



**Brighton & Hove
City Council**

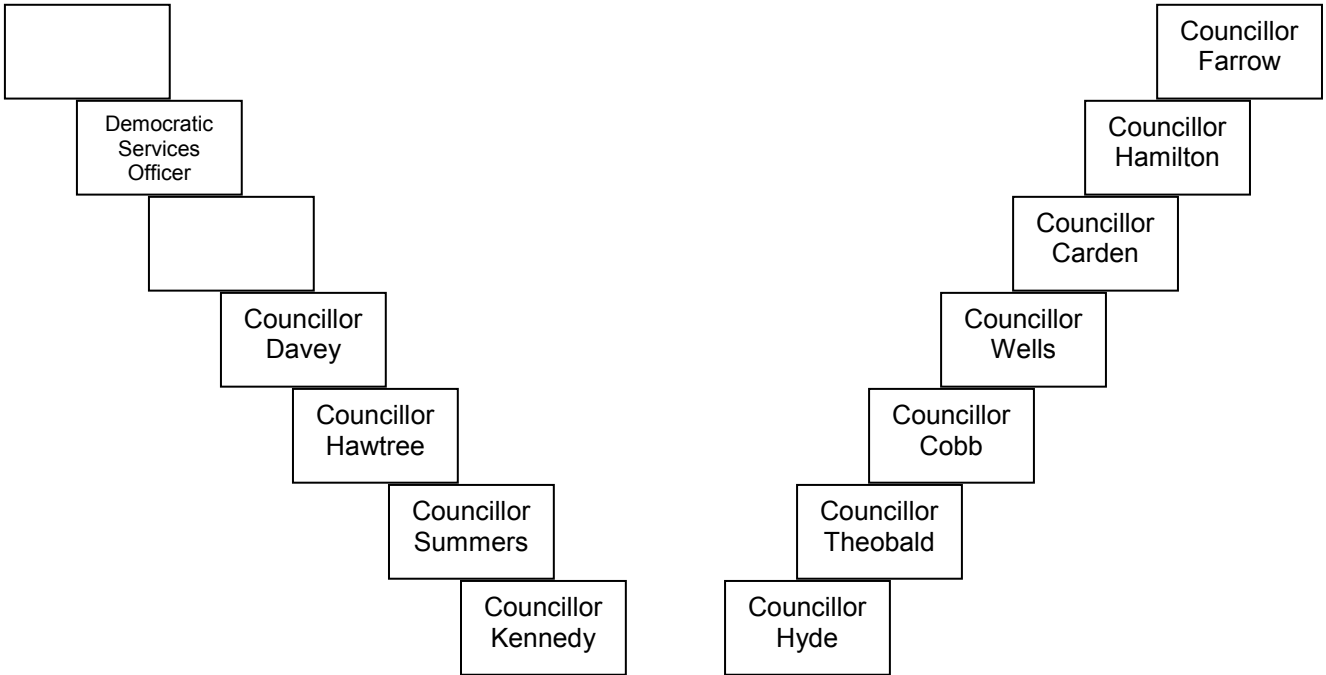
Planning Committee

Title:	Planning Committee
Date:	29 June 2011
Time:	2.00pm
Venue	Council Chamber, Hove Town Hall
Members:	<p>Councillors: MacCafferty (Chair), Hyde (Deputy Chair), Carden (Opposition Spokesperson), Cobb, Davey, Farrow, Hamilton, Hawtree, Kennedy, Summers, C Theobald and Wells</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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Democratic Services: Meeting Layout

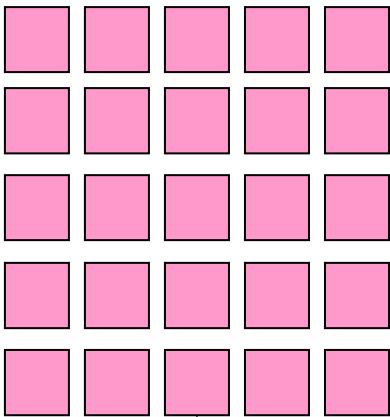
Senior Solicitor Chairman Head of Development Control



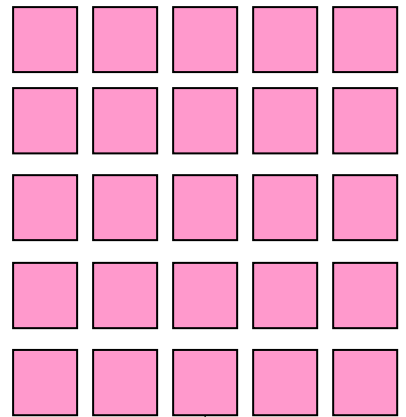
Chairman of CAG

Officers Officers

Press



Public Seating



Public Seating

AGENDA

13. 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.

14. MINUTES OF THE PREVIOUS MEETING	1 - 14
Minutes of the meeting held on 8 June 2011 (copy attached).	
15. CHAIRMAN'S COMMUNICATIONS	
16. APPEAL DECISIONS	15 - 32
(copy attached).	
17. LIST OF NEW APPEALS LODGED WITH THE PLANNING INSPECTORATE	33 - 34
(copy attached).	
18. INFORMATION ON INFORMAL HEARINGS/PUBLIC INQUIRIES	35 - 36
(copy attached).	
19. INFORMATION ON PRE APPLICATION PRESENTATIONS AND REQUESTS	37 - 38
(copy attached).	

PLANNING COMMITTEE

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

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

(copy circulated separately).

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

(copy circulated separately).

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

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

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

PLANNING COMMITTEE

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

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

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

Date of Publication - Tuesday, 21 June 2011

BRIGHTON & HOVE CITY COUNCIL

PLANNING COMMITTEE

2.00pm 8 JUNE 2011

COUNCIL CHAMBER, HOVE TOWN HALL

MINUTES

Present: Councillors MacCafferty (Chair), Hyde (Deputy Chair), Carden (Opposition Spokesperson), Cobb, Davey, Farrow, Hamilton, Hawtree, Kennedy, Summers, C Theobald and Wells

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

Officers in attendance: Jeanette Walsh (Head of Development Control), Hilary Woodward (Senior Lawyer), Steve Reeves (Principal Transport Planner), Nicola Hurley (Area Planning Manager (West)), Claire Burnett (Area Planning Manager (East)) and Jane Clarke (Senior Democratic Services Officer)

PART ONE

1. PROCEDURAL BUSINESS

1a Declarations of Substitutes

1.1 There were none.

1b Declarations of Interests

1.2 Councillor Wells declared an interest in applications BH2011/00228 & BH2011/00229, The British Engineerium, The Droveaway, Hove in that he had attended a Mayoral engagement there last year as his year as Mayor. He had not pre-determined the application however.

1.3 The Senior Solicitor, Mrs Woodward, confirmed that as Councillor Wells had an open mind and had not prejudged the applications he was able to take part in debate and vote on the applications.

1c Exclusion of the Press and Public

1.4 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.

1.5 **RESOLVED** - That the public are not excluded from any item of business on the agenda.

2. MINUTES OF THE PREVIOUS MEETING

2.1 **RESOLVED** – That the Chairman be authorised to sign the minutes of the meeting held on 18 May 2011 as a correct record.

