



**Brighton & Hove  
City Council**

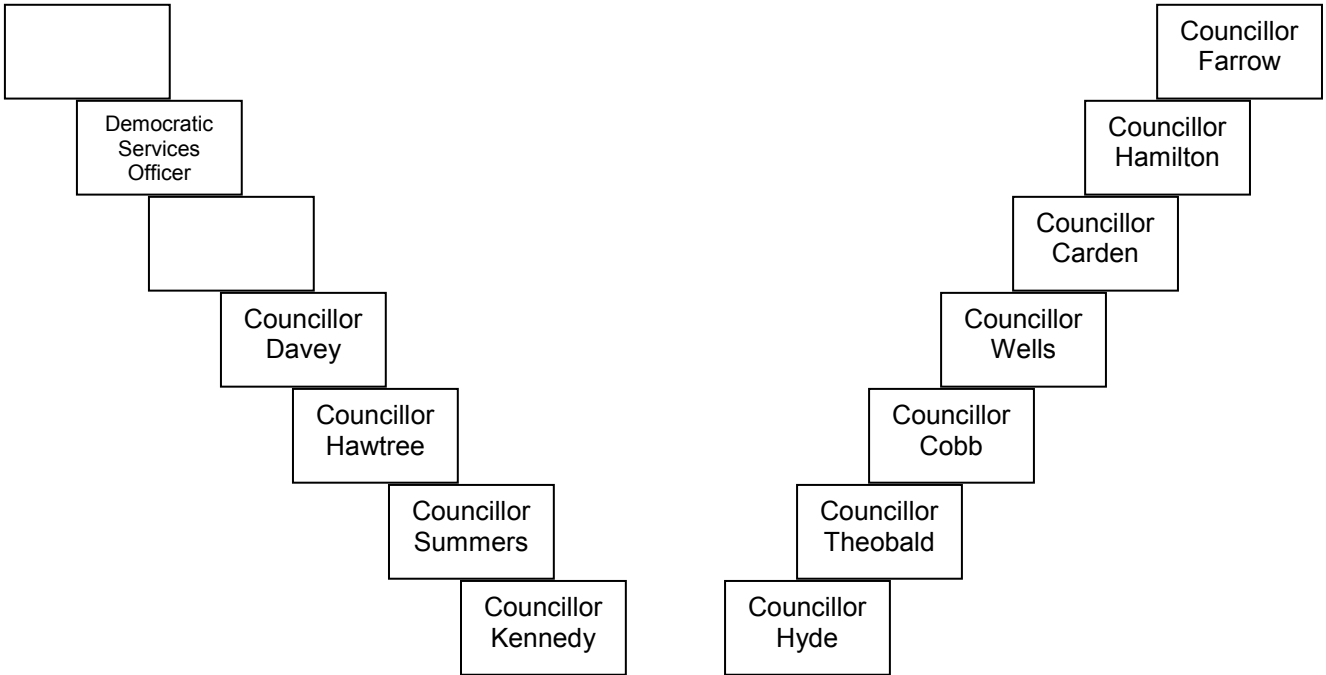
# Planning Committee

Title:	<b>Planning Committee</b>
Date:	<b>20 July 2011</b>
Time:	<b>2.00pm</b>
Venue	<b>Council Chamber, Hove Town Hall</b>
Members:	<p><b>Councillors:</b> MacCafferty (Chair), Hyde (Deputy Chair), Carden, Cobb, Davey, Farrow, Hamilton, Hawtree, Kennedy, Summers, C Theobald and Wells</p> <p><b>Co-opted Members:</b> Mr Philip Andrews (Conservation Advisory Group)</p>
Contact:	<p><b>Jane Clarke</b> Senior Democratic Services Officer 01273 291064 jane.clarke@brighton-hove.gov.uk</p>

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# Democratic Services: Meeting Layout

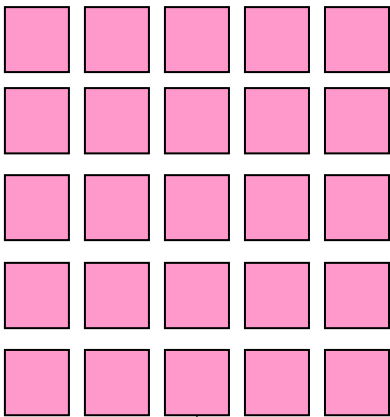
Senior Solicitor      Chairman      Head of Development Control



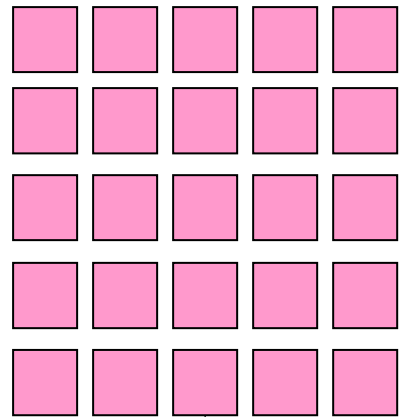
Chairman of CAG

Officers      Officers

Press



Public Seating



Public Seating

AGENDA

**24. 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.*

**25. MINUTES OF THE PREVIOUS MEETING**

**1 - 28**

Minutes of the meeting held on 29 June 2011 (copy attached).

**26. CHAIR'S COMMUNICATIONS**

**27. APPEAL DECISIONS**

**29 - 32**

(copy attached).

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

**33 - 36**

(copy attached).

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

**37 - 38**

(copy attached).

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

**39 - 40**

(copy attached).

## PLANNING COMMITTEE

**31. PLANNING ENFORCEMENT YEARLY REPORT APRIL 2010 - MARCH 2011 41 - 50**

Report of Head of Planning & Public Protection (copy attached).

*Contact Officer: Gerard McCormack Tel: 292031*

*Ward Affected: All Wards*

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

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

(copy circulated separately).

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

(copy circulated separately).

**35. 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

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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](mailto:jane.clarke@brighton-hove.gov.uk)) or email [democratic.services@brighton-hove.gov.uk](mailto:democratic.services@brighton-hove.gov.uk).

Date of Publication - Tuesday, 12 July 2011



### BRIGHTON & HOVE CITY COUNCIL

#### PLANNING COMMITTEE

2.00pm 29 JUNE 2011

#### COUNCIL CHAMBER, HOVE TOWN HALL

#### MINUTES

**Present:** Councillors MacCafferty (Chair), Hyde (Deputy Chair), Cobb, Davey, Farrow, Hamilton, Hawtree, Kennedy, Morgan, A Norman, Summers and Wells

**Officers in attendance:** Jeanette Walsh (Head of Development Control), Hilary Woodward (Senior Lawyer), Nicola Hurley (Area Planning Manager (West)), Hamish Walke (Senior Team Planner), Andy Renaut (Head of Transport Planning), Steve Reeves (Principal Transport Planner), Francesca Iliffe (Sustainability Officer) and Jane Clarke (Senior Democratic Services Officer)

#### PART ONE

#### 13. PROCEDURAL BUSINESS

##### 13a Declarations of Substitutes

13.1 Councillor Morgan declared he was substituting for Councillor Carden.

13.2 Councillor A Norman declared that she was substituting for Councillor Mrs Theobald.

##### 13b Declarations of Interests

13.3 Councillor Morgan declared an interest in application BH2011/01152, in that he was a Brighton & Hove Albion season ticket holder, and he also lived close to the racecourse. He sought legal advice from the Solicitor to the Committee. Mrs Woodward replied that if Councillor Morgan was willing to listen to both sides of the debate, and approached the application with an open mind he would be able to take part in the debate and voting. Councillor Morgan declared that he did have an open mind and would listen to the debate, and took part in the debate and voting thereon.

13.4 Councillor Wells declared an interest in BH2011/01152, in that he was a neighbouring ward Councillor on Tenants and Residents Liaison Committee. He also declared an interest in application BH2011/00872 as he had visited the Church as Mayor. Mrs Woodward asked if he had an open mind and would listen to the debate for both applications and Councillor Wells declared that he would, and took part in the debate and voting thereon.

13.5 Councillor A Norman declared an interest in application BH2011/01152 as she was a Brighton & Hove Albion season ticket holder, but remained of neutral mind, and took part in the debate and voting thereon.

13.6 Councillor A Norman declared a personal and prejudicial interest in application BH2011/01101, as she had already expressed an opinion on this application, and withdrew from the chamber and took no part in the debate or voting on this item.

### **13c Exclusion of the Press and Public**

13.7 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.

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

### **14. MINUTES OF THE PREVIOUS MEETING**

14.1 **RESOLVED** – That the Chairman be authorised to sign the minutes of the meeting held on 8 June 2011 as a correct record.

### **15. CHAIRMAN'S COMMUNICATIONS**

15.1 The Chairman reminded Members that officers were present to facilitate their understanding of an application and deserved the respect and support of Members.

### **16. APPEAL DECISIONS**

16.1 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.

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

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

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

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

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

19.1 The Committee noted the position regarding pre application presentations and requests.



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

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

Application:	Requested by:
BH2011/01013, St Augustine’s Church, Stanford Avenue, Brighton	Head of Development Control
BH2011/00973, Withdean Stadium, Tongdean Lane, Brighton	Head of Development Control

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

**(i) TREE APPLICATIONS**

21.1 There were none.

**(ii) MAJOR APPLICATIONS**

**A. Application BH2011/01152, Brighton Racecourse, Race Hill, Brighton** – Use of land for park and ride facilities for up to 700 cars, in conjunction with outdoor events (no more than 50 per year) at the American Express Community Stadium, Falmer.

(1) The Deputy Development Control Manager, Mr Vidler, introduced the application and presented plans, photos and elevational drawings. He stated that the Stadium planning permission required the Football Club to provide a minimum of 1300 park and ride spaces as part of its travel management plan. Currently it had 350 spaces at the University of Brighton, Mithras House site, and 520 spaces at Mill Road. The application today proposed 700 spaces at the Racecourse. This would result in the provision of 1570 spaces, which was above the minimum requirement.

There were a number of safeguards to this strategy, including a travel management plan and the formation of a travel management group, consisting of several stakeholders and key partners. Any issues could be addressed through this group. There were 3 areas of parking proposed, all lying to the east of Freshfield Road. The Stadium could hold a maximum of 50 outdoor events per year and condition 2 limited the onsite provision to 700 vehicles for 35 events and 500 vehicles for 15 days.

