



**Brighton & Hove
City Council**

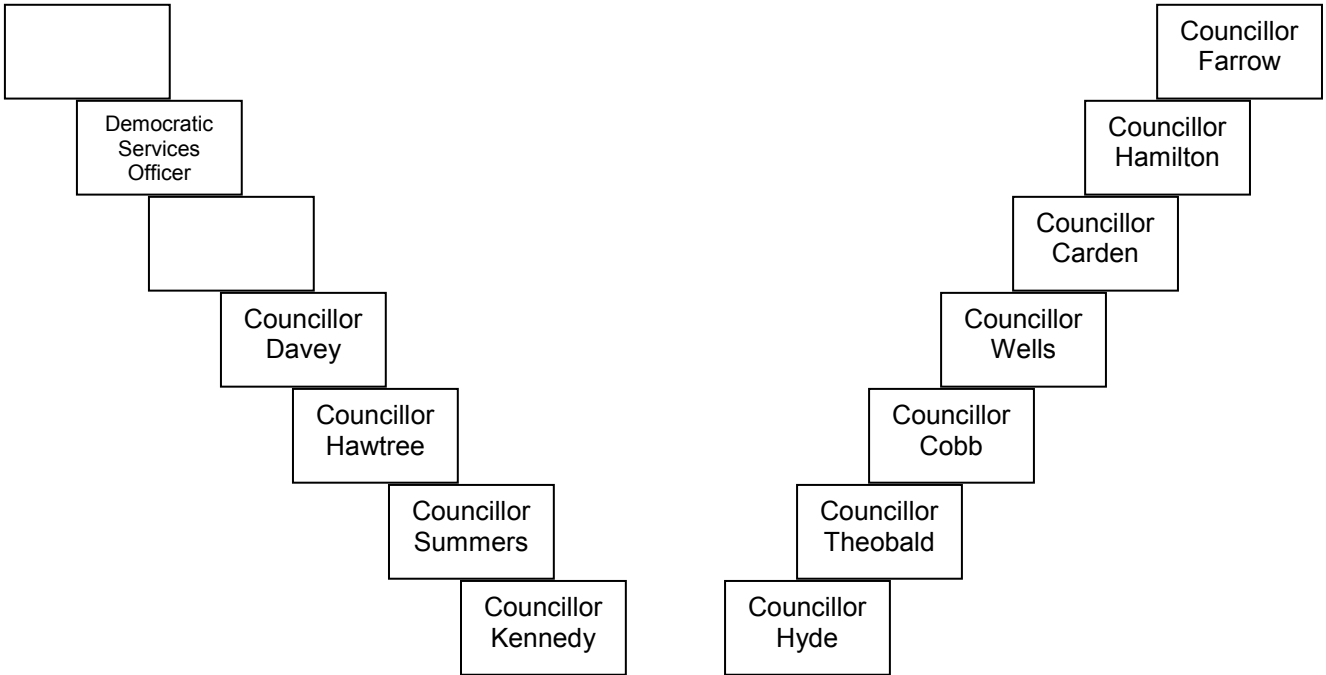
Planning Committee

Title:	Planning Committee
Date:	12 October 2011
Time:	2.00pm
Venue	Council Chamber, Hove Town Hall
Members:	<p>Councillors: MacCafferty (Chair), Hyde (Deputy Chair), Carden (Opposition Spokesperson), Cobb, Davey, Farrow, Hamilton, Hawtree, Kennedy, Summers, C Theobald and Wells</p> <p>Co-opted Members: Mr Philip Andrews (Conservation Advisory Group)</p>
Contact:	<p>Penny Jennings Democratic Services Officer 01273 291065 Penny.jennings@brighton-hove.gov.uk</p>

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Democratic Services: Meeting Layout

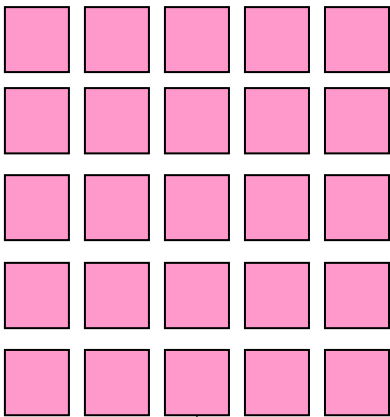
Senior Solicitor Chairman Head of Development Control