3. CHAIRMAN'S COMMUNICATIONS

3.1 The new Chairman, Councillor MacCafferty, introduced himself and welcomed the new Members to the Committee meeting. He said he was delighted to be here and to work with the Members and Officers, and he hoped to do the best for the city.

4. APPEAL DECISIONS

4.1 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.

5. LIST OF NEW APPEALS LODGED WITH THE PLANNING INSPECTORATE

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

6. INFORMATION ON INFORMAL HEARINGS/PUBLIC INQUIRIES

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

7. INFORMATION ON PRE APPLICATION PRESENTATIONS AND REQUESTS

7.1 The information regarding pre application presentations and requests was noted.

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

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

Application:	Requested by:
BH2011/01152, Brighton Racecourse	Head of Development Control
BH2011/00849, 8 Locks Hill, Portslade	Councillor Hamilton
BH2010/03422 & 03423, 5 Bedford Place, Hove	Councillor Hawtree

9. APPLICATION BH2011/00358, NORTHFIELD, UNIVERSITY OF SUSSEX

9.1 The Committee considered a report from the Strategic Director of Place regarding application BH2011/00358, Northfield, University of Sussex, Brighton.

9.2 The Senior Planning Officer, Mr Foster, introduced the application and presented plans, photos and elevational drawings. Mr Foster drew attention to the items on the Late List and the comprehensive officer’s report. An environmental statement had been included as part of the application and Mr Foster advised that part of the application was within the South Downs National Park. When Members considered the application they would be acting as agents for the South Downs National Park Authority for this element of the scheme, which did not have built development on it.

The main considerations were set out in the report and included the principle of development, impact on the SDNP, highways, ecology and landscape. The scheme would meet BREEAM excellent rating and would bring forward high quality materials identical to the outline development that had already been granted permission. There was no additional parking provided with this scheme but the Sustainable Transport Team were happy with the proposals subject to disabled parking bays and secure cycle parking being provided by condition. There would be additional planting to the west to smooth transition from the SDNP to the application site. Sedum roofs and calcareous grassland with native woodland and bat boxes had also been secured through legal agreement.

Questions/matters on which clarification was sought

9.3 Councillor Hyde asked why cedar cladding was proposed as a material when Councillors had expressed their dislike of this type of material on previous applications. Mr Foster replied that the cladding would not be on any of the larger buildings, and indicated on the plans the area that would be covered.

- 9.4 Councillor Hyde noted the use of green roofs and asked if they would be made from materials that lasted well in dry conditions as the previous roofs had not been very successful. Mr Foster replied that the full details of the roof material would form part of the Section 106 Legal Agreement, but the University was aware of the problems with maintenance of the roofs.
- 9.5 Councillor Hawtree asked if solar panels had been considered for the roofs. Mr Foster replied that the University did not believe these would integrate well with the Combined Heat and Power Unit proposed. The scheme would reach a BREEAM excellent rating without solar panel use. The Head of Development Control, Mrs Walsh, stated that the Authority's duty was to consider the BREEAM rating and as the scheme would reach an excellent rating, they could not request any amendments above this.
- 9.6 Councillor Hawtree asked what the interiors of the rooms were like and whether grey water recycling had been considered. Mr Foster replied that the rooms were 14 square metres with en suites. Southern Water and the Environment Agency were satisfied with the proposed water recycling on the site.
- 9.7 Councillor Cobb asked if the doors shown on the plans would also be cedar cladding and Mr Foster confirmed this.
- 9.8 Councillor Davey asked what were included as the specific measures of the travel plan. The Principal Transport Planner, Mr Reeves, replied that the University had found it difficult to fund some of the elements of the 2009 travel plan, but wanted to improve travel links between the University and the city centre along Lewes Road. They were proactively working to reduce car usage.
- 9.9 Councillor Davey asked if the cycle parking would be secure and covered. Mr Foster replied that conditions required these details.
- 9.10 Councillor Mrs Theobald asked if the cedar cladding would be treated and whether there was any disabled parking. Mr Foster was unsure whether the cladding would be treated. Mr Reeves replied that the disabled parking provision was in line with SPG14 and all registered disabled students would be allocated a parking space.
- 9.11 Councillor Hawtree asked if there was any more building works planned for the University. Mr Foster replied that a master plan was in place, and redevelopment of existing buildings was being considered. The site was allocated for development in the Brighton & Hove Local Plan, but any additional proposals by the University would emerge through discussion with the Planning Policy Team.
- 9.12 Councillor Summers asked whether the Council's Ecologist was now happy with the scheme. Mr Foster replied that mitigation measures had been proposed as part of the Environmental Statement and the Ecologist was satisfied with these and that they would be secured through the Section 106 Agreement.

Debate and decision making process

- 9.13 Councillor Kennedy welcomed the provision of extra accommodation for students on campus as there was a need to bring family accommodation back into use for families in the city centre.
- 9.14 Councillor Mrs Theobald also welcomed the accommodation for students.
- 9.15 Councillor Hyde asked for an extra condition for pre-treatment of the cedar cladding.
- 9.16 Councillor Hamilton noted the comments from the SDNP and on this basis was happy to support the application.
- 9.17 Councillor Davey asked for an amendment to condition 14 to ensure that the cycle parking would be secure and covered.
- 9.18 A vote was taken and on a unanimous vote minded to grant planning permission was granted subject to the completion of a Section 106 Agreement, no further new objections raised that are not addressed within the report and amendments to conditions to provide for the pre-treatment of the cedar cladding and secured and covered cycle storage.
- 9.19 **RESOLVED** – That the Committee considers and agrees with the overall 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 completion of a Section 106 Agreement to secure a Habitat Creation and Management Plan for the site and the variation of existing Section 106 Agreements dated 6 August 2009 and 3 September 2009 pertaining to the site, the expiry of the publicity period with the receipt of no further objections raising new material planning considerations that are not addressed within this report and the conditions and informatives listed in the report. Also that amendments to conditions are made to provide for the pre-treatment of the cedar cladding and secured and covered cycle storage.

10. TO CONSIDER AND DETERMINE PLANNING APPLICATIONS ON THE PLANS LIST**(i) MAJOR APPLICATIONS**

- A. Application BH2011/00228, The British Engineerium, The Droveway, Hove** – Erection of two storey extension to existing workshop and new single storey building to house exhibition hall. Creation of new underground exhibition area below existing car park. Alterations to provide disabled access facilities including ramps and lift. Installation of solar panels to roof of new workshop.
- (1) The presentation for this application was taken together with Listed Building Consent application BH2011/00229, The British Engineerium, The Droveway, Hove.

- (2) The Senior Planning Officer, Mr Everest, introduced the application and presented plans, photos and elevational drawings. He drew Members attention to the Late List and noted there had been an additional 3 letters of objection received, and comments from the Conservation and Design Team to say that the materials and colours now specified were appropriate to the site. As the exhibition unit was mostly below ground and was screened by existing boundary treatments the choice of materials was considered acceptable. There was a primary Badger Sett on site, with a subsidiary Sett identified. An ecology method statement would be needed detailing how to deal with these Setts, but the Ecologist was happy if this was provided. There would be 3 on site disabled parking bays provided and parking for 30 vehicles off site.