Vehicles using the park and ride site would access and egress from Freshfield Road. Eight buses would be used to take passengers to and from the Stadium amounting to a total 52 journeys. The route would be circular along Warren Road, Woodingdean crossroads, Falmer Road to the Stadium. It would return via Lewes Road and Elm Grove.

The nearest residential properties were on the former reservoir site. The site was in the Downland Conservation Area but not the National Park. There were concerns

over vehicle access, but these were addressed as part of the travel management plan which would encourage people using the park and ride to access the site via Elm Grove. Mr Vidler noted that traffic to the Racecourse was already a common occurrence as events were held there currently. There would be stewarding and additional provisions as part of the travel management plan would assess the impact on street parking. Stewards would discourage parking on streets surrounding the park and ride site. A Monitoring and Maintenance Strategy would be developed to keep the grassed area maintained. This strategy would enable measures to be introduced at a later date should issues arise.

There were very few properties adjoining the site so loss of residential amenity not considered an issue. There was limited visual impact as the cars would be seen via the backdrop of the garden centre and houses. The Environmental Health Team had confirmed that air quality would not be affected in the vicinity of the site.

There were items included on the Late List including amendments to the wording of condition 2 and a late request from the applicant to vary condition 3, which ensured there was no clash of large scale events at the Racecourse and Stadium, to be amended to 7 days notice instead of 14 days. The Football Club had stated that notification of cup replays could often be much less than 14 days and so a change to the wording was requested.

The County Archaeologist had been consulted and confirmed that on the basis that no below ground works were undertaken and the imposition of a model condition relating to archaeology, there was no objection to scheme. A late representation had been submitted from Brighton & Hove Archaeological Society requesting that the County Archaeologist and English Heritage be consulted.

### **Questions and matters on which clarification was sought**

- (2) Councillor Cobb asked what kiss and ride referred to in the report, and whether combustion on the grass surface as a result of hot tyres had been considered. Mr Vidler confirmed that combustion had not been raised before as the area had already been used fairly regularly for parking. Kiss and ride referred to an area where people were dropped off by relatives or friends.
- (3) Councillor Hyde asked why traffic was directed through Woodingdean as this was a high density residential area. She felt it was exceedingly difficult to cross over the road and it was very congested. She asked why traffic could not be directed down Elm Grove. Mr Vidler replied that this was the preferred route of the bus company, who had significant input into the route. The Head of Transport Planning, Mr Renault, replied that the circular journey was preferable, and there were no good traffic reasons why this should not be used. Spectator traffic will approach from a number of routes, will prefer to avoid some routes and this will be promoted through the club.
- (4) Councillor Hyde asked how drivers would be encouraged to use Elm Grove. Mr Renault replied that this would be through club promotional material issued to supporters on a match by match basis.

- (5) Councillor Hyde asked why evening traffic congestion on Woodingdean had not been considered as part of the report. Mr Renault said that the morning peak hour reference referred to the traditionally busier hour of the two peak hours, although it was accepted that congestion would also occur in the evening.
- (6) Councillor Hawtree asked for clarification on who would be using the VIP car park. Mr Vidler replied this was not a matter for determination of this application, but added that some of this space would be used for disabled parking.
- (7) Councillor Hawtree asked where the majority of supporters would be coming from. Mr Renault replied that the information submitted by the Club referred to predicted movements derived from previous ticket holder postcodes. This information would enhance management of movements across the city and form part of the Travel Management Plan. He did not have further information regarding where supporters might be travelling from.
- (8) Councillor Well asked about air quality and asked whether this included the routes to the site such as Elm Grove and Lewes Road. Mr Vidler replied that the air quality assessment related only to the Racecourse itself.
- (9) Councillor Wells asked what year the figures were collated in. Mr Vidler replied they had been taken over a number of previous seasons from ticket buyers at Withdean and were more recent than 1999.
- (10) Councillor Wells asked what the figure of 6,000 supporters preferring park and ride related to. Mr Vidler replied it was from a recent support survey carried out and equated to 6,000 supporters of the maximum capacity of the Stadium.
- (11) Councillor Morgan asked for clarification regarding the use of vouchers with walk up passengers. He asked how people arriving at the park & ride site by car and parking in the nearby roads would be prevented. Mr Vidler confirmed that supporters would need a voucher to use the park and ride. He acknowledged there was a concern that supporters could park and walk up to bus, but felt this could be addressed by stewards on day. If issues like this arose it could be raised through the Travel Management Group and changes could be made.
- (12) Councillor Morgan asked why the draft Traffic Management Plan was not included in the papers. As a ward Councillor he knew the pressures on road junctions in this area. If remedial works were needed because of the demand created who would pay for this. Further, Councillor Morgan noted that Wilson Avenue had been selected as the preferred site for the consolidation centre for RSCH, and felt this would have an impact on traffic movements. He asked if this had been taken into account. Lastly, Councillor Morgan noted that when Withdean was set up planning permission was given on a temporary basis and asked why this application was not a temporary one.
- (13) Mr Vidler replied that it has always been acknowledged that Withdean was a temporary home, whereas the American Express Community Stadium would be a permanent home. However if Members felt a temporary permission was appropriate this could be raised as part of discussion.

- (14) Mr Renault added that none of the park and ride sites for Withdean had needed planning permission, and so this application was a departure from what had been done before. The consolidation centre had not been taken into account for this application because it was a preference site that had only recently been suggested. He added that the pressure on junctions was a key consideration for the Traffic Management Group and would be addressed through the Travel Management Plan.
- (15) Councillor Norman asked if the Football Club would agree to monitor the traffic over match days for several months. Mr Renault replied that monitoring of all aspects of the stadium would form part of the Travel Management Plan.
- (16) Councillor Davey asked what had been the experience of events being held at the Racecourse that generated this amount of extra journeys. Mr Vidler replied that a number of race meetings created this level of traffic movement already and there did not seem to be problems.
- (17) Councillor Davey asked what impact there would be on the local road network. He was particularly concerned about the impact on Lewes Road and the air quality on this road. He asked if the transport model had been used to gain an appreciation of what these movements would do to the local road network.
- (18) Mr Renault replied that the volume of cars on race meeting days were similar to levels that would attend the Stadium. He recognised that inconsiderate parking could be a problem and obstruct buses but this would be controlled through parking enforcement and the Police, who were a key partner in the Travel Management Group. The route of the buses was not expected to have a significant effect on the capacity of those roads as movements would take place over 2 hours. The transport model had not been used to assess this as the movements would not be at normal peak times.
- (19) Councillor Hyde asked if there was any further opportunity to park at the new Falmer Academy. Mr Renault replied that parking in the area had been a part of the original permission when it was still Falmer High School, but the new Academy would only allow parking on the campus road that led to school for around 100 spaces.
- (20) Councillor Hyde asked if it would be prepared to sanction more parking in the future. Mr Renault replied that this was still being considered.
- (21) Councillor Hawtree asked why this application had been brought to Committee so late, and were any active steps being taken to investigate any other sites in city. Mr Vidler replied that the Committee needed to determine the application that was before them rather than consider alternative sites. The timing of the application was not in the control of the Development Control Team.
- (22) Councillor Wells noted a reference to Bear Road and Mr Vidler replied this was a typing error and these references would be removed from the report.
- (23) Councillor A Norman asked if the journey times calculated had been based on a speed limit of 30mph and Mr Vidler confirmed this.

**Public speakers**

- (24) Mr Pennington, a local resident, addressed the Committee and said that Craven Vale Community Association should be involved as a member of the traffic management group. He added that, through the planning gain, attention should be paid to improvements to pavements in the area and to the bus stops.
- (25) Councillor Cobb asked whether there were any opening and closing times for the park and ride facility. Mr Vidler the site would be open for around 2½ hours before kick off and open until the last vehicle was removed, which was anticipated to also be 2½ hours.
- (26) Councillor Hawtree asked Mr Pennington what improvements he would like to see to bus stops in the area. Mr Pennington replied that there were two bus stops at the top of Craven Vale that did not have seating and one was open to the elements. He felt that these stops could be improved.
- (27) Mr Perry, Chairman of Brighton & Hove Albion, addressed the Committee and stated that this was an important part of the present proposals for the Club. The application was part of overall strategy for sustainable transport and had been fully discussed and debated in all of the Planning Inquiries. The Stadium needed a variety of modes of transport to get 22,000 people into the site and this would be spread across a range of methods. The latest figures from the supporters' survey indicated that 2,680 supporters would use the park and ride facility and there was a demonstrable need. Provision at the Racecourse would make up the balance needed to provide this facility. The concept was an interceptor facility that would encourage supporters to travel as far as the Racecourse and then continue the journey in a more sustainable way on the buses. The Club had made the commitment that they would not cause congestion in the surrounding area, and this proposal would help them to achieve that aim. Mr Perry took on board the comments from Mr Pennington and stated that the Travel Management Group was open for members of the public to join and raise issues.
- (28) Councillor Kennedy was disappointed that provision had not been found at either Falmer Academy or the Southern Water premises. She asked if planning permission was granted would the Football Club commit to continue negotiations with these facilities.
- (29) Mr Perry replied that the Football Club had approached Southern Water on 4 occasions to discuss provision and had been unsuccessful. It was very disappointing for the Club that this was the situation. With regard to Falmer Academy, when the site was completed there would be an area of land that may become vacant. The Club were in discussions with the Academy to use this as a car park in the future.
- (30) Councillor Hawtree asked how many supporters would attend from outside the city and how many from within, why the application had come before the Committee so late, and what steps would be taken to prevent parking in Woodingdean.