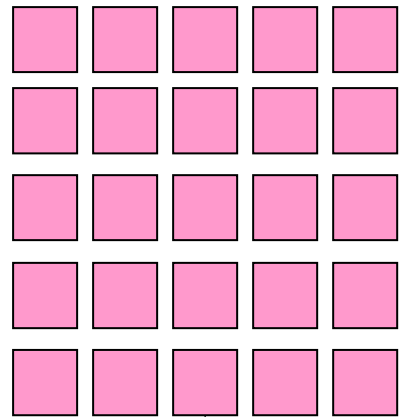
Chairman of CAG

Officers Officers

Press



Public Seating



Public Seating

AGENDA

69. 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.

70. MINUTES OF THE PREVIOUS MEETING

1 - 22

Minutes of the meeting held on 21 September 2011 (copy attached).

71. CHAIR'S COMMUNICATIONS

72. APPEAL DECISIONS

23 - 60

(copy attached).

73. LIST OF NEW APPEALS LODGED WITH THE PLANNING INSPECTORATE

61 - 62

(copy attached).

74. INFORMATION ON INFORMAL HEARINGS/PUBLIC INQUIRIES

63 - 64

(copy attached).

75. INFORMATION ON PRE APPLICATION PRESENTATIONS AND REQUESTS

(copy attached).

PLANNING COMMITTEE

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

77. TO CONSIDER AND DETERMINE PLANNING APPLICATIONS ON THE PLANS LIST : 12 OCTOBER 2011

(copy circulated separately).

78. 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

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

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>

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

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

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PLANNING COMMITTEE

If you have any queries regarding this, please contact the Head of Democratic Services or the designated Democratic Services Officer listed on the agenda.

For further details and general enquiries about this meeting contact Jane Clarke, (01273 291065), email penny.jennings@brighton-hove.gov.uk or email democratic.services@brighton-hove.gov.uk.

Date of Publication - Tuesday, 4 October 2011

PLANNING COMMITTEE

Agenda Item 70

Brighton & Hove City Council

BRIGHTON & HOVE CITY COUNCIL

PLANNING COMMITTEE

2.00pm 21 SEPTEMBER 2011

COUNCIL CHAMBER, HOVE TOWN HALL

MINUTES

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

Officers in attendance: Paul Vidler (Deputy Development Control Manager), Hilary Woodward (Senior Lawyer), Annie Sparks (Environmental Health Manager), Nicola Hurley (Area Planning Manager (West)), Claire Burnett (Area Planning Manager (East)), Pete Tolson (Principal Transport Planner), Kate Brocklebank (Senior Planning Officer), Kathryn Boggiano (Senior Planning Officer) and Jane Clarke (Senior Democratic Services Officer)

PART ONE

58. PROCEDURAL BUSINESS

58a Declarations of substitutes

58.1 Councillor A Norman declared she was substituting for Councillor Hyde.

58b Declarations of interests

58.2 Councillor Davey declared a personal interest in applications BH2010/03759, The Astoria, 10-14 Gloucester Place, Brighton and BH2010/03760, The Astoria, 10-14 Gloucester Place, Brighton as he had met with representatives from Synergy and the local community as Ward Councillor to hear their ideas for the site. He had not expressed a view on the applications however, and remained of a neutral mind. As such he took part in the discussion and voting thereon.

58.3 Councillor Kennedy declared a personal interest in applications BH2010/03759, The Astoria, 10-14 Gloucester Place, Brighton and BH2010/03760, The Astoria, 10-14

Gloucester Place, Brighton as she was a Trustee of the Phoenix Arts Association. She had not expressed a view on the applications however, and remained of a neutral mind. As such she took part in the discussion and voting thereon.

58c Exclusion of the press and public

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

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

59. MINUTES OF THE PREVIOUS MEETING

59.1 **RESOLVED** – That the Chairman be authorised to sign the minutes of the meeting held on 31 August 2011 as a correct record.

60. CHAIR'S COMMUNICATIONS

60.1 The Chairman noted that Jane Clarke, Senior Democratic Services Officer, would be leaving the Council to work for Tunbridge Wells Borough Council. He thanked her for her work on the Committee, and took the opportunity to thank all of the Officers who worked with the Planning Committee for their professionalism and hard work.

61. APPEAL DECISIONS

61.1 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.