Questions/matters on which clarification was sought

- (3) Councillor Hyde raised concern about the choice of materials and asked why they weren't matching for both buildings. Mr Everest explained that because the exhibition hall was much lower it was not felt there was a need to match the materials.
- (4) Councillor Farrow asked if the Ecologist was present at the meeting and the Head of Development Control, Mrs Walsh, replied that although he could not attend this meeting, he had given clear advice that there was nothing in the application that would contravene the Protection of Badgers Act and he had not raised an objection.
- (5) Councillor Hawtree asked for more images of the buildings, and whether food composting for the restaurant had been considered. Mr Everest did not believe food composting had been considered, but suggested a condition might be added to the recommendation.
- (6) Councillor Hawtree asked why the number of visitors was not anticipated to increase following development. Mr Everest replied that an assessment of visitor numbers had taken place and no increase in numbers was predicted. The parking provision was therefore felt appropriate. The visitor numbers were subject to a yearly review as part of the management plan.
- (7) Councillor Cobb asked why the materials presented at the Member's briefing were different to the ones presented with the application and Mr Everest replied that the materials had continued to be discussed following the site visit by Members as officers felt the originally submitted materials were not appropriate. Mrs Walsh added that the new materials could be approved in consultation with the Chairman and Deputy Chairman, to ensure Members views on materials were taken into account.
- (8) Councillor Carden was very concerned by the Badger issues, which he did not feel had been resolved properly. He felt the building work on site would be intolerable for the Badgers and asked why the local Badger Assessment Group had not been invited to make their own assessment of the Setts. Mr Everest replied that the Ecologist was satisfied with the information submitted and the conditions proposed. In addition, an informative was recommended.

- (9) The Senior Solicitor, Mrs Woodward, added that the applicant would also need to apply for a Licence from Natural England and satisfy the requirements of this to ensure that the Protection of Badgers Act was not contravened.
- (10) Councillor Hawtree asked if the materials were guaranteed for 30 years and Mr Everest replied that this was the recommended guarantee time from the manufacturer.
- (11) Mr Everest presented the colour palette and sample materials to Councillors.
- (12) Councillor Farrow was very disappointed that the Ecologist was not present to allay any concerns the Members had regarding the Badger Sett. He felt that Members needed more information regarding the Badgers and proposed deferral for a report to be produced covering the concerns of Members regarding the Badgers. He asked in particular to know how far the tunnelling for the two Setts extended under the site, how far the tunnelling extended under the area to be built on, how old the Setts were on site and how the Badger Setts would be made safe during construction.
- (13) Councillor Davey seconded the proposal and said that Members needed to feel confident and reassured that the Badgers would be relocated successfully.
- (14) A vote was taken and on a vote of 7 for deferral and 5 abstentions the application was deferred.

B. Application BH2011/00229, The British Engineerium, The Droveaway, Hove -
Erection of two storey extension to existing workshop and new single storey building to house exhibition hall. Creation of new underground exhibition area below existing car park. Alterations to provide disabled access facilities including ramps and lift. Installation of solar panels to roof of new workshop.

(1) The presentation for this application was taken together with application BH2011/00228, The British Engineerium, The Droveaway, Hove.

(2) A vote was taken to defer this application.

C. Application BH2011/00035, The Elms, The Green, Rottingdean – Proposed
external alterations and extensions to existing dwelling to form a separate dwelling including reinstatement of existing cellar and boundary wall and erection of new outbuilding to garden.

(1) The presentation for this application was taken together with application BH2011/00036, The Elms, The Green, Rottingdean.

(2) The Area Planning Manager (East), Ms Burnett, introduced the application and presented plans, photos and elevational drawings. She drew Members attention to the report setting out the considerations in relation to these applications, and referred to comments on the Late List. Ms Burnett noted a missing reference in the report to a previous application in 2006 that had been refused.

The building was a grade II listed building in the Rottingdean Conservation Area. A cellar had been discovered on the site that pre-dated the house. Letters of objection and support had been received, including objections from Rottingdean Parish Council, Rottingdean Preservation Society and the Conservation Advisory Group.

The subdivision of the plot was considered acceptable and as the new building would be subordinate to the existing house and in a traditional design, this was also considered acceptable. Flint would be used on the new wall to match the adjacent walls. A visual impact assessment had been submitted to show that the subdivision would not be apparent. The nearest neighbours were 12 metres away and so it was felt there was no significant impact on neighbouring amenity. The scheme would achieve Code Level 3 for Sustainable Homes.

Questions/matters on which clarification was sought

- (3) Councillor Kennedy asked why a higher code of sustainable homes could not be achieved and Ms Burnett replied that given the historic context this could not be achieved.
- (4) Councillor Hawtree asked where the new entrance would be site and Ms Burnett replied it would be through the existing garage.
- (5) Councillor Hyde asked whether there were any other objection letters, and whether the previous alterations to the building had been before its listing or afterwards. Ms Burnett replied there were no further objection letters. The Design and Conservation Manager, Mr Dowty replied that it was likely the building had been listed in 1971 and the alterations had been made after this date.
- (6) Councillor Hawtree asked if the flint wall would extend to the eastern side of the site, and asked what the building was on this side. Ms Burnett stated that the wall would not extend further, and the building indicated was ancillary to the use of the main building.

Public Speakers

- (7) Mr Collins spoke on behalf of the Rottingdean Preservation Society and Rottingdean Parish Council and stated that this was a character-changing backyard development. The Elms was the most prominent and famous building in Rottingdean and was significant because Rudyard Kipling had written there. Policy guidance and conservation advice supported refusal of the application, and national guidance regarding building such as this was unsupportive of changes. Guidance issued in 2010 encouraged Councils to resist backyard development, and a scheme with similar issues had recently been refused in Hangleton. There was no support from neighbouring properties around The Green for this development, and both Rottingdean Parish Council, and Rottingdean Preservation Society, which represented the views of hundreds of residents, supported refusal of the application.
- (8) Councillor Davey asked why there had been no objections from private residents and Mr Collins replied that they may not be immediately affected by the proposals, and therefore did not feel compelled to write in to object.

- (9) The agent for the applicant, Mr Moore, spoke in favour of the scheme and stated that the applicant had presented a strong and robust case with proposals set in the context of policies. The application complied with all of the relevant criteria and several meetings had taken place with officers to ensure the scheme was acceptable. The application did not encroach onto the garden of The Elms and the plans addressed the previous concerns from CAG. The building did have historic importance and this application would enhance the dwelling by restoring the cellar and flint wall. The application had also received positive comments from English Heritage.
- (10) The Chairman of CAG, Mr Andrews, asked for historic evidence of the flint wall that was to be rebuilt. The applicant stated that the wall had been shown on survey plans for 1813, 1873 and 1898.

Debate and decision making process

- (11) A vote was taken and on a vote of 8 for, 3 against and 1 abstention planning permission was granted subject to the conditions and informatives listed in the report.
- 10.1 **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.
- D. Application BH2011/00036, The Elms, The Green, Rottingdean** – Proposed external alterations and extensions to existing dwelling to form a separate dwelling including reinstatement of existing cellar and boundary wall and erection of new outbuilding to garden.
- (1) The presentation for this application was taken together with application BH2011/00035, The Elms, The Green, Rottingdean.