- (31) Mr Perry replied that around 80 per cent of fans would be coming from Brighton & Hove and the remaining will be 20 per cent would be from outside the city. Away supporters were normally very well organised with coach provision from their respective grounds, and would use the bus and coach interchange on site. The application was delayed because it had come as a surprise to the Club that they had to apply for planning permission for an area already used as a car park. The club had managed park and ride at Withdean extremely successfully with no problems at Mill Road. Vouchers would be purchased in advance and if a car park was full cars could be diverted to wherever there is a vacancy. The Club would actively discourage parking in the area, but the buses would be open to those walking or cycling to the park & ride sites.
- (32) Councillor Cobb noted that park and ride provision at the racecourse was primarily to deal with traffic coming from the east, which she believed would naturally pass through Woodingdean crossroads. Mr Perry replied that supporters would avoid travelling through that area if it was congested and drivers could reach the Racecourse without travelling through Woodingdean. Councillor Cobb believed this would just move the congestion onto a different route.
- (33) Councillor Davey asked why the completed Travel Management Plan was delayed and what level of cycle provision would be provided. Mr Perry replied that there was current provision at the Racecourse for cyclists that could be used. The Travel Management Plan had been delayed because of the tardiness of some key partners signing the final version.
- (34) Councillor Farrow asked if a bus service would be provided from Rottingdean via Woodingdean to the Stadium. Mr Perry replied that some supporters had organised a coach between them from various locations such as Peacehaven, Shoreham and Henfield. The Club was subsidising this to encourage coach travel. They were trying to create a genuinely sustainable travel plan with 75 per cent of supporters coming by sustainable means.
- (35) Councillor Davey was unconvinced that park and ride was a sustainable option. Mr Perry replied that this was an interceptor park and ride that would stop cars congregating in the area.
- (36) Councillor A Norman asked if the club would have a telephone hot line available for people to phone in with immediate problems, and whether residents' liaison meetings would continue. Mr Perry replied that liaison meetings were set up in the construction phase and had been extremely successful. The Club now had a customer service line to deal with any queries or issues. The Travel Management Group was the best place for any issues to be dealt with by all key partners.

### **Debate and decision making process**

- (37) Councillor A Norman stated that she was a season ticket holder and had supported the Club for many years. When the proposal had come in for relocation of the Club to Withdean Stadium she had opposed the application on behalf of her residents, for many of the reasons that were similar to today's concerns. However, she had a very

good experience with the Club in Withdean and the travel provisions had worked extremely well, and there had been no ongoing issues that were not dealt with.

- (38) Councillor Kennedy asked if the Section 106 contributions would be spent on areas of adjacent wards that were affected by the proposals. Mr Renault replied that any off site improvements had already been completed.
- (39) Councillor Kennedy asked if an informative could be added to encourage the Club to continue ongoing negotiations with Southern Water and Falmer Academy, and this was agreed.
- (40) Councillor Cobb recognised that parking at the Racecourse has been going on for many years and so it was unlikely that damage to grass would occur, but fires from vehicles still remained a concern. The possible implementation of a 20mph limit across certain areas of the city could affect travel journey times, and would subsequently affect the predicted opening and closing times of the site. She would support a proposal for a temporary permission.
- (41) Councillor Morgan said that he fully supported the principle of park and ride for projects like this. However there was already considerable congestion at the Racecourse during car boot sales and other events, with considerable overspill parking on Warren Road and Manor Hill. In light of all of these concerns and the concerns from the public Councillor Warren suggested a one year temporary grant be given, during which time the football club could carefully assess the traffic and parking implications, air quality implications and congestion that might be created over this time, and then return to the Planning Committee with relevant and up-to-date information.
- (42) Councillor Wells could not support a park and ride scheme that was located in the city. He felt it could be setting a dangerous precedent for other large organisations to follow and so could not support the proposals. Around 1,800 cars travelled through Woodingdean crossroads everyday, and this application would increase that by around 100. He also felt that the buses would be held up along the Lewes Road corridor.
- (43) Councillor Davey was concerned about the impact of this scheme on the area. He didn't feel that questions that had arisen regarding the impact on traffic and parking had been answered properly and was concerned about the impact on Woodingdean crossroads. Lewes Road air quality continued to be a concern and he did not feel the proposals would discourage people from using their cars, as it was likely they would park in the area and walk up to use the bus. He would support the scheme as a temporary measure to assess how well it worked, and he hoped that key partners could work together during this time to come up with an aspirational Transport Management Plan that aspired to get more people using sustainable transport and encouraging greater cycling.
- (44) Councillor Hawtree was surprised that 80 per cent of attendees would be local. He believed this indicated that all of the supports using the park and ride scheme would be from Brighton & Hove, and asked why they could not bus to the stadium.

- (45) Councillor Hamilton was surprised by the debate and said that the Stadium had already been given permission, and suitable transport arrangements needed to be agreed. He felt that concerns were being overstated and identified that there would be one bus every five minutes along the Lewes Road, which he did not feel would unduly hold up traffic. He acknowledge that whatever scheme was agreed there would be some inconvenience to local people, as big sporting venues always created some inconvenience. He believed the football club was doing all it could to reduce car travel to the stadium, and this scheme would give people more options in terms of travel.
- (46) Councillor Farrow noted that this application had been through two planning inquiries. It was unfortunate that the football club had not realised they needed planning permission until late on in the process as a lot of problems had been raised. He was minded to support a temporary permission.
- (47) Councillor A Norman recognised that this development had created enormous local employment. The park and ride scheme at Withdean had originally raised lots of concerns. Withdean Stadium was situated in narrow, hilly roads, and there were concerns that the area would be constantly blocked and residents wouldn't be able to get around on match days. However, the Club had operated the scheme very effectively and the area was normally clear by 5.30pm. Councillor A Norman understood that this was a bigger stadium and had its own problems and worries, but she was sure that once the scheme was in place it would work very well. She was unsure if a temporary permission was appropriate.
- (48) Following advice the Chair clarified that the Club would need to be given a temporary two year permission for the data to be collated correctly, and asked Councillor Morgan if he was happy to accept this amendment to his proposal. Councillor Morgan agreed to this amendment on the understanding that the application would come back to the Planning Committee before the third football season at the Stadium commenced with the relevant data from the Traffic Management Plan, and information on air quality in the areas of concern raised in the debate.
- (50) Councillor Wells asked if a condition could be added to prevent the bus company from using Woodingdean as a bus route and the Senior Solicitor, Mrs Woodward, advised that the Committee could not condition a routing plan. A traffic order would be needed.
- (51) A vote was taken and on a unanimous vote for the proposal temporary planning permission was granted for the reasons as stated by the Head of Development Control, with the conditions and informatives listed in the report, and an additional informative as proposed by Councillor Kennedy.
- 21.2 **RESOLVED** – That the Committee has taken into consideration the recommendation and the reasons given in the report, and resolves to grant a temporary 2 year planning permission, subject to the conditions and informatives listed in the report, and amendments to conditions and informatives to read:



**Replace Condition 1:**

The use hereby permitted shall be discontinued and the land restored to its condition immediately prior to that use on or before 30 June 2013 in accordance with a scheme of work submitted to and approved in writing by the Local Planning Authority.

**Reason:** To enable the Local Planning Authority to assess the transport and amenity impacts of the development and to comply with policies TR7, QD2, QD27 and SU10 of the Brighton & Hove Local Plan.

**Amend Condition 2:**

No other area at Brighton Racecourse, apart from the 3 parking areas shown on plan number 5, referenced NI2034-03 submitted on the 13 June 2011, shall be used as parking in connection with park and ride to the football stadium of Brighton & Hove Albion Football Club. The parking within these 3 areas referred to above, shall not exceed 50 days in any 12 month period. Of these 50 days in any 12 month period the number of vehicles within these 3 parking areas shall not exceed 700 vehicles for a maximum number of 35 days, and for the further 15 days shall not exceed 500 vehicles.

**Reason:** To limit the capacity of parking and number of days in order to minimise disruption to the local highway network and to residents by reason of noise and disturbance and traffic pollution, and to comply with policies TR1, TR7, SU9, SU10 and QD27 of the Brighton & Hove Local Plan.

**Amend Condition 3:**

Prior to the start of each football season, a Schedule of Events, which will include the dates and times of the days Brighton Racecourse will be used as parking in connection with park and ride to the football stadium of Brighton & Hove Albion Football Club, along with the full details of any of events which are to be held at the Racecourse on these days (including a description of the event, times of the day of the event, the anticipated likely capacity of people attending such an event, and number of parking spaces available for such an event), will be submitted to and approved in writing by the Local Planning Authority. Unless otherwise agreed in writing with the Local Planning Authority 7 days prior to any change, the parking for the park and ride to the football stadium shall only be permitted in accordance with the approved Schedule of Events.

**Amend Condition 4:**

Delete "...Bear Road,..." replace with Tenantry Down Road.

**Reason for Condition 5:**

To safeguard the condition of the grassed areas and the visual amenities of the locality and to comply with policies QD2 and QD15 of the Brighton & Hove local Plan.

**Amend Condition 7:**

Prior to the start of the 2011-2012 football season, full details of the cycle parking to be provided at the site shall be submitted to and

approved in writing by the Local Planning Authority. The scheme shall be implemented fully in accordance with the approved details prior to the start of the 2011-2012 football season and retained as such thereafter.

Add further Condition 8:

14.01 Archaeology (Investigation/programme of works).

Add further Informative 3:

'The applicant is advised to continue dialogue with local land owners and occupiers, including Southern Water and Falmer Academy, to attempt to secure car parking arrangements within 1.5 km of Falmer Stadium, as required by conditions 39 and 35 of the planning permissions granted for Falmer Stadium in 2007 and 2009 respectively.'

**B. Application BH2011/00806, Buxton, 27 – 33 Ditchling Road, Brighton –**  
Application to extend time limit of previous approval BH2008/00535 for the demolition of existing building. Proposed change of use to mixed use development comprising (D2) gym, (A1) retail and (C3) 28 apartments.

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

#### **Questions and matters on which clarification was sought**

(2) Councillor Hawtree asked why the applicants had asked for an extension. Mr Walke replied that he did not know and it was not a relevant planning consideration.

(3) Councillor Davey asked if there had been any relevant changes to the policy position. Mr Walke replied that there had been changes to sustainability requirements through the adoption of SPD08. This was a significant change in material considerations and the recommended conditions reflected this change. Education provision had also increased slightly.

#### **Debate and decision making process**

(4) A vote was taken and on a vote of 7 for, 0 against 2 abstentions, the Committee resolved to be minded to grant planning permission subject to the completion of a Section 106 agreement and the conditions and informatives listed in the report.

21.3 **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 that it is minded to grant planning permission subject to the completion of a Section 106 agreement, and the conditions and informatives listed in the report.

