/distribution (B1 and B8) uses on the similarly extended ground floor, with one additional floor to provide a two-bedroom flat and a studio flat. The plans for the approved scheme show a
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shallow pitched roof surmounted by a continuous glazed lantern extending almost the entire width of the building.

- 5 The subject scheme shows the building at the same overall height as that of the permitted development. The top storey would be set back from the front elevation by about 0.8m, and would cover about three quarters of the width of the building, being set in from the southern end by about 1.5m and from the northern end by almost 5m, the space here being used for a roof terrace over the first floor. The building would be seen from the street as being of three storeys, with a flat roof over its front part and a pitched roof over the rear part. This would not appear unacceptably incongruous with the varied rooflines of the two- and three-storey development in the street. But I consider that the massing of the two- and three-storey elements of the proposed building would appear arbitrary and unbalanced, and that it would have a significantly less satisfactory relationship to the buildings on either side than the approved scheme. The proposed roof terrace would appear incongruous in the context of the locality, where any such features that may exist are not visible from public viewpoints.
- 6 Insofar as the proposed development would represent an improvement over the existing building, it would enhance the character and the appearance of the Conservation Area. However, I consider that the proposed massing of the elements of the building, and the incongruous provision of a roof terrace, would appear inappropriate in the context of the existing streetscape. The design would fail to take the opportunities available for improving the character and quality of the area, as demonstrated by the permitted scheme. In these ways the proposed development would be contrary to 'saved' policies QD1, QD2, QD14, and HE6 of the 2005 Brighton and Hove Local Plan. In particular, I note that policy HE6 requires that development within a Conservation Area should not merely preserve or enhance its character and appearance, but should also show a consistently high standard of design.
- 7 I acknowledge that the proposed scheme would provide a family-sized dwelling and a high standard of accommodation and residential amenity. However, these benefits are outweighed by the conflict with the design policies of the development plan.
- 8 For the above reasons, and taking all other matters into consideration, I conclude that the appeal should not succeed.

Christopher Gethin

INSPECTOR

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

BH2010/03376

8 Princes Terrace, Brighton

Certificate of Lawfulness for proposed loft conversion incorporating rooflights to front and dormer to rear.

APPEAL LODGED

07/02/2011

Delegated

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

BH2010/01930

93 St Leonards Road, Hove

Conversion of first floor flat to create 2no studio flats with alterations to layout of external windows and removal of chimney stack.

APPEAL LODGED

15/02/2011

Delegated

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

BH2010/02000

Stanmer House, Stanmer Park, Brighton

Proposed installation of fences to the garden area at the side of the building, replacement of fencing and walls to either side of gates with 1.8 metre high walls, and additional landscaping. (Part retrospective)

APPEAL LODGED

15/02/2011

Planning Committee

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

BH2010/03354

109A Marine Drive, Rottingdean, Brighton

Erection of single storey conservatory extension to front elevation.

APPEAL LODGED

16/02/2011

Delegated

NEW APPEALS RECEIVED

WARD

APPLICATION NUMBER

ADDRESS

DEVELOPMENT DESCRIPTION

APPEAL STATUS

APPEAL RECEIVED DATE

APPLICATION DECISION LEVEL

GOLDSMID

BH2010/01615

17 The Upper Drive, Hove

Alterations to fenestration on curved frontage, 1no extra parking space, repositioning of bin/recycling storage, alterations to size and shape of light wells and roof terrace, reduction in depth of the top floor storey, new first floor roof terrace and increase in height of building.

APPEAL LODGED

15/02/2011

Delegated

WARD

APPLICATION NUMBER

ADDRESS

DEVELOPMENT DESCRIPTION

APPEAL STATUS

APPEAL RECEIVED DATE

APPLICATION DECISION LEVEL

ROTTINGDEAN COASTAL

BH2010/02082

26 Arundel Road, Brighton

Installation of timber railings and screen to rear flat roof. (Part retrospective)

APPEAL LODGED

22/02/2011

Delegated

WARD

APPLICATION NUMBER

ADDRESS

DEVELOPMENT DESCRIPTION

APPEAL STATUS

APPEAL RECEIVED DATE

APPLICATION DECISION LEVEL

PATCHAM

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.