Debate and decision making process

- (2) A vote was taken and on a vote of 8 for, 3 against and 1 abstention listed building consent was granted subject to the conditions and informatives listed in the report.
- 10.2 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in paragraph 8 of the report and resolves to grant listed building consent subject to the conditions and informatives listed in the report.

- E. Application BH2010/03333, 40 – 40A Bristol Gardens, Brighton** – Demolition of existing building and erection of 5no three storey, three bedroom houses and detached two storey office building with lower ground floor.
- (1) The presentation for this application was taken together with application BH2010/03334, 40 – 40A Bristol Gardens, Brighton.
- (2) Ms Burnett introduced the application and presented plans, photos and elevational drawings. She drew Members attention to the report and referred to the Late List comments, noting that the Kemptown Society objected to the scheme. The applicant had demonstrated that the property had been unsuccessfully marketed since 2009 for office space. The proposals would exceed the numbers of people expected to be employed on site with the current building, and as it had a mix of office and residential development it was considered acceptable. The current building had little architectural use or merit. The proposed building would be subordinate to the listed buildings in the area and was considered appropriate in scale and height. There was private amenity space in the form of balconies and terraces and this would not constitute grounds for refusal. The application was in controlled parking zone H and there was no waiting list for permits. The scheme was lifetime homes compliant, would reach Code Level 3 for Sustainable Homes and was rated as BREEAM very good. Contributions to sustainable transport would be made.

Questions/matters on which clarification was sought

- (3) Councillor Kennedy asked if condition 20 was a standard condition and what measures were used for bio-diversity. Ms Burnett replied that this was a standard condition, and would include things such as bat boxes.
- (4) Councillor Hyde asked if there would be any impact on privacy for 32 Sussex Square from the balconies and terraces. She also asked why a driveway or garage had not been included and was no parking was an acceptable solution here. Ms Burnett replied that 32 Sussex Square was the nearest property to the application and this was 33 metres away. The Principal Transport Planner, Mr Reeves stated that whilst no parking was provided with this scheme, the carriageway would be reinstated as part of the scheme providing 6 extra on street parking spaces.
- (5) Councillor Mrs Theobald noted that this application was three storeys high and asked what other buildings were adjacent to it. She also noted that a resident had indicated there was a waiting list for parking permits. Ms Burnett replied that there was a mix of different heights and styles in the area. Mr Reeves said that zone H had recently been extended to include more roads and because of this there was now no waiting list.
- (6) Councillor Hawtree raised concern over the impact on the eastern side of the development. Ms Burnett replied that there would be some additional fenestration as a result of the application. However the office block would restrict some of these views, and there were considerable distances between neighbours on this side.

Debate and decision making process

- (7) Councillor Wells felt that the proposals would enhance the area and welcomed the application.
- (8) Councillor Davey asked if a condition could be placed on the decision to prevent the office unit from being converted into residential units in perpetuity. Mrs Walsh replied that this could be secured as part of the Section 106 Legal Agreement.
- (9) Councillor Mrs Theobald was not keen on the design of the application. She also felt that the lack of car parking provision was particularly bad. Councillor Mrs Theobald believed that the pavement needed to be re-laid and that this was an issue across the city that developers should be made to rectify.
- (10) Councillor Hawtree agreed that the application was un-inspiring.
- (11) A vote was taken and on a vote of 8 for, 2 against and 2 abstentions the Committee was minded to grant planning permission subject to the completion of a Section 106 Legal Agreement (with the additional Head of Term as suggested by Councillor Davey) and the conditions and informatives listed in the report.

10.3 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in paragraph 8 of the report and resolves it is minded to grant planning permission subject to the completion of a S106 legal agreement (with the additional Head of Team as suggested by Councillor Davey) and to the conditions and informatives listed in the report.

F. Application BH2010/03334, 40 – 40A Bristol Gardens, Brighton – Demolition of existing building.

- (1) The presentation for this application was taken together with application BH2010/03333, 40 – 40A Bristol Gardens, Brighton.

Debate and decision making process

- (2) A vote was taken and on a vote of 8 for, 2 against and 2 abstentions conservation area consent was granted subject to planning permission being granted under application BH2010/03333 and the conditions and informatives listed in the report.

10.4 **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 it is minded to grant Conservation Area Consent, subject to planning permission being granted to develop the site under application BH2010/03333 and subject to the conditions and informatives listed in the report.

G. Application BH2010/03422, 5 Bedford Place, Brighton – Erection of railings around rear second floor roof terrace and reduction in size of roof terrace.

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

H. Application BH2010/03423, 5 Bedford Place, Brighton – Erection of railings around rear second floor roof terrace and reduction in size of roof terrace. Erection of replacement railings to top floor roof terrace.

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

I. Application BH2011/00849, Land at the rear of 8 Locks Hill, Portslade – Erection of single storey 3no bedroom detached residential dwelling incorporating rear dormer and associated landscaping.

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

J. Application BH2011/00954, Cinderford, Cornwall Gardens, Brighton – Replacement of existing timber front door and side window with timber effect door and double glazed UPVC side light (retrospective).

(1) The Area Planning Manager (West), Ms Hurley, introduced the application and presented plans, photos and elevational drawings. She stated that the existing coach-house was being converted from a previously approved application in 2005. The main considerations were impact on the character and appearance of the property, and on the wider conservation area. The use of UPVC was not incongruous to the design of the building and as there were examples of use of this material in the area, it was felt there would be no significant harm to the conservation area.

Questions/matters on which clarification was sought

(2) Councillor Davey asked if there was any national guidance regarding the use of UPVC and Ms Hurley replied that this was a 1950s bungalow that was not significant to the character of the conservation area and so it was felt that UPVC here was acceptable.

(3) Councillor Hawtree asked why UPVC was acceptable for a 1950s building and Ms Hurley replied that the conservation area related to the Edwardian villas located in the area. The property in question did not contribute to the character of the conservation area, and so UPVC was acceptable.

(4) Councillor Kennedy felt concerned that this decision would set a precedent for use of UPVC in the area. Ms Hurley replied that the decision made a clear distinction between this property, which did not add to the conservation area, and other properties that did, and therefore would not set a dangerous precedence.

Debate and decision making process

(5) Councillor Kennedy was not generally in support of UPVC as a material, especially in conservation areas. As such, she was unable to support the application and would abstain from voting.

(6) Councillor Hawtree felt that a door was often one of the most important parts of a house and its nature was therefore important. He did not understand why the building was included in the conservation area when it was not worth conserving.

(7) A vote was taken and on a vote of 6 for, 0 against and 6 abstentions planning permission was granted subject to the informatives listed in the report.

10.6 **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 informatives listed in the report.

K. Application BH2011/00992, Upper Dene Court, 4 Westdene Drive, Brighton –
Erection of 2no one bedroom flats to rear of existing block of flats.

(1) This application was deferred for additional consultation to take place.

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

11.1 **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.]