**(iii) MINOR APPLICATIONS****C. Application BH2010/03422, 5 Bedford Place, Brighton – Erection of railings around rear second floor roof terrace and reduction in size of roof terrace.**

- (1) The Area Planning Manager (West), Mrs Hurley, introduced the application and stated that the presentation for this application would be taken together with application BH2010/03423, 5 Bedford Place, Brighton. She presented photos, plans and elevations and noted that unauthorised works had taken place to construct the balustrade and railings at second floor level.

The application proposed a reduction in size of structure of the second floor terrace. The second application BH2010/03423 was similar but also included permission for the unauthorised roof terrace. A late letter and email from the agent had been submitted, but the issues raised in the letter were addressed in the report. The structure had not been approved under delegated powers and did not have a certificate of lawfulness to confirm that the roof terraces had been in situ for more than four years continuously. Site photos in 2009 show the roof terrace had not been continuously in place. Planning permission was not needed for people to sit out on a flat roof, but railings were needed for building control regulations, and these were not shown in 2009 and it is these that need planning permission. Letters had been received in support and objection to the application. The main consideration related to design and appearance, in particular the effect of the mansard roof and the roof top skyline in the conservation area. The railings were not a historic feature of the roof top. The removal of the second floor timber balustrades was welcomed, but installation of metal railings remained inappropriate and so the application was recommended for refusal.

**Questions and matters on which clarification was sought**

- (2) Councillor Hawtree asked if the planning officers would like to see household remove both terraces. Mrs Hurley agreed with this.
- (3) Councillor Hyde referred to the letter from the agent and noted that it said that the current application would reduce the terrace in size to that which had already been approved. She asked if anything had been approved. Mrs Hurley said the applicant argued that in 2009 an application for conversion for the ground floor flat and maisonette above was approved, and as part of this a second floor terrace was shown on the plans. However planning permission was not needed to stand on a terrace and the balustrade was not shown, and so did not have permission.

**Public speakers**

- (4) A statement was read out by the Chairman on behalf of ward Councillor J Kitcat as follows:

“The present owners purchased the property in good faith from a developer who had altered the rear terrace to replace cast iron railings with a wooden deck and railings. Discussion with the council over building regulations has resulted in confusion

between the rear and roof terraces and what or wasn't required. Consequently the top roof terrace railings were also replaced.

None of this background changes the fundamental point that there is a very long history of both the roof and rear areas being used as outside terraces by previous owners. During your site visit I hope that you saw where the original cast iron railings were affixed, proving this historical usage.

The owners have engaged with the council to attempt to resolve this matter. Sadly the council's approach has been inconsistent and ever-changing. The owners are merely seeking to return the terraces to their original state, but within modern building regulations. They hope this will address any remaining building regulation and planning concerns.

It is in my view excessively harsh to take away their right to use these outdoor spaces, which have long been there - due to the errors of a previous developer and confusion by the council over enforcement, building regulations and earlier applications which were granted. Please approve both applications for 5 Bedford Place."

- (5) Mrs Kingsley-Smith, the applicant, addressed the Committee and said that she had bought the converted maisonette in October 2009, mainly for the roof terrace. The essential criteria for her and her husband was outside space. Normal searches confirmed there were no issues with either terrace and they were shown on the plans. In June 2010 they had received an enforcement letter from the Council saying that the terraces did not have permission, and were told to apply for planning permission to regularise the situation. Due to new building control regulations the railings had to be changed, but if they had not been removed it would have been evident they had been in situ for several years. Mrs Kingsley-Smith felt she was now being penalised for this change in regulation. She felt that the case officer analysis of the terraces had changed since 2010, and although they had tried to come to a compromise to keep everyone happy, this seemed to be now not acceptable. Removing the terraces would have a significant impact on the value of their home and would remove the reasons why they wanted to live there in the first place.
- (6) Councillor Hawtree asked if any of their neighbours objected to the terraces, and Mrs Kingsley-Smith replied they did not.

### **Debate and decision making process**

- (7) Councillor Hawtree stated he was pleased the Committee had viewed this building on the site visit. He did not feel the photos put the terraces into context. He approved of the second floor terraces being replaced by better materials. The area was unique, with a positive character and he felt that some other 1960s mansards in the area were far more noticeable and detrimental. There were very few gardens here, and he felt it was important that residents could keep their outside space.
- (8) Councillor Cobb felt the second floor terrace was very poor and much lower to nearby properties. She felt that there might be sound issues if the railings were changed from solid timber. She felt the roof terrace was appropriate.

- (9) Mrs Walsh stated that the value of a property is not a material planning consideration. The officer's duties were to assess the applications in terms of the affect on the character and appearance of the conservation area.
- (10) Mrs Woodward said an application should preserve or enhance a conservation area.
- (11) Councillor Cobb asked if the terraces could be used safely without railings. Mrs Hurley replied that building regulations required railings around the terraces, and the railings needed planning permission.
- (12) A vote was taken and on a vote of 0 for, 2 against and 10 abstentions the recommendation to refuse planning permission was not agreed.
- (13) Councillor Hawtree proposed an alternative recommendation to approve planning permission and Councillor Cobb seconded the recommendation.
- (14) A second recorded vote was taken and on a vote of 2 for, 0 against and 10 abstentions planning permission was granted for the reasons given below.
- 21.4 **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 grant planning permission for the following reason:

1. The proposed development is not inappropriate to the form and character of the host building and is in keeping with the character and appearance of the Regency Square Conservation Area. Furthermore the proposed development will not have a detrimental effect on neighbouring amenity. The application is in accordance with policies QD14, QD27 and HE6 of the Brighton and Hove Local plan 2005.

**D. 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) The presentation for this application was taken together with application BH2010/03422, 5 Bedford Place, Brighton.

**Debate and decision making process**

- (2) A vote was taken and on a vote of 0 for, 2 against and 10 abstentions the recommendation to refuse planning permission was not agreed.
- (3) A second recorded vote was taken and on a vote of 2 for, 0 against and 10 abstentions planning permission was granted for the reason given below.

21.5 **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 approve planning permission for the following reason:

1. The proposed development is not inappropriate to the form and character of the host building and is in keeping with the character and appearance of the Regency Square Conservation Area. Furthermore the proposed development will not have a detrimental effect on neighbouring amenity. The application is in accordance with policies QD14, QD27 and HE6 of the Brighton and Hove Local plan 2005.

**E. 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) Mrs Hurley introduced the application and presented plans photos and elevational drawings. The site was located on the west side close to the junction with Old Shoreham Road. There had been a number of applications in the past to develop this site, which was currently a vacant plot, but which was in industrial storage use up to the 1970s. A new detached dwelling was proposed. Access would be for pedestrians only via the existing driveway. Two late letters from the applicant's agent did not raise any new issues, and the issues were addressed in the report. Letters of support had been received from neighbouring occupiers.

An application in 2007 sought construction of a pair of semi detached properties. This was dismissed at appeal as it would have an enclosing and overbearing effect on the listed dwelling and failed to respect its setting. Previous applications were withdrawn due to concerns on the impact of the listed building.

The main considerations are the impact on residential amenity, the impact on 8 Locks Hill and traffic issues. The current application proposes excavation to present a lower profile to number 8, but the design of the building has suffered because of this. It would have a significantly greater footprint than 8 Locks Hill, and could not be considered smaller and subservient. It was an alien and incongruous addition. There was not considered to be a loss of residential amenity, or loss of privacy or light as a result of the development. Safe vehicle access was a concern with no onsite parking provision. Although there was a bus stop opposite the site, it was not felt that this was a sustainable location in terms of transport. In the absence of any parking it was felt that new residents may attempt to park on the driveway of number 8 Locks Hill, which would have a detriment to the listed building and highway safety given the close proximity of the school safety patrol. The application would not cope with the traffic demand it would create. There was also a lack of submitted information in respect of sustainability for code level 5, which the application would be required to achieve.

#### **Questions and matters on which clarification was sought**

- (2) Councillor Hyde asked for clarification on the Planning Inspector's comments. Mrs Hurley stated that the Inspector had said in his decision that a new dwelling would have an enclosing and overbearing effect on the listed building, and the proposed access failed to preserve the setting.
- (3) Councillor Hyde asked how this application compared with the previously refused footprint. Mrs Hurley replied that the orientation was different and, in response to

Councillor Hyde's further question, that the appealed scheme was not double the size of the current scheme.

- (4) Councillor Wells asked when the building was listed. Mrs Hurley replied it was in 1971.
- (5) Councillor Hamilton asked if the owner of number 8 would be able to put a barrier across the driveway to prevent additional parking. Mr Reeves replied that this was not something in the Council's control.
- (6) Councillor Hamilton referred to a public right of way next to the site, which led to ample off street parking, and asked why this was not considered acceptable. Mr Reeves agreed that parking was within easy walking distance of the site, but he remained concerned that there could be 4 or 5 cars parking on driveway, which was a safety concern.
- (7) Councillor Cobb referred to a roof that had been removed from the site. Mrs Walsh said that there had been a number of issues raised following the site visit, and Enforcement Officers would investigate the issue in terms of conservation area consent.
- (8) Councillor Davey asked if it was clear the site was classified as a green field site. Mrs Hurley said the Inspector's report was satisfied that this site was in the main curtilage of the house and therefore was part of the garden.

### **Public speakers**

- (9) Mr Dodd, the applicant, said that the plot had not been vacant since the 1970s but had operated as a building site that ceased around 1990. There would be no traffic implications because there would be no access to parking on site. Mr Dodd was hoping to provide a new family home that was only 10 minutes from the station and opposite a bus stop. There had been an error at the Planning Appeal and the house had been described as 4 storeys, when in fact it was only 2 storeys. The footprint of the proposed building would be less than 8 Locks Hill, and Mr Dodd would continue to preserve the listing of the building. There was no opposition to the application, and local residents supported additional housing for this site.
- (10) Councillor Wells asked if the front elevation was cladding or brickwork. Mr Dodd replied that he would like to include 18<sup>th</sup> century tiles.
- (11) Councillor Wells said flint work would be preferable and Mr Dodd agreed that he would like it to match the original.
- (12) Councillor Hamilton said that the side driveway could accommodate 4 or 5 cars and asked if Mr Dodd would take steps to prevent this. Mr Dodd replied that there would be pedestrian access only.
- (13) Councillor Hawtree asked if wooden windows and doors would be used. Mr Dodd replied that he would be happy to do this.