62. LIST OF NEW APPEALS LODGED WITH THE PLANNING INSPECTORATE

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

63. INFORMATION ON INFORMAL HEARINGS/PUBLIC INQUIRIES

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

64. INFORMATION ON PRE APPLICATION PRESENTATIONS AND REQUESTS

64.1 The Committee noted the position regarding pre application presentations and requests as set out in the agenda.

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

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

Application	Requested
BH2011/02181, Rosaz House, 2-4 Bristol Gate, Brighton	Development Control Manager
BH2010/03999, Block J, New England Quarter, Brighton	Development Control Manager
BH2010/03128, 19-27 Carlton Terrace, Portslade	Development Control Manager

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

(i) MAJOR APPLICATIONS

A. Application BH2010/03759, The Astoria, 10-14 Gloucester Place, Brighton – Demolition of existing Grade II listed building and construction of new office block consisting of 2no storeys at rear and 6no storeys at front incorporating café and community rooms on ground floor at front of development.

(1) The Senior Planning Officer, Ms Brocklebank, introduced the application and presented plans, photos and elevational drawings. She noted that this would be a joint presentation for planning permission application BH2010/03759, The Astoria, 10-14 Gloucester Place, Brighton and listed building application BH2010/03760, The Astoria, 10-14 Gloucester Place, Brighton. There were updates on the late list regarding conditions 18 and 20 and a verbal update to condition 27, which should include reference to solar screens on the eastern elevation. The applicant had submitted a letter of support after the late list closed. An additional copy of a letter of objection had been received from The Theatres Trust to English Heritage advising that the community group Synergy should be allowed a longer period to be able to put forward a case for alternative use.

The Astoria was Grade II Listed in 2000, largely due to the quality of the interior elements. The footprint of the new building was similar to the existing building. A café was proposed on the ground floor, and an office block and exhibition space to be used for community use. There was a 2 storey element to the rear containing smaller starter office units. A landscaped courtyard was proposed between the two blocks, with a roof terrace above the 2 storey element. Forty-eight cycle parking spaces were proposed. It was also proposed to extend the lay-by in front of the building, and this would involve removal of 2 existing Elm trees and replanting of 6 new Elms. Public realm improvements would be made to Blenheim Place with additional lighting.

Ms Brocklebank referred to Planning Policy Statement 5, which recommended a presumption in favour of retaining listed buildings. Demolition should only occur in exceptional cases. The case for this scheme had been tested against this policy, and

the relevant policies of the Council, and the considerations were fully set out in the report.

Synergy was offered the opportunity in February 2011 to bring forward alternative proposals that would emphasise a community use on site, but which still retained the listed building. Consultation had taken place with Synergy, the Council's Licensing Team and English Heritage between April and July this year. English Heritage had advised that any alterations to the building should be costed as soon as possible; however the information received from Synergy was not sufficient to show it was a viable proposal in the medium term, and English Heritage had expressed doubts about the overall viability of the project.

Turning to the planning application, Ms Brocklebank confirmed that the development would be a partial exception to policy HE2 of the Brighton & Hove Local Plan, as there was not enough significant community use proposed as part of the scheme. Planning Policy Statement 5 had a separate policy test, and was a material planning consideration to be taken together with the Local Plan. It was considered that this scheme was acceptable. The scheme was a partial exception against some policies including SR7, but this was acceptable given the time the unit had been vacant and the proximity of other shopping sites in the area. The proposed design had been a part of pre-application discussions and was considered of an acceptable standard. The impact on the Grade I Listed Church and the Valley Gardens Conservation Area was also considered acceptable. There would be no harm to neighbouring amenity, and the development would in fact be an improvement for those neighbours to the north of the site. The scheme would achieve a rating of BREEAM 'Excellent' and there were no transport issues that would impact on the determination of the application. The planning permission application was recommended for grant subject to conditions and a Section 106 Agreement, in relation to application BH2010/03759, being completed. The listed building consent application was recommended for grant subject to conditions.