12. 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

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

Application:	Requested by:
BH2011/01152, Brighton Racecourse	Head of Development Control
BH2011/00849, 8 Locks Hill, Portslade	Councillor Hamilton
BH2010/03422 & 03423, 5 Bedford Place, Hove	Councillor Hawtree

The meeting concluded at 4.30pm

Signed

Chair

Dated this

day of

APPEAL DECISIONS

	Page
A. HOVE PARK	17
Application BH2010/03767, 6 The Green, Hove – Appeal against refusal to grant planning permission for conversion of existing flat roof to form a roof terrace. APPEAL ALLOWED (delegated).	
B. HOVE PARK	21
Application BH2010/03689, 24 Orchard Gardens, Hove – Appeal against refusal to grant planning permission for a two storey side and single storey extension. APPEAL DISMISSED (delegated).	
C. SOUTH PORTSLADE	23
Application BH2010/01684, Aldi Store, 2 Carlton Terrace, Portslade – Appeal against the grant of planning permission subject to conditions. APPEAL ALLOWED (committee).	
D. GOLDSMID	29
Application BH2010/01685, Dubarry House, Newton Road, Hove – Appeal against refusal to grant planning permission for erection of 1 no. one bedroom penthouse with a private terrace. APPEAL DISMISSED (delegated).	



Appeal Decision

Site visit made on 11 May 2011

by Elizabeth Lawrence BTP MRTPI

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

Decision date: 25 May 2011

Appeal Ref: APP/Q1445/D/11/2150115
6 The Green, Hove, East Sussex, BN3 6TH.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr S Pilbeam against the decision of Brighton & Hove City Council.
 - The application Ref BH2010/03767, dated 6 December 2010, was refused by notice dated 21 January 2011.
 - The development proposed is for the conversion of existing flat roof to form a roof terrace.
-

Decision

1. I allow the appeal and grant planning permission for the conversion of existing flat roof to form a roof terrace at 6 The Green, Hove, East Sussex, BN3 6TH, in accordance with the terms of the application, Ref BH2010/03767, dated 6 December 2010, subject to the following condition:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: 0128.EXG.001a, 0128.EXG.002a, 0128.PL.001a & 0128.PL.002a.

Preliminary matters

2. The construction of the proposed roof terrace has commenced with the placement of the balustrade supports around the perimeter of the terrace.

Main Issues

3. The main issue is the effect of the proposal on the living conditions of the occupiers of 5 The Green, with particular regard to visual impact and privacy.

Reasons

4. The Appeal site is located in an area which is characterised by low density, individually designed dwellings, occupying mature soft landscaped gardens, on land which slopes down steeply to the southwest. A significant number of properties in the area have balconies, which afford panoramic views towards the coast.
 5. The proposed balcony would be sited in a central position on the rear elevation of the Appeal property and would provide views over the rear garden and above the boundary planting towards the coast. It would be largely screened
-

- from the rear ground floor windows and garden at 5 The Green by boundary planting, particularly during the summer months when the balcony would be more likely to be in use.
6. From the closest first floor bedroom at 5 The Green, approximately one fifth of the terrace would be seen, when standing up close to the northwest end of the bedroom window. From most points within the bedroom the terrace would not be seen at all. The main aspect from the terrace itself would be to the southwest. Notwithstanding this, the first floor bedroom window at 5 The Green would be seen from the northwest corner of the terrace, if the occupant were to look to the northeast, away from the open, panoramic view to the southwest. However unless the lights in the bedroom were on and the curtains left open they would not be able to see into the bedroom. This is due to the distance and orientation between the terrace and the bedroom and the leaded pane design of the bedroom window.
 7. From the terrace it would also be possible to view the first floor terrace at 5 The Green, however having regard to the ancillary nature of the terraces and the distance between them the level of inter-looking would not be excessive or unreasonable.
 8. As a result the level of overlooking would be minimal and would not amount to a reason for dismissing this Appeal.
 9. Visually the proposed terrace would be screened in most views from 5 The Green. The terrace would be sited over 13 metres from the boundary with No.5 and would occupy an area of less than 11m². At the same time first floor terraces are a common feature in the area. As a consequence the terrace would not have a visually overbearing impact on the occupants of 5 The Green.
 10. I conclude on this issue that the proposed terrace would not have a materially harmful impact on the living conditions of the occupiers of 5 The Green due to loss of privacy or visual impact. Accordingly it would comply with policies QD14 and QD27 of the Brighton & Hove Local Plan, which seek to prevent developments that would result in material harm to the living conditions of nearby residents.

Other matters

11. Although the terrace would be visible from 10 & 12 Tongdean Road, due to the distance between the terrace and those properties it would not result in either a material loss of privacy or overbearing visual impact to the occupants of 10 & 12 Tongdean Road.
12. In relation to design, the proposed railings and balustrade would be in keeping with the existing modern appearance of the rear elevation of the dwelling. In particular they would be consistent with the design of the windows and doors serving the bedrooms on either side of the terrace. Having regard to both the minimal height and length of the balustrade and the fact that the terrace would be generally well screened from neighbouring properties and public viewpoints, the proposal would not result in a material level of glare or light within the surrounding area.

13. In relation to noise, having regard to the limited size of the proposed terrace, its access through a bedroom and the generous size of the rear garden area, the garden is far more likely to be used as the main outdoor entertaining area. As such its use would be unlikely to result in an excessive amount of noise or disturbance in the immediate locality.
14. It is noted that when planning permission was granted for the single storey rear extension a condition was attached which prevented the use of its roof for a terrace. However this does not prevent the submission of an application to form one and any application submitted has to be considered on its individual merits and in light of the prevailing planning policies. The Appeal scheme has been assessed on this basis.
15. Finally although the Council has not suggested any conditions I consider that it is necessary to include a condition to ensure the development is carried out in accordance with the approved drawings, for the avoidance of doubt and in the interests of proper planning.

Conclusion

16. For the reasons stated and having taken all other matters into consideration I conclude that the Appeal should be allowed.

Elizabeth Lawrence

INSPECTOR



Appeal Decision

Site visit made on 23 May 2011

by Elizabeth Fieldhouse DipTP DipUD MRTPI

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

Decision date: 26 May 2011

Appeal Ref: APP/Q1445/D/11/2150923
24 Orchard Gardens, Hove BN3 7BJ

- 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 Katharine Travis against the decision of Brighton & Hove City Council.
 - The application Ref BH2010/03689, dated 15 November 2010, was refused by notice dated 20 January 2011.
 - The development proposed is a two storey side and single storey rear extension.
-

Decision

1. I dismiss the appeal.

Main Issue

2. The main issue is the effect of the proposed development on the amenities of the occupiers of 26 Orchard Gardens.

Reasons

3. The proposed side extension involves the retention of the garage with the first floor set back 1m from the front of the garage. The first floor extension would finish flush with the rear of the house. A high pitch gable roof, the eaves of which would align with those in the existing house, tops the side extension. The pitch roof incorporates front and rear roof lights but there are no details of any second floor accommodation. The appeal property is at a higher level and slightly forward of the neighbouring pair of semi-detached houses, 26 and 28 Orchard Gardens. The proposed gable side wall would be approximately 8.5m high to the ridge on the boundary. By reason of the height of the gable wall and having regard to the change in levels, the proposed side extension would be overbearing when viewed from no. 26 and thereby it would have a significant harmful effect on the amenities of those occupiers. The un-neighbourly development would not accord with policies QD14 and QD27 of the Brighton and Hove Local Plan 2005 (LP).
4. There are other two-storey side extensions in Orchard Gardens and Orchard Avenue. None of them are directly comparable in terms of the levels between properties or roof design with the majority having hipped rather than gable roofs. The property in Orchard Gardens that does have a gable roof to the side extension is on the same level as the neighbouring property and demonstrates the overbearing impact of a gable side wall on the boundary. The other developments in the vicinity are not identical in all respect to the appeal proposal and do not provide a justification for the proposed side extension.