- (14) Councillor Farrow was concerned that fire vehicles would not be able to access the site. The Chairman said that this was not a material planning consideration.

**Debate and decision making process**

- (15) Councillor Cobb said she was not opposed to an appropriate development on this site and she felt that access from the front could be plausible. She did not like the design or appearance of this application however. There were no materials presented with the application and she was concerned that no standards of sustainability were met.
- (16) Councillor Wells did not feel there was an issue with the principle of development on site, but he would like to see a more traditional design. The use of wood would be more in keeping with listed building.
- (17) Councillor Hamilton knew the site very well. He felt that as the proposed building would not be seen it would not affect the setting of the listed building. A right of way was used everyday by parents that led into Locks Crescent, where there was ample parking. He realised there were outstanding questions regarding sustainability, but did not think this would affect the listed building. In this particular case he did not see why a home could not be provided in this location.
- (18) Councillor Hyde asked if the application were approved, could the committee condition the use of flint and wooden windows. Mrs Hurley replied that the application stated that the materials were brick and red clay tiles, with wooden timber windows and door. A condition could not change what was a part of the application.
- (19) Councillor Hyde asked for clarification regarding sustainability. Ms Francesca replied that the answers given on the checklist had not reached the required level, and in some cases were contradictory. There was a great concern that sustainability was not addressed at all in the application. The site was classified as greenfield and so code level 5 was expected.
- (20) Councillor Hyde asked if code level 5 could be conditioned. Mrs Walsh replied that it was the experience of officers that schemes could not achieve code level 5 unless it was designed into the application.
- (21) Councillor Kennedy said that she would support the officer's recommendation to refuse the application. She expressed concern over the quality of materials proposed, and felt that the setting of the listed building was an important principle. This was a busy road so transport concerns were relevant. She did not feel the applicant had submitted enough information with the application, and felt the Committee would be damaging the Council's own policies if this was approved without evidence that it could reach code level 5. She added that refusing this application did not refuse the principle of development.
- (22) Councillor Davey welcomed designation of greenfield sites. He was not against development on this site, but it had to be of the highest standards. The application was expected to reach code level 5 but the design could not reach this. A number of



concerns had been raised about the proposed materials and these could not be resolved with the scheme before them.

- (23) Councillor Farrow was confused as to status of the site, as it had previously been industrial use. Mrs Hurley replied that the appeal in 2007 confirmed that this land had become part of the curtilage of the house.
- (24) Mrs Woodward added that the definition of greenfield was contained in Planning Policy Statement PPS3. Historically this land may have been industrial, but when the tests in PPS3 were applied the land was now found to be greenfield despite its industrial heritage.
- (25) Councillor A Norman said the land could provide a home, but she had a few reservations regarding this application. She recognised what Mr Dodd intended to do, but felt that there was a capability for 4 cars parking on this drive without provision of a turning circle. This would result in cars reversing onto the main road. She felt there were many inconsistencies in this application, and it should be refused, but agreed with the principle of development on site.
- (26) A vote was taken and on a vote of 9 for, 2 against, 1 abstention planning permission was refused for the reasons given in the report.

21.5 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in paragraph 8 of the report and resolves to refuse planning permission for the following reasons:

1. Policies QD1, QD2 and QD3 of the Brighton & Hove Local Plan require proposals for new buildings to demonstrate a high standard of design that emphasises and enhances the positive qualities of the local neighbourhood by taking into account the local characteristics, including the height, scale, bulk and design of existing buildings. Policy HE3 seeks to protect the setting of Listed Buildings from inappropriate or poorly designed development. The proposed dwelling, by virtue of its scale, design and close proximity to the listed building, represents an inappropriate and poor standard of development that fails to reflect the general character of the area and the setting of the Grade II Listed Building, contrary to the above policies.
2. Policies TR1 and TR7 of the Brighton & Hove Local Plan require all new development to provide for the travel demand it creates without increasing the danger to users of pavements, cycle routes and roads. The proposed development, by virtue of the lack of designated parking provision, fails to adequately demonstrate that it can cater for the traffic demand it would create without detriment to existing limited parking provision in the area, and public highway and pedestrian safety, contrary to the above policies.
3. Policy SU2 of the Brighton & Hove Local Plan, including SPD08 'Sustainable Building Design', requires new residential development on land not previously developed to achieve Level 5 of the Code for Sustainable Homes. The applicant has failed to adequately demonstrate that measures of sustainability have been considered or incorporated into the design of the dwelling, and has

failed to demonstrate that Level 5 of the Code for Sustainable Homes can reasonably be achieved without significant alterations to the design and appearance of the dwelling. The proposal is therefore contrary to policy SU2 of the Brighton & Hove Local Plan, and Supplementary Planning Document 08 'Sustainable Building Design'.

Informative:

1. This decision is based on the design and access statement, waste minimisation statement, biodiversity checklist and drawing nos. 171/1/A and 171/2/A received on the 21st March 2011; and the sustainability checklist received on the 30th March 2011.

**F. Application BH2011/00872, The Greek Orthodox Church, Carlton Hill, Brighton**  
– Erection of two storey building to form community hall and priest accommodation and formation of new door in the main church building.

- (1) The presentation for this application was taken together with application BH2011/00873, The Greek Orthodox Church, Carlton Hill, Brighton.
- (2) Mr Walke introduced the application and presented plans, photos and elevational drawings. He noted the property was a grade II listed building in the Carlton Hill conservation area. There were substantial level changes on site so that the application area lay significantly below the surrounding houses. The church had suffered an arson attack last year and was not currently being used. The application sought to build a detached two storey building to be used as a church hall, with access along the side of church. A 1st floor flat for the use of the priest was also included. Outline approval for a community hall had been granted in the past, but this had now lapsed. Policy HO19 of the Brighton & Hove Local Plan supported community facilities and this application would bring a listed building back into beneficial use.

Objections had been received from neighbours, including those from ward Councillors, and a further objection on behalf of the resident from 29 St John's Place, which raised concerns of disturbance to the occupant who had health issues.

Roof lights and sun pipes had been added to the original proposal, but as the building would not feature significantly as part of street scene this was considered appropriate. Originally the new proposed building would have been attached to the church but, following comments from English Heritage, it was now detached and the materials would match the existing building. The rear wall adjoined Turner Park and the kitchen window would look to the rear of St John's Place but would be below the existing and very substantial boundary wall. The existing wall is over 5 metres high. The height of the wall above the proposed new roof would be approximately 2.8 metres, so it would still be difficult to scale in terms of security. Proposed gates would restrict access to the rear of the church building and a priest would be living on site so this would further enhance security. The Church was also seeking to install CCTV for its own security. The kitchen window has been changed to obscure glazing and the new building would reach code level 3 for sustainable homes. The application complied with SPD08, and cycle parking was provided. There were no

transport issues as activities associated with the church hall were already taking place in the church.

### **Questions and matters on which clarification was sought**

- (3) Councillor Wells noted typing errors in the report that referred to Clifton Hill Conservation Area, and stated that these should say Carlton Hill Conservation Area. Mrs Walsh agreed that all references would be checked and changed to Carlton Hill Conservation Area.
- (4) Councillor Hyde asked about the comments received from CAG regarding the drawings and a request to exclude the internal alterations. Mr Walke replied that the earlier application proposed internal alterations, but this was withdrawn. One change to the listed building would be a new door to provide access.
- (5) Councillor Hawtree asked what the new door would be made of. Mr Walke replied that there was a condition for details to be approved by the Local Planning Authority, as the need for the door arose at a late stage from the changes to the original scheme as a result of English Heritage's comments.

### **Public speakers**

- (6) Mr Stenning, a local neighbour, addressed the Committee and raised concerns about subsidence, privacy, security and extra noise that the application would create. Under the previous approval it had been agreed to move the building away from the east wall, and the proposed new building would have been single storey. The on site trees were to be protected and the building soundproofed. These agreements had not been implemented however. The site had now changed to a car park and the trees had been removed contrary to the planning permission. A different application for a decontamination unit had been refused because it was too close to neighbouring properties, and would have created unacceptable noise disturbance. Mr Stenning believed this application would create the same problems, as his patio doors would be only 6 metres away from the property. He did not believe the consultation process asked those directly affected by the application, which did not represent a small community hall. Mr Stenning had no object to a single storey building built 2.3 metres from the wall with controls on usage.
- (7) Mr Sparsis, on behalf of the Greek Orthodox Church, said the church had been a Brighton institution for 40 years, and the Greek community had been one of the first to settle in Brighton. It now had 4000 community members and the church was an important part of the Greek culture. Unfortunately the church had suffered an arson attack, which had cost the community a great deal to repair. The community was not asking for financial assistance to maintain the grade II listed building, but needed the community facility to help with this. Many letters of support had been submitted, and the facility would be provided not just for the Greek community, but open for wider community use as well. The application would improve the security of the building, and was in-keeping with residents' wishes. It would be a building and a facility that would be part of the heritage of Brighton for many years to come.

**Debate and decision making process**

- (8) Councillor Hawtree said that there was a lot to consider regarding this application, and he felt a site visit would have been appropriate due to issues of overlooking.
- (9) Councillor Wells said he had visited the church as Mayor and agreed with providing living accommodation for on site for security. He liked what the Greek community had done to the church, and was pleased it would be open to the whole community. He felt this was an asset that needed to be protected.
- (10) Councillor Hyde felt this was a really good application. She was concerned about the wall but noted it was very high and so was satisfied there would be no security issues. She was also pleased it would be open to whole community.
- (11) Councillor Morgan said it had been a tragedy when the church had been attacked, but he was pleased to see this application come forward. He believed the height of the wall was appropriate, and with the priest's accommodation on site this would also increase security.
- (12) Councillor A Norman said that the church was a great asset to Greek community and the neighbouring community, and she believed that the Church would be a good neighbour to local residents.
- (13) Councillor Hawtree asked that an informative be added to the decision to include wooden doors and windows.
- (14) A vote was taken and on a unanimous vote planning permission was granted subject to the conditions and informatives listed in the report, and an additional informative.

