

BRIGHTON & HOVE CITY COUNCIL

PLANNING COMMITTEE

2.00pm 14 JANUARY 2011

COUNCIL CHAMBER, HOVE TOWN HALL

MINUTES

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

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

PART ONE

186. PROCEDURAL BUSINESS

186a Declarations of Substitutes

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

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

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

186b Declarations of Interests

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

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

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

186c Exclusion of the Press and Public

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

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

187. MINUTES OF THE PREVIOUS MEETING

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

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

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

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

188. CHAIRMAN'S COMMUNICATIONS

188.1 There were none.

189. PETITIONS

189.1 There were none.

190. PUBLIC QUESTIONS

190.1 There were none.

191. DEPUTATIONS

191.1 There were none.

192. WRITTEN QUESTIONS FROM COUNCILLORS

192.1 There were none.

193. LETTERS FROM COUNCILLORS

193.1 There were none.

194. NOTICES OF MOTION REFERRED FROM COUNCIL

194.1 There were none.

195. APPEAL DECISIONS

195.1 The Committee noted the content of the letters received from the Planning Inspectorate advising of the results of planning appeals which had been lodged as set out in the agenda.

196. LIST OF NEW APPEALS LODGED WITH THE PLANNING INSPECTORATE

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

197. INFORMATION ON INFORMAL HEARINGS/PUBLIC INQUIRIES

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

198. INFORMATION ON PRE APPLICATION PRESENTATIONS AND REQUESTS

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

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

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

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

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

200.1 There were none.

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

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

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

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

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

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

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

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

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

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

Questions/Matters on Which Clarification was Sought

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

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

Debate and Decision Making Process

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

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

- (18) Councillor Hamilton believed that this site would be very noisy. He added that when the new A27 had been built, the current residents had received money to mitigate against the increase in noise levels and the nuisance this caused. He also did not feel that the design of the proposed development sat well with neighbouring properties and was not sympathetic to the area.
- (19) Councillor Norman felt that there was very little difference between this application and the previously refused application and did not feel he could support it.
- (20) Councillor Davey felt that the development was very close to the A27 and it was hard to believe that no mitigation would be necessary for noise disturbance. He agreed that the site acted as a barrier between the houses and the road and did not feel he could support the application.
- (21) The Head of Development Control, Ms Walsh, addressed the Committee and stated that no significant weight should be attached to what the applicant may have done to the site in preparation for development. The money received by residents when the A27 was built was likely to be for use to retrofit the houses to make them more sound proof, and not for compensation regarding any noise disturbance.
- (22) A vote was taken and on a vote of 9 against, 0 for and 2 abstentions, the recommendation to grant planning permission was not agreed.
- (23) Councillor Kemble proposed an alternative recommendation to refuse the application and Councillor Norman seconded the proposal.
- (24) A second recorded vote was taken and on a vote of 9 for, 0 against and 2 abstentions planning permission was refused for the reasons given below.
- 200.2 **RESOLVED** – That the Committee has taken into consideration and does not agree with the reasons for the recommendation set out in paragraph 8 of the report and resolves to refuse planning permission for the reasons as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Questions/Matters on Which Clarification was Sought

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

Debate and Decision Making Process

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

200.3 **RESOLVED** – That the Committee has taken into consideration and does not agree with the reasons for the recommendation set out in paragraph 8 of the report and resolves to refuse planning permission for the reason that:

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

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

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

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

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

Question/Matters on Which Clarification was Sought

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

Debate and Decision Making Process

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

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

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

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

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

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

Questions/Matters on Which Clarification was Sought

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

Debate and Decision Making Process

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

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

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

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

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

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

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

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

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

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

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

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

Questions/Matters on Which Clarification was Sought

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

Debate and Decision Making Process

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

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

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

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

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

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

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

Debate and Decision Making Process

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

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

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

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

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

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

201.1 This item was deferred.

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

202.1 **RESOLVED** – That those details of applications determined by the Head of Planning and Public Protection under delegated powers be noted.

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

[Note 2: A list of representations received by the Council after the Plans List reports had been submitted for printing was circulated to Members on the Friday preceding the meeting. Where representations are received after that time they should be reported to the Chairman and Deputy Chairman and it would be at their discretion whether they should in exceptional circumstances be reported to the Committee. This is in accordance with Resolution 147.2 of the then Sub Committee on 23 February 2006.]

203. TO CONSIDER ANY FURTHER APPLICATIONS IT HAS BEEN DECIDED SHOULD BE THE SUBJECT OF SITE VISITS FOLLOWING CONSIDERATION AND DISCUSSION OF ITEMS ON THE PLANS LIST

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

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

The meeting concluded at 5.00pm

Signed

Chair

Dated this

day of