5. To the rear of the two storey side extension, there would be a single storey rear extension with a flat roof. The proposal would project about 2m beyond the existing kitchen extension, making a total project beyond the main rear wall of the dwelling of 4m along the boundary with no.26. Nevertheless, with the set back of that property compared to the appeal property and the flat roof extension to no.26, the total proposed single storey extension from the main rear wall on the kitchen side would not result in harm.
6. The flat roofed extension would continue across the back of the property terminating very close to the boundary with no.22. This part would be stepped back to project only 2.7m from the main rear wall of the house. No. 22 has a bay window near the mutual boundary and, although one side of the bay would face towards the proposed extension, the extension would sit within a 45° angle taken from the centre of the bay window. This would accord with the advice in the explanatory text to LP policy Q14. The side outlook for the occupiers of no.22 would change to include the top of the proposed extension behind the approximately 1.8m fence. This would not be such a change as to cause unacceptable harm or a justification for withholding planning permission. LP policies QD14 and QD27 would be met in respect of the single storey extension.
7. Nevertheless, despite my conclusions in respect of the single storey rear extension, as it is directly linked to the side extension, a split decision cannot be issued. For the reasons given and having regard to the harm from the side extension, the appeal should be dismissed.

Elizabeth Fieldhouse

INSPECTOR



Appeal Decision

Site visits made on 11 and 15 May 2011

Elizabeth Lawrence BTP MRTPI

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

Decision date: 7 June 2011

Appeal Ref: Q1445/A/11/2145260

Aldi Store, 2 Carlton Terrace, Portslade, East Sussex, BN41 1XF.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Aldi Stores Ltd against the decision of Brighton and Hove City Council.
 - The application Ref BH2010/01684, dated 26 May 2010, was approved on 30 December 2010 and planning permission was granted subject to conditions.
 - The development permitted is Application for variation and removal of conditions to application BH2006/00834 to vary condition 5 to allow an extended delivery period at the store, vary wording of condition 4 to allow the premises to trade to the public between 8.00 and 20.00 hours and for ancillary activities to take place outside of these hours when the store is closed to the public, vary condition 16 to reduce free car parking to all visitors of the Portslade Shopping Centre from 3 hours to 1 hour, removal of condition 15 in order not to provide 5 resident parking spaces.
 - The conditions in dispute are Nos. 1 & 3 which state that:
 - 1- The store shall not be open for trading to the public except between the hours of 08.00 and 20.00 hours on Monday to Saturday and 10.00 to 16.00 on Sundays and Bank Holidays. Staff may be within the premises between the hours of 7.30 and 21.30 on Monday to Saturday, and 9.30 to 17.30 on Sundays and Bank Holidays.
 - 3- No vehicular movements nor any loading or unloading of vehicles associated with the retail uses hereby permitted shall take place between 20.30 and 7.30, Monday to Saturday, and not at any time on Sundays and Bank Holidays.
 - The reasons given for the conditions are:
 - 1 – To allow satisfactory operation of the store and to protect the residential amenities of the occupiers of the flats above the store and to comply with policies QD27 and SU10 of the Brighton and Hove Local Plan.
 - 3 – To safeguard the residential amenities of the area and to comply with policies QD27 and SU10 of the Brighton and Hove Local Plan.
-

Decision

1. I allow the appeal, and vary the planning permission Ref BH2010/1684 for variation and removal of conditions to application BH2006/00834 to vary condition 5 to allow an extended delivery period at the store, vary wording of condition 4 to allow the premises to trade to the public between 8.00 and 20.00 hours and for ancillary activities to take place outside of these hours when the store is closed to the public, vary condition 16 to reduce free car parking to all visitors of the Portslade Shopping Centre from 3 hours to 1 hour, removal of condition 15 in order not to provide 5 resident parking spaces, at Aldi Store, 2 Carlton Terrace, Portslade, East Sussex, BN41 1XF, granted on 30 December 2010 by Brighton & Hove City Council, deleting conditions 1 and 3 and substituting for them the following conditions:
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- 1) The store shall not be open for trading to the public except between the hours of 08.00 and 20.00 on Monday to Saturday, and 10.00 to 16.00 on Sundays and Bank Holidays. Staff may be within the premises between the hours of 07.00 and 21.30 hours on Mondays to Saturdays, and 09.30 to 17.30 on Sundays and Bank Holidays.
- 3) No HGV movements nor any loading or unloading of vehicles associated with the retail uses hereby permitted shall take place between the hours 20.30 and 7.30 Monday to Saturday. Deliveries on Sundays/Bank Holidays shall be limited to one main delivery and a milk delivery only between the hours of 09.30 and 17.30, with no deliveries outside these hours.

Preliminary matters

- 2) During the processing of the planning application the proposed revisions to condition 5 of permission BH2006/00834 were amended to relate solely to deliveries on Sundays and Bank Holidays and not to extended delivery hours during the week. The Appeal is dealt with on this basis. The planning application also sought the relaxation of conditions 16 and 17 of the original planning permission (BH2006/00834). However the Appellant has confirmed that no appeal is made against the retention of these conditions, in the form set out in conditions 11 & 12 of the Council's decision notice.
- 3) As well as the accompanied site visit on 11 May, an unaccompanied site visit was carried out on Sunday 15 May specifically to assess the level of activity in the area on a Sunday.

Main Issue

- 4) The main issue is the effect of the proposal on the living conditions of local residents with particular regard to noise and disturbance.

Reasons

- 5) The site is located in an urban area and within the Portslade Shopping Area where you would expect to find noise and activity associated with retail, commercial and residential uses. Boundary Road is a busy classified road which provides a direct link between the A270 and A259 and appears to be extensively used by HGV's and buses. There is a railway line crossing just to the south of the site and when the barriers are down the noise generated by waiting cars, HGV's and buses can be clearly heard, even at the southwest end of the car park which serves the Aldi store.
- 6) At National level policies EC2 and EC10 of Planning Policy Statement 4 (PPS4) – *Planning for Sustainable Economic Growth* state that local planning authorities should support existing businesses and adopt a positive and constructive approach towards planning applications for economic development. Policy EC13 goes on to state that when assessing planning applications affecting shops account should be taken of the importance of the shop to the local community and respond positively to proposals designed to improve their viability. Policy EC19.2 deals specifically with restrictions on deliveries and advises that account should be taken of all relevant factors.
- 7) Similarly PPS1 – *Delivering Sustainable Development* encourages economic development and states that local authorities should provide for improved productivity and recognise that economies are subject to change. At the same time it encourages high quality inclusive design and policies to deliver safe, healthy and attractive places to live.
- 8) This positive approach to economic development is echoed in the recent Ministerial Statement – *Planning for Growth* which advises that the Government's top priority in reforming the planning system is to promote sustainable economic growth and jobs. With this in mind local planning authorities are advised to have regard to all relevant

considerations when determining applications and should ensure that appropriate weight is given to the need to support economic recovery, where relevant and consistent with their statutory obligations.