21.6 **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 an additional informative to read:

1. Details submitted in accordance with condition 2 should reflect a traditional approach to detailing of the steps and rear door.

**G. Application BH2011/00873, Greek Orthodox Church, Carlton Hill, Brighton –** Erection of two storey building to form community hall and priest accommodation and formation of new door in the main church building.

- (1) The presentation for this application was taken together with application BH2011/00872, The Greek Orthodox Church, Carlton Hill, Brighton.

**Debate and decision making process**

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

21.7 **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 listed building consent subject to the conditions and informatives listed in the report, and an additional informative to read:

1. Details submitted in accordance with condition 2 should reflect a traditional approach to detailing of the steps and rear door.

**H. Application BH2011/01021, 85 Upper North Street, Brighton** – Erection of single storey rear extension.

- (1) The presentation for this application was taken together with application BH2011/01066, 85 Upper North Street, Brighton.
- (2) Mrs Hurley introduced the applications and presented plans, photos and elevational drawings. The site was located in the Clifton Hill conservation area, and was for a single storey rear extension. Letters of objection had been received from neighbouring occupiers. The plans had been amended to include obscure glass to roof. There was a 2.3 metre boundary wall comprised of flint. Concerns had been raised over the effect on the existing building, but the extension would not result in loss of light, or a loss of privacy for neighbours. Light pollution had also been raised as a concern, and loss of privacy for the occupiers. The proposed lighting was for four downlighters, and those lights installed on the boundary wall, which would be blocked by box guttering and so would not impact on amenity.

#### **Questions and matters on which clarification was sought**

- (3) Councillor Cobb asked what the gap between the wall and the extension would be. Mrs Hurley replied this would be 0.1 metres.

#### **Public speakers**

- (4) Mrs Pinkerton-Rolet, a local neighbour, addressed the Committee and said she had no objection in principle to the nature of the design, but it would have a significant and detrimental effect on the conservation area. The extension would cause issues of light spill, and Mrs Pinkerton-Rolet felt that other options could be explored. This was a dark part of the conservation area, and this extension would be seen from most of her windows. Dimpled glass could not be incorporated into a steel glass unit, and translucent glass would increase light output. If the application were granted, she asked for a condition that the glass be opaque glass. The extension would be seen from 1 metre above her wall as a lit screen 4 metres long and 2 metres wide. This would shine light directly into her bedrooms, kitchen and dining room, and she felt the extension would be in regular use. This application would set a precedent if granted.
- (5) The Chairman read out a statement from the ward Councillor J Kitcat as follows:  
  
“Neighbours and the wider neighbourhood community ask that the Planning Committee debate how this application can fit into a conservation area and a street

with a number of listed buildings. Of particular concern is the nature of the glazing proposed which impacts on privacy and overlooking for the immediate neighbours.

I understand the need to balance the old with the new. Residents who have contacted me state their understanding of people's desire to improve their properties but feel this specific application errs too far so as to be out of keeping and potentially excessively impact on the neighbours."

- (6) Mrs Siddle, agent to the applicant, said the scheme was devised over a number of months in consultation with the Planning Department. The scheme had been adapted as a result of this. The location and orientation of patio meant it received little light and so often remained unused, and this proposal would glaze in the courtyard. The use of glazing clearly delineated the extension from the building in line with guidance. The materials were natural and in sympathy with the existing building, and the glazing reduced the impact of the size and made the most use of natural light. A solid roof would detract from the conservation area. The new extension would be used as dining area with soft and ambient lights. Low light LED wall lights with box gutter detail above to obscure light spill were included. The only windows overlooking the extension were bedrooms or bathrooms. The different levels in the neighbouring gardens meant that they were lower than the nearest property, and this would reduce the impact of the new building.
- (7) Councillor Davey asked if opaque glass and blinds were something that could be incorporated. Mrs Siddle replied that both were feasible in design.
- (8) Councillor Cobb asked if the glass on the roof would be tempered and Mrs Siddle replied it would be.
- (9) Councillor Cobb asked why doors were needed if there was no outside space to access. Mrs Siddle explained that the doors were a feature to maintain the flint wall. They could be opened inside the conservatory to clean and maintain the wall.

#### **Debate and decision making process**

- (10) Councillor Davey asked for a condition for opaque glass supported by blinds. Mrs Walsh replied that condition 3 already referred to obscure glass, but this could be changed to opaque.
- (11) Councillor Hawtree asked how extensions were normally treated for terraces. Mrs Walsh replied that there was no design document for extensions and they were considered on a case by case basis. Advice had also been taken from the Conservation and Design Team for this application.
- (12) Councillor Hyde felt this was a good application and felt the space would be wasted otherwise. This would give an extra facility to the resident. She felt this application was good in terms of design.
- (13) A vote was taken and on a unanimous vote planning permission was granted subject to the conditions and informatives in the report, and an amendment to condition 3.

21.8 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in paragraph 8 of the report and resolves to grant planning permission subject to the conditions and informatives listed in the report, and an amendment to condition 3 to include the word “opaque”.

**I. Application BH2011/01066, 85 Upper North Street, Brighton** – Erection of single storey rear extension.

(1) This application was taken together with application BH2011/01021, 85 Upper North Street, Brighton.

#### **Debate and decision making process**

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

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

**J. Application BH2011/01101, Blocks A & B Kingsmere, Brighton** – Additional storey to form 4no three bedroom flats with private roof gardens over blocks A & B.

(1) Mrs Hurley introduced the application and presented plans, photos and elevational drawings. An application had been refused in 2007 for penthouse flats to A, B, E and F blocks on the grounds of design, residential amenity, loss of trees and sustainability. A subsequent appeal had been dismissed on the grounds of loss of trees and design only. A similar application at Priory House was relevant as the design was comparable. This application had been allowed at appeal. Planning permission was granted in 2010 for penthouses to blocks E and F. Penthouses to A and B were now proposed, with roof gardens and Balustrades. The Late List referred to amendments to the sustainability conditions and additional solar panels. Objections from neighbours had been received. The design differed to E and F as blocks A and B were stepped levels. The height of extensions would be 3 metres and the front and rear elevations were set back. Combined with glazing this would reduce the impact on height and form. No further car parking was proposed and the application would meet code level 3 for sustainable homes.

#### **Questions and matters on which clarification was sought**

(2) Councillor Cobb asked how many flats would be on each roof and Mrs Hurley replied it would be four three bedroom flats.

#### **Public speakers**

(3) Mr Moxhay, from the Kingsmere Residents Association, addressed the Committee and stated that the residents had asked for an independent assessment of light impact on the estate, and there was a detrimental impact shown. A maximum of 130 vehicles could be accommodated on site, but the demand would be for 180 spaces.

The penthouses made traffic on site unsustainable. The access route into the estate now had double yellow lines. If this application was approved it would result in even more congestion on the estate with difficulties for emergency vehicle access. There would also be an increased pressure on bin stores, which would create a public health hazard. There had been no significant structure on site previously, and the area was an old river valley with alluvial sediment. There would be extra settlement created by this application, which would introduce new cracking with constant long term repair and maintenance implications. Lastly a detailed soil and ground water study needed before consent was given.

- (4) Ms Bartlett, agent to the applicant, addressed the Committee and said this was an efficient use of a sustainable brownfield site, and would help to reduce pressure on greenfield sites in the city. The site was less than 400 metres from Preston Park Station, and walking distance to shops, nurseries and schools. Solar panels would be incorporated to help the scheme achieve code level 3 for sustainable homes. Sound insulation requirements were now far more stringent and so there would be less noise and disturbance from the new flats than there was from the existing ones. There would be some disturbance during construction but this could be limited through conditions. The applicant would select a company from the considerate constructors scheme. There would be less overlooking as the penthouses were set back and the car parking provision was in accordance with parking standards. There was every incentive to not use a private car. No issues had been reported to the management company regarding bin storage, but if there was a need for additional facilities this could be accommodated. The design, scale and materials were the same as blocks E and F from last year. Overall the scheme would uplift the existing building as a design feature.

#### **Debate and decision making process**

- (5) Councillor Hyde said she had sympathy with the residents and felt the current block was designed for the number of flats already in existence. She felt that car parking was also an unresolved issue on site as in reality people still retained cars.
- (6) Councillor Kennedy also had a lot of sympathy with the residents concerns, but added that she did not wish to risk an appeal situation, and so would abstain from voting.
- (7) Councillor Hawtree agreed that he could not decide on this application and would also abstain from voting.
- (8) A vote was taken and on a vote of 2 for, 0 against, 7 abstentions planning permission was granted subject to the conditions and informatives listed in the report.

- 21.10 **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 A Norman vacated the Chamber for this application and took no part in the determination of the same.

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

22.1 **RESOLVED** – That those details of applications determined by the Strategic Director of Place under delegated powers be noted.

[Note 1: All decisions recorded in the planning applications 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.]

**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**

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

Application:	Requested by:
BH2011/01013, St Augustine’s Church, Stanford Avenue, Brighton	Head of Development Control
BH2011/00973, Withdean Stadium, Tongdean Lane, Brighton	Head of Development Control

The meeting concluded at 6.50pm

Signed

Chair

Dated this

day of



**APPEAL DECISIONS****A. SOUTH PORTSLADE****Page****30**

Application 2010/0434, 91 Mill Lane, Portslade. Appeal against an enforcement notice issued by Brighton and Hove City Council. The enforcement relates to “the erection or installation at the land of external security shutters and box housing to the front of the building at ground floor level without planning permission.”