APPEAL LODGED

23/02/2011

Planning Committee

WARD

APPLICATION NUMBER

ADDRESS

DEVELOPMENT DESCRIPTION

APPEAL STATUS

APPEAL RECEIVED DATE

APPLICATION DECISION LEVEL

ROTTINGDEAN COASTAL

BH2010/03353

50 Arundel Drive East, Saltdean, Brighton

Alterations to existing front dormer to create new balcony.

APPEAL LODGED

24/02/2011

Delegated

NEW APPEALS RECEIVED

WARD

APPLICATION NUMBER

ADDRESS

DEVELOPMENT DESCRIPTION

APPEAL STATUS

APPEAL RECEIVED DATE

APPLICATION DECISION LEVEL

ROTTINGDEAN COASTAL

BH2010/03443

10 The Vale, Ovingdean, Brighton

Erection of single storey front extension and associated roof alterations. Installation of side rooflight and creation of balcony at first floor level to front elevation.

APPEAL LODGED

28/02/2011

Delegated

WARD

APPLICATION NUMBER

ADDRESS

DEVELOPMENT DESCRIPTION

APPEAL STATUS

APPEAL RECEIVED DATE

APPLICATION DECISION LEVEL

NORTH PORTSLADE

BH2010/01967

Land adjacent 481 Mile Oak Road, Portslade

Erection of 2no three bedroom semi-detached dwelling houses with off-street parking.

APPEAL LODGED

25/02/2011

Planning Committee



**Brighton & Hove
City Council**

INFORMATION ON HEARINGS / PUBLIC INQUIRIES 16th March 2011

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

Enforcement Appeal:

Block K, New England Quarter, Brighton

Enforcement no: BH2010/0494

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

Decision:

Type of appeal: Public Inquiry

Date: Wednesday 27th & Thursday 28th April 2011

Location: Brighton Town Hall

Information on Pre-application Presentations and Requests

Date	Address	Ward	Proposal
17 March 2010	Former Nurses Accommodation, Brighton General Hospital	Hanover & Elm Grove	Demolition of the former nurses accommodation buildings and the construction of three residential apartment blocks comprising 95 units and a 105 square metre community facility with associated car parking and landscaping.
27 April 2010	Open Market	St Peter's & North Laine	Proposed replacement, covered market, 87 affordable housing units, 12 x B1 workshops and public realm improvements.
18 May 2010	N/A	N/A	N/A
8 June 2010	N/A	N/A	N/A
29 June 2010	Former Royal Alexandra Children's Hospital, Dyke Road, Brighton	Regency	<i>A) Conversion scheme</i> Conversion of a retained main building to provide 118 units. The scheme is 100% private housing and does not include provision of a GP surgery. <i>B) New building scheme</i> Demolition of all existing buildings with a new development comprising 136 units with 54 affordable units (40%) and a GP surgery.
20 July 2010	The Keep, Wollards Field, Lewes Road, Brighton	St Peter's & North Laine	A new historical resource centre for East Sussex, Brighton & Hove.
10 August 2010	Former Sackville Hotel, Kingsway, Hove	Westbourne	Construction of 47 flats (mix of 1, 2, 3, & 4 bed units) within 6 to 9 floor building, and to incorporate basement parking of 49 spaces, and 2 spaces at ground floor level.

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

Date	Address	Ward	Proposal
31 August 2010	N/A	N/A	N/A
21 September 2010	3Ts	East Brighton	3T's (teaching, tertiary & trauma). Comprehensive redevelopment of southern half of RSCH on Eastern Road to provide replacement modern clinical facilities over three phases.
2 November 2010	N/A	N/A	N/A
23 November 2010	N/A	N/A	N/A
14 December 2010	Brighton Station, Block J	St Peters & North Laine	Proposed mixed use scheme comprising 3500 sq m B1 commercial office space, 147 residential units, 3* hotel in buildings of between 5-8 storeys, provision of civic square, Southern SNCI, and 250 sq m A1 retail / A3 café
11 January 2011	Park House	Hove Park Ward	Demolition of former residential language school buildings and the residential redevelopment of the site by way of flats in buildings of between 4 and 5 storeys.
1 February 2011	N/A	N/A	N/A
22 February 2011	N/A	N/A	N/A
15 March 2011	Anston House, 137-147 Preston Road	Preston Park	Demolition of existing building and proposed mixed scheme. Exact details of the scheme are not finalised. The presentation is to show Cllrs the concept of the scheme and how they have come to the point that they are now at.

05 April 2011			
26 April 2011			
17 May 2011			

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