- 9) As required by policies SU10 and QD27 of the Brighton & Hove Local Plan 2005 proposals will be required to minimise the impact of noise on the occupiers of neighbouring properties and that permission will not be granted for proposals which would cause material nuisance.
- 10) Planning Policy Guidance Note 24 – *Planning and Noise* advises that the planning system should not place unjustifiable obstacles in the way of new development, nevertheless local planning authorities must ensure that development does not cause an unacceptable degree of disturbance. On the basis of the noise readings produced by the Appellant the levels are such that noise should be taken into account when assessing the merits of the proposals.
- 11) Having regard to this policy framework, the economic and other benefits of the proposal need to be weighed against any harm arising from the extended hours and deliveries proposed.

Condition 1

- 12) In relation to condition 1 the Appellant is seeking permission for staff to be able to work an additional half hour in the mornings Monday to Saturday. It is not stated on the planning application form or in the supporting planning statements the extended hours being sought for staff. However in an e-mail to the Council the Appellant confirmed that staff would be in the store for approximately 1.5 – 2 hours (max) either side of the trading hours. They then went on to cite 7.30am to 9.30pm as an example. At the same time the planning application originally sought to extend weekday delivery times to 07.00 to 21.00 hours Monday to Saturdays. Staff would need to be on the premises to receive any deliveries made at 07.00 hours. Accordingly there is nothing in the evidence which supports the Council's view that the application sought to extend the working hours of staff for a maximum of 1.5 hours as opposed to 1.5 to 2 hours at either end of the day.
- 13) For practical reasons it would be reasonable to expect certain staff/contractor duties to be undertaken outside store opening hours, for example cleaning, stocking shelves, stock taking, receiving deliveries and repairs, etc. Indeed it is in the interests of the efficient functioning of the store. In addition, if deliveries can be made at 07.30 hours Monday to Saturday staff would need to be present and ready to receive any deliveries. If staff and deliveries both arrived at 07.30 hours, the delivery vehicle driver would have to wait for staff to open the premises and prepare for the unloading. This would extend the length of time the delivery vehicle would be on the site, which would be both inefficient for the delivery operator and would result in additional vehicular noise for residents.
- 14) The two noise reports submitted at the application stage contain conflicting conclusions regarding the impact of such activities on the living conditions of the occupants of the flats above the store, although neither report includes any measured noise readings. Notwithstanding this, following consultations with residents the noise report prepared by Philip Acoustics Ltd states that residents are affected by noise generated by beeping of the tills, trolleys being pushed along the floor, the in-store public address system and the operation of the roller shutters.
- 15) The noise from the roller shutter at the rear is largely related to deliveries, which are controlled under condition 3 and the public address system and tills are likely to be used little, if at all outside store opening hours. Whilst stock may be moved by trolleys or pallets, for much of their time they would be stationary, whilst the stock is being

- transferred to the shelves. Conversely shoppers are likely to move their trolleys greater distances and more quickly and thus far more likely to generate noise. At the time of the accompanied site visit noise levels within the premises generated by staff and shoppers appeared low.
- 16) Given the amount of background noise generated by traffic, the railway crossing and other shops and activities along Boundary Road between 07.00 and 09.00 hours the operation of the front roller shutters between from 07.00 instead of 07.30 hours would be unlikely to have a material impact on the living conditions of the occupiers of the flats above the store.
 - 17) Concern has been expressed regarding external activities such as maintenance work either to the building or within the car park. However, external activities of this nature are not controlled by conditions 1 or 3.
 - 18) It is noted that the Environmental Health officer stated that in principle there is no Environmental Health objection to proposed extension of the hours the premises can be occupied. In addition, that any unreasonable disturbance to the residents of the flats above would be investigated under Environmental Health legislation.
 - 19) A further Noise report was prepared by Acoustic Consultancy Partnership Ltd on behalf of the Appellant in March this year, which specifically deals with noise generated by staff activities within the building between 07.00 and 09.00 hours. It outlines the activities taking place during this period, including a goods delivery and describes the internal finishes of the building. The report indicates that measured noise levels were recorded, although no readings were included within the report. The report concludes that the ancillary activities undertaken did not result in a perceptible change in the existing noise level.
 - 20) Having weighed up all of the above factors extending staff working hours by half an hour each Morning, Monday to Saturday would be unlikely to result in material nuisance for the occupiers of the flats above the store due to noise and disturbance. It would therefore comply with the National and Local policies referred to above concerning economic and environmental considerations.

Condition 3

- 21) The proposal is to allow for one large and one smaller milk delivery between the hours of 09.30 and 16.30 hours on Sundays and Bank Holidays. As outlined by the Appellant without such deliveries the store is unable to consistently offer a full range of produce to customers, due to the limitations of their storage facilities. If shoppers are unable to purchase the goods they want they will shop elsewhere, which would have a negative impact on the viability of the store. It would also compromise the ability of the store to continue to trade and could impact on the vitality and viability of the Portslade Shopping Area.
- 22) Again the findings of the two acoustic reports differ although as stated by the Environmental Health Officer both appear to have been carried out using methods set out in BS4142. This current standard is used for convenience in the absence of a more tailored method, rather than for its proven accuracy.
- 23) From the findings of the reports, an unaccompanied Sunday site visit and the observation of the unloading of a refrigerated HGV at a food-store elsewhere it is clear that any deliveries to the Appeal premises will be heard in the flats above the store and within the immediate area. However, given the small number of deliveries proposed; the fact that they would take place during the most active times of the day; the location of the site within the established Portslade Shopping Area; and the undoubted economic benefits for the store, the proposal would not result in an unacceptable degree of disturbance for local residents.

- 24) It is noted that this conclusion accords with those of the Council's Environmental Health Officer and the Planning Officers involved.
- 25) It is recognised that the level of disturbance could be greater for shift workers who often sleep during the day. However the overall number of deliveries likely to be made are unlikely to materially change and the existing/proposed delivery hours are reasonably designed around traditional working hours which cater for the majority of residents.
- 26) Finally, concern has been expressed by residents that store employees have been working within the premises and deliveries have been made outside the existing approved and the proposed hours. This is a separate matter which it is understood that the Council is investigating under both planning and Environmental Health legislation.
- 27) I conclude that changes proposed to conditions 1 and 3 would not cause a material nuisance for local residents, including the residents of the flats above the Appeal store, due to noise and disturbance. The hours imposed by the proposed new conditions would minimise the impact of noise and disturbance caused by activities associated with the use of the store. Accordingly the proposal would comply with policies QD27 and SU10 of the Local Plan as well as the policies and advice referred to in PPG24, PPS1 and PPS4.

Elizabeth Lawrence

INSPECTOR



Appeal Decision

Site visit made on 11 May 2011

by Elizabeth Lawrence BTP MRTPI

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

Decision date: 9 June 2011

Appeal Ref: APP/Q1445/A/11/2147902

Dubarry House, Newtown Road, Hove, East Sussex, BN3 6AF.