**APPEAL DISMISSED** (delegated).





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# Appeal Decision

Site visit made on 21 June 2011

**by D Roger Dyer, BA, DipArch, RIBA, FCI Arb, Barrister**

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

**Decision date: 28 June 2011**

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**Appeal Ref: APP/Q1445/C/11/2146918**  
**91 Mill Lane, Portslade, Brighton BN41 2DF**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against an enforcement notice issued by Brighton and Hove City Council.
  - The appeal is made by Mr Abraham Eissa.
  - The Council's reference is 2010/0434.
  - The notice was issued on 2 February 2011.
  - The breach of planning control as alleged in the notice is "The erection or installation at the Land of external security shutters and box housing to the front of the building at ground floor level without planning permission."
  - The requirements of the notice are to:
    - "1 Remove the external roller shutter from the front of the building at ground floor level.
    - 2 Remove the external box shutter housing and all associated fixings from the front of the building at ground floor level."
  - The period for compliance with the requirements is 4 months.
  - The appeal is proceeding on the ground set out in section 174(2) (g) of the Town and Country Planning Act 1990 as amended.
- 

## Decision

1. The appeal is dismissed and the enforcement notice is upheld.

## Procedural Matters

2. The appeal has been made on the ground set out in section 174 (2) (g) of the 1990 Act as amended by the Planning and Compensation Act 1991 although the appellant's submissions address to some extent matters normally dealt with under a ground (a) appeal; that planning permission should be granted. Nevertheless, as the prescribed fees under the Town and Country Planning (Fees for Applications and Deemed Applications) Regulations 1989 – 93 have not been paid to the Secretary of State and the Local Planning Authority within the period specified, the appeal will proceed on ground (g) only. The deemed application for planning permission under section 177(5) of the Act likewise does not fall to be considered.

## **Reasons**

### **The appeal on ground (g)**

3. The enforcement notice demands compliance with the requirements within 4 months. The appellant has not indicated how long he requires to comply with the notice. Inspection shows that the shutters, together with the box housing, could be detached in a matter of days but, although making good is not a specific requirement of the notice, that element may take slightly longer.
4. Nevertheless, all necessary works could be carried out within the period of four months without difficulty. In the absence of any further submissions from the appellant on the point, the appeal on ground (g) must fail. Accordingly the enforcement notice will be upheld. In reaching my decision I have taken account of all matters referred to me in writing but I have found nothing that outweighs the main planning issues in this case.

*D Roger Dyer*

Inspector

### NEW APPEALS RECEIVED

#### WARD

APPLICATION NUMBER

ADDRESS

DEVELOPMENT DESCRIPTION

APPEAL STATUS

APPEAL RECEIVED DATE

APPLICATION DECISION LEVEL

#### **PATCHAM**

BH2011/00429

95 Carden Avenue, Brighton

First floor extension and remodelling of existing house to form a two storey house with a flat roof.

APPEAL LODGED

14/06/2011

Delegated

#### WARD

APPLICATION NUMBER

ADDRESS

DEVELOPMENT DESCRIPTION

APPEAL STATUS

APPEAL RECEIVED DATE

APPLICATION DECISION LEVEL

#### **WESTBOURNE**

BH2010/03782

130 Cowper Street, Hove

Demolition of existing garage and erection of 1no three bedroom dwelling.

APPEAL LODGED

15/06/2011

Delegated

#### WARD

APPLICATION NUMBER

ADDRESS

DEVELOPMENT DESCRIPTION

APPEAL STATUS

APPEAL RECEIVED DATE

APPLICATION DECISION LEVEL

#### **CENTRAL HOVE**

BH2009/03105

Medina House, Kings Esplanade, Hove

New build 9 storey development including 9 residential units, ground and first floor restaurant and basement parking.

APPEAL LODGED

13/06/2011

Planning Committee

#### WARD

APPLICATION NUMBER

ADDRESS

DEVELOPMENT DESCRIPTION

APPEAL STATUS

APPEAL RECEIVED DATE

APPLICATION DECISION LEVEL

#### **CENTRAL HOVE**

BH2009/03120

Medina House, Kings Esplanade, Hove

Demolition of existing building.

APPEAL LODGED

13/06/2011

Planning Committee

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

BH2010/03875

19 Shirley Drive, Hove

Outline application with some matters reserved for subdivision of site and erection of detached dwelling.

APPEAL LODGED

20/06/2011

Delegated

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**WARD****APPLICATION NUMBER****ADDRESS****DEVELOPMENT DESCRIPTION****APPEAL STATUS****APPEAL RECEIVED DATE****APPLICATION DECISION LEVEL****HANOVER & ELM GROVE**

BH2010/02958

119 Lewes Road, Brighton

Certificate of Lawfulness for existing use of premises as car hire and car and bus parking.

APPEAL LODGED

22/06/2011

Delegated

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**WARD****APPLICATION NUMBER****ADDRESS****DEVELOPMENT DESCRIPTION****APPEAL STATUS****APPEAL RECEIVED DATE****APPLICATION DECISION LEVEL****HANOVER & ELM GROVE**

BH2010/02960

119 Lewes Road, Brighton

Installation of 2.4m palisade fencing. (Part retrospective)

APPEAL LODGED

21/06/2011

Delegated

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

BH2011/00310

19 - 20 Westbourne Villas, Hove

Erection of second floor rear extension to form 1no self contained flat, incorporating removal of existing fire escape and balconies replaced with metal railings.

APPEAL LODGED

21/06/2011

Delegated



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

BH2011/00942

3 Brangwyn Way, Brighton

Erection of two storey extension to front and side elevations.

APPEAL LODGED

22/06/2011

Delegated

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

BH2011/00517

Land to Rear of 66 Wolseley Road, Brighton

Demolition of existing garage and erection of a two storey, three bedroom detached dwelling.

APPEAL LODGED

28/06/2011

Delegated

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

BH2011/00857

Tim Jones House, Rochester Gardens, Hove

Conversion of roofspace to form residential unit incorporating relocation of existing dormer and additional dormer to front and rooflights to rear and associated works.

APPEAL LODGED

28/06/2011

Delegated



### INFORMATION ON HEARINGS / PUBLIC INQUIRIES 20<sup>th</sup> July 2011

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

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#### **119 Lewes Road, Brighton**

Planning application no: BH2010/02958

Description: Certificate of Lawfulness for existing use of premises as car hire and car and bus parking.

Decision: Delegated

Type of appeal: Public Inquiry

Date:

Location:

#### **8 West Way, Hove**

Planning application no: BH2010/03486

Description: Formation of additional storey at first floor level to create two 2no bedroom and two 1no bedroom residential units, ground floor extension at front and associated works.

Decision: Committee

Type of appeal: Informal Hearing

Date:

Location:



**Information on pre-application presentations and requests**

<b>Date</b>	<b>Address</b>	<b>Ward</b>	<b>Proposal</b>
7 June 2011	N/A	N/A	N/A
28 June 2011	N/A	N/A	N/A
15 July 2011	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.**



<b>Subject:</b>	<b>Planning Enforcement Yearly Report April 2010 – March 2011</b>		
<b>Date of Meeting:</b>	<b>20<sup>th</sup> July 2011</b>		
<b>Report of:</b>	<b>Head of Planning and Public Protection</b>		
<b>Contact Officer:</b>	<b>Name:</b>	<b>Gerard McCormack</b>	<b>Tel:</b> 29-2031
	<b>Email:</b>	<a href="mailto:Gerard.mccormack@brighton-hove.gov.uk">Gerard.mccormack@brighton-hove.gov.uk</a>	
<b>Ward(s) affected:</b>	<b>All</b>		

**1. RECOMMENDATIONS:**

That Members' note the content of the report

**2. BACKGROUND**

During the consultation undertaken as part of the development of the Planning Enforcement Policy Document (PEPD), Members and the residents expressed an interest in being informed about the progress and outcomes of enforcement investigations. As such the PEPD, requires an annual monitoring report to be presented to the Planning Committee.

**3. SUMMARY OF ENFORCEMENT INVESTIGATIONS APRIL 2010- MARCH 2011**

During the 2010-2011 period, 815 potential breaches of planning control were reported to the Planning Enforcement Team. A total of 719 cases (including some reported prior to April 2010) have been closed during the same period following enforcement investigations. There are currently 330 live enforcement investigations.

In 37% of the cases closed, there was found to be no breach of planning control.

In 14% of the cases closed, it was determined that it was not expedient to pursue formal enforcement proceedings, as the breach was minor or was not causing unacceptable harm.

In 49% of cases there were breaches of planning which needed to be investigated and were significant.

Where there was found to be a significant breach of planning control, or where development was considered to be causing unacceptable harm, compliance was achieved in 45% of cases, before formal enforcement action was required.

In 4% of cases closed, compliance was achieved through the issuing of a formal enforcement notice.

## 4. ENFORCEMENT INVESTIGATIONS

### *Enforcement Notices*

Serving an Enforcement Notice is the most common and most effective method of remedying unauthorised development. Enforcement Notices are served early in an investigation when the breach of planning control is causing significant harm or where the transgressor has made it clear that they are unwilling to remedy the breach. The transgressor has the right to appeal against the notice, and the appeal is considered by the Planning Inspectorate.

Twenty Enforcement Notices have been served in the 2010-2011 period. The table in appendix 1 summarises the breach of planning control and current status of the investigations in relation to each of the properties against which enforcement notices have been served.

### *Enforcement Notice Appeals*

If an appeal is lodged against an enforcement notice, the requirements of the notice are held in abeyance until the appeal is determined by the Planning Inspectorate. The grounds upon which an enforcement notice can be appealed include:

- Ground (a) – that planning permission should be granted for what is alleged in the enforcement notice, or that the condition which is alleged not to have been complied with should be discharged.
- Ground (b) – that the breach of planning control alleged in the enforcement notice has not occurred as a matter of fact.
- Ground (c) - that there has not been a breach of planning control.
- Ground (d) – that at the time the enforcement notice was issued, it was too late to take enforcement action against the matters stated in the notice.
- Ground (e) – the notice was not properly served on everyone with an interest in the land.
- Ground (f) – that steps required to comply with the requirements of the enforcement notice are excessive and lesser steps would overcome objections.
- Ground (g) – the time given to comply with the notice is insufficient or unreasonable.

The Planning Inspectorate will dismiss or allow the appeal and also have the ability to vary the enforcement notice should they feel this necessary. On some occasions they make split decisions – part allowing and part dismissing the appeal. The table below indicates the outcomes of enforcement appeal decisions determined between the 2010-2011 period.