- 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 Octopus Properties Ltd against the decision of Brighton and Hove City Council.
 - The application Ref BH2010/01685, dated 2 June 2010, was refused by notice dated 23 August 2010.
 - The development proposed is erection of 1 No. one bedroom penthouse with a private terrace.
-

Decision

1. I dismiss the appeal.

Main Issue

2. The main issue is the effect of the proposal on the character and appearance of the host building and its setting.

Reasons

3. The Appeal building occupies a prominent position close to the junction of Wilbury Avenue/Newtown Road and Hove Park Villas and is adjacent to the pedestrian railway crossing to the south. Dubarry House is a large four storey former factory building which is now used for a combination of residential and commercial purposes.
 4. The main southern facade of the building is characterised by a combination of the mass of the building and its strong vertical and horizontal lines, formed by large expanses of symmetrical glazing and a parapet roof to the middle and eastern sections of the building. The eastern elevation which fronts onto Hove Park Villas is characterised by its contrasting stone and brick walls, large symmetrical and segmented windows and ornate parapet roof line. Overall there is a very strong sense of symmetry in the design and appearance of the eastern section of the building, where the penthouse would be sited.
 5. The proposed penthouse would be smaller and would be set further back from the east facade of the building than with the previous proposed scheme for a penthouse flat. Despite this it would nonetheless be clearly visible from the
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- north side of the junction of Wilbury Avenue and Hove Park Villas as well as from various points along Hove Park Villas. The penthouse would be sited off centre along the eastern side of the building and would totally fail to respect the fenestration, walls, detailing, proportions and symmetry of the east elevation of the building. As a result it would appear incongruous and totally out of keeping with the host property and would seriously detract from the character and appearance of the setting of the building.
6. Similarly, due to its siting the northern side of the penthouse would fail to respect the symmetry of the north elevation of the building. Whilst this elevation is mostly screened from the street scene by Hove Park Mansions, the penthouse would be seen from the road junction to the north, where it would appear incongruous. The situation would be exacerbated by the use of standing seam cladding on the north elevation of the penthouse, which would contrast with both the east elevation of the penthouse and the northern elevation of Dubarry House.
 7. The south the penthouse would be partially screened by the existing enclosed stairs on the roof of the property. However, this elevation of the penthouse would be visible from the bridge over the railway and from land within and beyond the railway station. Whilst, when seen, the penthouse would fail to respect the strong vertical lines and proportions of the glazing in this elevation, it would not detract significantly from the appearance of the building or its setting. This is because it would be partially screened by the enclosed stairs, visibility from the bridge would be limited by the bridge walls and associated ironwork and from the south the views towards the building are more open and generally more distant.
 8. The proposed penthouse would be visible in wider views however, due to the distance involved and more expansive nature of any such views this would not in itself amount to a reason for dismissing this appeal. Similarly any views from other buildings would not materially detract from the living conditions of the occupants of those properties. However, this wider visibility of the penthouse adds to the concerns regarding its incongruous and inappropriate siting and design.
 9. I conclude on the main issue that the proposed penthouse would seriously and unacceptably harm the character and appearance of the host building and its setting. It would therefore conflict with policies QD1, QD2, QD3 & QD14 of the Brighton & Hove Local Plan. Collectively and amongst other things these policies seek to ensure that new development is well designed, sited and detailed in relation to the host property, makes a positive contribution to the visual quality of the environment and enhances the positive qualities of the local neighbourhood.

Other matters

10. Resident parking permits are available in the area in which the Appeal site is located and the site is conveniently located close to bus stops and Hove station. In addition, further cycle storage could be dealt with by condition. As a result and having regard to the modest size of the proposed penthouse the proposal would be unlikely to materially add to the demand for on-street parking in the locality.

11. The occupiers of the existing flats at Dubarry House would still have access to the existing communal roof terrace and with suitable soundproofing the occupation of the proposed penthouse and extended roof terrace would be unlikely to result in noise problems for the occupants of the flats below. Accordingly the scheme would not materially harm the living conditions of the occupiers of the existing flats in Dubarry House.

Conclusion

12. Whilst I have found in favour of the Appellant on some points my conclusion on the main issue represents a compelling reason for dismissing this appeal, which the imposition of conditions would not satisfactorily address.

Elizabeth Lawrence

INSPECTOR

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

BH2010/03139

66 Woodbourne Avenue, Brighton

Change of Use of ground floor from (A1) Retail Unit to 1no. Two bedroom self contained flat.

APPEAL LODGED

19/05/2011

Delegated

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

BH2011/00480

181 Church Road, Hove

Change of use from storage on lower ground floor to a two bedroom self-contained flat to include single storey extension.

APPEAL LODGED

19/05/2011

Delegated

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

BH2011/00304

5 Sudeley Street, Brighton

Formation of rear balcony at first floor level incorporating installation of French door to replace existing window.

APPEAL LODGED

25/05/2011

Delegated

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

BH2010/03860

Site Adjoining 72 Farm Road, Hove

Formation of self contained unit for preparation, storage and distribution together with revised fenestration and a first floor extension to accommodate office space.

APPEAL LODGED

31/05/2011

Delegated

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

BH2010/02879

Land to rear of 75 Tumulus Road, Saltdean

Erection of 1no two bedroom bungalow.

APPEAL LODGED

25/05/2011

Delegated

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

BH2011/00132

Land to Rear of 116 Goldstone Crescent, Hove
Erection of 2no storey two bedroom detached dwelling with energy cabin, car parking, cycle store and refuse store.

APPEAL LODGED

27/05/2011

Delegated

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

BH2011/00248

36 Hollingdean Terrace, Brighton
Replacement and enlargement of timber platform incorporating steps and glazed screens (Part retrospective)

APPEAL LODGED

27/05/2011

Planning Committee

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

BH2011/00729

3 Ovingdean Close, Brighton
Construction of two summer houses in rear garden with terracing and timber decking. (Retrospective)

APPEAL LODGED

01/06/2011

Delegated

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

BH2010/02596

Land to rear of 1-3 Clarendon Terrace Brighton
Erection of a two storey dwelling, alterations to boundary walls fronting Chesham Place and alterations within garden including excavation and alterations to walls.

APPEAL LODGED

03/06/2011

Delegated

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

BH2011/00423

Land Adjacent to 23 Alan Way Brighton
Erection of detached two storey residential dwelling.

APPEAL LODGED

03/06/2011

Delegated



**Brighton & Hove
City Council**

INFORMATION ON HEARINGS / PUBLIC INQUIRIES
29th June 2011

- -

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

-

481 Mile Oak Road, Brighton

Planning application BH2010/01967

no:

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

Decision: Committee

Type of appeal: Informal Hearing

Date: 12 July 2011

Location: Brighton Town Hall

49A Surrenden Road, Brighton

Planning application BH2010/02200

no:

Description: Certificate of Lawfulness for existing use of the building as a dwelling house.

Decision: Delegated

Type of appeal: **CHANGED TO WRITTEN REPRESENTATIONS**

Date:

Location:

Information on pre-application presentations and requests

Date	Address	Ward	Proposal
7 June 2011	N/A	N/A	N/A
28 June 2011	N/A	N/A	N/A
19 July 2001	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 and erection of a helipad on top of the Thomas Kemp Tower.

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.