<b>Address</b>	<b>Ward</b>	<b>Breach</b>	<b>Appeal Decision</b>
33 Sydney Street	St. Peter's & North Laine Ward	Alteration of shop front (installation of ATM) without planning consent	Dismissed
114 Hythe Road	Preston Park		Dismissed
7 Newells Close	Woodingdean	Raised hard standing at front of property	Dismissed
8 Pavilion Parade	Queens Park	Change of use from offices to flats	Dismissed (Costs awarded to Council)
9 Benfield Close	South Portslade	Rear extension	Dismissed
24 Walpole Terrace	Queens Park	Installation of plastic windows	Dismissed
79 – 80 Western Road	Regency	Installation of air conditioning units	Dismissed
124 Elm Grove	Elm Grove and Hanover	Alterations to a shop front	Dismissed
21 Brunswick Place	Brunswick and Adelaide	Plastic windows	Dismissed
21 Lloyd Road	Stanford	Solar panels, materials not in accordance to approved plans	Dismissed

One home owner was prosecuted for failing to comply with an enforcement notice. This even though an appeal had been dismissed by the Planning Inspectorate. Following the release of the appeal decision, and even though Officers provided additional time for compliance with the enforcement notice, the homeowner failed to carry out the necessary works, to remove a rear external staircase in a conservation area. As such, the Enforcement and Investigations team instigated prosecution proceedings, resulting in the homeowner being fined £1600.00 and ordered to pay the Councils costs of £1,260.00. The homeowner has subsequently complied with the enforcement notice.

### *Breach of Condition Notices*

Breach of condition notices can be issued when an applicant fails to comply with a condition imposed on a planning permission. There is no right of appeal against a breach of condition notice.

Three breach of condition notices were issued during the 2010-2011 period all relating to the Aldi Store, 2 Carlton Terrace, South Portslade. The conditions related to the unloading and loading of vehicles outside of the permitted hours, the hours of operation of the premises and the failure to provide three hours free parking for customers. The transgressor has complied with the notice relating to the latter of the three conditions, but is yet to comply with the conditions relation to loading and operation.

Belmont Homes were prosecuted for their failure to install bonded pathways in the garden area of a new housing development at Coastal Place, 55 New Church Road, Westbourne. As a result of the prosecution, Belmont Homes was fined £700.00, and ordered to pay the Councils costs of £1020.00. Belmont Homes have now carried out the necessary works to the pathways.

The operators of a fish and chip shop at 116 St James Street were prosecuted for failing to comply with a breach of condition notice relating to hours of operation. The operators were fined £450.00. The premise has now changed hands and the new operators are adhering to the conditioned operating hours.

### *Section 215 Notices*

Where the condition of land or a building is adversely affecting the amenity of a neighbourhood, the Council may issue a Notice under Section 215 of the Town and Country Planning Act 1990, requiring the owner or occupier to improve the condition of the land or building. Failure to comply with the Notice is a criminal offence. The Council also has powers, where a Notice has not been complied with, to enter the land and carry out the work itself and recover the cost from the owner.

A total of eleven Section 215 notices were issued between the 2010-2011 period as summarised in the table below.

<b>Address</b>	<b>Ward</b>	<b>Latest update</b>
Anston House, 137 – 147 Preston Road	Preston Park	Awaiting compliance
92 Sackville Road	Goldsmith	Works being carried out to comply with notice
87 Chester Terrace	Preston Park	Awaiting compliance
3 Rudyard Road	Preston Park	Awaiting compliance
149 Kingsway	Westbourne	Awaiting compliance
151 Kingsway	Westbourne	Awaiting compliance
Lawncroft, 155 Kingsway	Westbourne	Court summons has been issued in relation to none compliance with the notice
22 Ticehurst Road	East Brighton	Complied
78 Stanford Avenue	Preston Park	Awaiting compliance
7 Symbister Road	South Portslade	Complied

Land to the rear of Kimberley Road	Moulsecoomb & Bevendean	Awaiting compliance
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As with all enforcement investigations, every effort is made to encourage transgressors to carry out the required works prior to formal action becoming necessary. When transgressors refuse, and subsequently fail to comply with Notices, the Enforcement and Investigations team instigates prosecutions for non-compliance with the Notices. Three such instances have occurred during the 2010-2011 period, which are summarised in the table below.

Address	Ward	Result	Update
53 Dale Crescent	Patcham	Fine £175 Costs £500	Council carrying out works with costs to be recovered from owner
92 Sackville Road	Goldsmith	Fine £100 Costs £820	New owner carrying out works
22 Ticehurst Road	East Brighton	Fine £1000 Costs £480	Complied

Following a successful prosecution in 2009 and despite repeated attempts to persuade the owner to improve the condition and appearance of 2 Ryde Road, Hanover and Elm Grove, Officers instructed contractors to carry out the necessary works in October 2010. All monies spent in relation to the work have been successfully recovered from the owner.

## 5.0 OTHER SIGNIFICANT ACHIEVEMENTS

### *Increased Public Awareness*

Part of the work of the team involves raising public awareness. The strategy during the 2010-2011 period, has been for the Planning Enforcement and Investigations Team to place enforcement articles in City News, issued press releases to local newspapers and enhance and regularly update the Planning Enforcement and Investigations web page.

When requested the team manager can and does attend residents meetings.

Public awareness amongst residents does appear to be improving with residents and developers regularly remedying breaches of planning control without formal enforcement action becoming necessary.

### *Reduction of Live Cases*

Over the 2010-11 period Officers have successfully continued to reduce the number of live cases from the previous year. This has enabled the team to become more pro-active in relation to the monitoring of planning conditions and allowed more time to be focused on improving the condition and appearance of dilapidated properties through use of Section 215 powers.

### *Site Waste Management Plan Regulations*

This year, the Enforcement and Investigations team, in partnership with representatives from the South East Centre for the Built Environment (SECBE), have been involved in a successful cutting edge pilot project in relation to the enforcement of the Site Waste Management Plan Regulations (SWMP) 2008. During the course of the pilot project, over 120 people from the construction industry within the Brighton and Hove area have benefited from training in relation to SWMP. As a result of the success of the pilot project, SECBE have secured further funding, which through partnership with the Local Planning Authority, will enable the pilot project to be rolled out to five neighbouring authorities.

It is hoped that the Enforcement and Investigation Teams continued involvement and training in this area, will put Brighton and Hove City at the forefront of managing construction waste and assist the construction industry in making saving on their costs.

### *Control of Estate Agent Boards*

On the 10<sup>th</sup> August 2010 an inspector authorised by the Secretary of State modified the previous Regulation 7: Direction restricting deemed consent for estate agents boards. The modified direction relates to the display of advertisements for residential properties under Class 3A in Part 1 of Schedule 3 to the Regulations within specified areas within the City.

The regulation 7 direction came into force on the 20<sup>th</sup> September 2010 controlling the display of estate agent boards within a number of the Cities conservation areas. With the assistance of members of the public, planning enforcement officers have surveyed nearly all the roads within the affected areas resulting in a vast reduction in the number of estate agent boards on display. Unfortunately despite sending several warning letters, a few estate agents persisted in erecting boards within the affected areas, leaving officers with no option but to begin prosecution proceedings. The table below shows the outcome of the prosecutions taken against estate agents.

<b>Address</b>	<b>Ward</b>	<b>Penalty</b>	<b>Update</b>
Eaton Mansion, Eaton Gardens	Goldsmid	Fined £1000.00  Costs £480.00	Complied
6 Cromwell Road	Goldsmid	Fined £1000.00  Costs £1200.00	Complied

### *Prosecutions*

This year there were nine prosecutions in total which equated to fines totalling £6,625 and the Council being awarded costs of £8,280. Officers will continue to prosecute where it is appropriate and reasonable to do so.

### *Enforcement Appeals*

Officers are proud that they have achieved a 100% success rate in defending appeals lodged against enforcement notices over the past year and are keen to maintain this success in the forthcoming year.

## **6.0 THE COMING YEAR**

The planning investigations and enforcement team will continue to work with other Council departments to resolve issues affecting residents. Particular focus will be put on assisting the Council's empty properties officers, where appropriate, to improve the condition and appearance of empty properties and ultimately bring them back into use. Areas within the City will be identified for pro-active enforcement projects to improve the condition and appearance of [areas](#) that may be in need of attention. This pro-active action has already begun around Brighton Station and it is hoped that significant improvements will be made to properties [surrounding](#) the station over the summer months.

[In 9 months](#) the planning enforcement database will be migrating to a new database [allowing](#) current procedures and processes to be reviewed and improved. It is [envisaged](#) that the new database will make it easier for residents to access more information about planning enforcement matters [via the](#) Council website.

## **SUPPORTING DOCUMENTATION**

### **Appendices:**

1. Enforcement Notices served between, April 2010 – March 2011.

## APPENDIX 1

Address	Ward	Breach	Update
8 Selham Close	Hollingbury and Stanmer	Fence in front garden of property	Complied
32 Devonshire Place	Queens Park	Conservatory added to the rear of property	Complied
8 Pavilion Parade	Queens Park	Unauthorised change of use from offices to flats	Complied
24 Walpole Terrace	Queens Park	Installation of plastic windows	Awaiting compliance
Land to the rear of 1 Orchard Gardens	Stanford	Commercial parking at a domestic property	Complied
36 Victoria Terrace	Regency	Staircase at the rear of property	Complied
269 Kingsway	Wish	Extensions at rear of property	Awaiting compliance
Block K, New England Quarter	St Peter's & North Laine	Childrens play area not installed	Awaiting compliance
124 Elm Grove	Hanover & Elm Grove	Alterations to a shop front	Awaiting compliance
21 Lloyd Road	Stanford	Solar panels, materials not in accordance to approved plans	Awaiting compliance
33 Sackville Road	Westbourne	Shed in front garden	Complied
114-115 Edward Street	Queens Park	Change of use of storeroom in basement into a separate self contained flat	Awaiting compliance
91 Mill Lane	South Portslade	Roller shutter and associated housing unit	Awaiting compliance
75-79 East Street	Regency	Shop front and fascia sign	Awaiting compliance

			ce
3 St Johns Place	Queens Park	Conversion of property into flats	Complied
3 St Johns Place	Queens Park	Raised terrace in rear garden	Awaiting compliance
126a Church Road	Central Hove	Plastic windows in a conservation area	Awaiting compliance
128 Church Road	Central Hove	Plastic windows in a conservation area	Awaiting compliance
128 Church Road	Central Hove	Use of 1 <sup>st</sup> Floor office as a residential flat	Awaiting compliance
49 Surrenden Road	Withdean	Outbuilding used as a separate residential unit	Awaiting compliance

\*NB – These enforcement notices already appear on the Enforcement Register