Public Speakers

- (2) Mr Peake, Director of the Synergy Centre, addressed the Committee and stated that Synergy was a charity with a strong record of running sites such as the Astoria for community use. He introduced Mr Dibley, an expert in the heritage of the Astoria. Mr Peake said that the charity had an issue with the timing of the project. As a charity they had limited resources and capacity to work on projects such as this, and it took time to build the necessary expertise to bring the project to fruition. This expertise was now in place however and was widely recognised as a very strong team. The charity felt it needed more time to build the case, and had never been consulted on the timings that had been imposed. Experts in the field agreed with this opinion and felt that 12 months was a more realistic timescale. He noted that the charity had only been given 5 months to prepare proposals. He also noted that the charity's ability to move the proposals forward was limited by other organisations that they were dealing with including the Council, which at times had been slow to respond. He noted that the policy test in Planning Policy Statement 5 said that demolition should be a last resort when all other options had been fully explored. Finally, Mr Peake expressed surprise that English Heritage had not agreed that more time was needed for the charity to prepare their case.

- (3) Councillor Kennedy asked what market testing had been done to ascertain the most appropriate use of the building, and what engagement had been undertaken with the local community, as she was aware that concerns had been expressed over all night events being held. Mr Peake replied that there was a nightclub element to the scheme, but the charity was only proposing one nightclub event per month. He had met with the North Laine Resident's Association and had taken their concerns on board. He had also met with the Licensing Team. He agreed that more consultation was needed with local people however, but there were a growing number of people who agreed that a new Community Centre was needed in Brighton.
- (4) Councillor Wells asked how long had Synergy known about the plans to demolish the building, and had the charity ever submitted alternative plans. Also, he asked if the banks had given any guarantees of funding. Mr Peake replied that the charity did not have the capacity to submit plans at the moment, but they had met with the Planning Team to discuss a proposed use on the site. They had discussed the proposals with a bank that raised funds for charities and this bank was satisfied that this proposal was viable. He accepted that there was no written agreement that they would invest however. Mr Peake had expressed an interest in the building last year in November, but found out that an application had been submitted to demolish the site.
- (5) Councillor Hawtree asked how much longer the charity needed to prepare plausible plans. Mr Peake said that based on previous examples, it was likely that 12 months would be needed to create secure proposals, and Mr Peake said that they had only been given 5 months.
- (6) Councillor A Norman said that the community had been waiting a long time for the site to be moved forward and asked when it was likely that a planning application could be submitted. Mr Peake replied that in his view, a planning application was not the relevant matter. Of more importance was the Heritage Lottery Fund application process. Once a stage one proposal was submitted to the Heritage Lottery Fund, it normally took around 3-4 months to process. If this was successful, a fully costed scheme and planning application could be submitted.
- (7) Councillor A Norman asked again for a timescale as to when it was likely that a planning application would be submitted. Mr Peake replied that he expected that a planning application could be submitted within 7 months time.
- (8) Councillor Mrs Theobald asked how long it would take for full funding to be secured, and whether the intention was to apply for a 24 hour licence. Mr Peake replied that a timetable had been drawn up as a multi-stage process. Getting through stage one of the Heritage Lottery Fund application process was of primary importance. He agreed that a 24 hour licence was not appropriate for this building. The intention was to have one all night event per month. A meeting with the Licensing Team had confirmed there would be no fundamental objections to this arrangement.
- (9) Councillor Davey asked what obstacles were between now and getting to stage one of the Heritage Lottery Fund application process. He also asked if Synergy was confident that this building would be renovated and restored to its original 1930s

condition. Mr Dibley replied that he was confident the building could be restored and reused. The project would restore the interior features of the building, and would improve their current condition with additional elements.

- (10) Mr Peake replied that a pre-application meeting with the Heritage Lottery Fund could be arranged within 2 weeks. Following this it would take around six weeks to put in a stage one application. This would then take 3 months to be assessed. In terms of community consultation a number of meetings had taken place recently with people working in community sector, and the charity wanted to engage those in the wider community. He agreed a need to discuss issues of disturbance from the night time economy with residents from the North Laine area.
- (11) Councillor Hawtree asked what type of events would be held at the centre. Mr Peake replied it would be a mixture of dance music with video installations. Poetry, drama and cinema events raising awareness of issues of social justice and the environment would also be included. It was not envisaged that the centre would attract heavy drinkers, but rather a clientele that would be quite health and socially conscious.
- (12) Councillor Hawtree asked for examples of where this type of event had been held previously. Mr Peake replied that the charity's centre in London had held 5 events a year and was very successful, gaining national acclaim. There were very few other types of similar events across the country.
- (13) Councillor Farrow asked what sort of cinema events would be held and how often. He asked whether the Astoria would be restored so that it was suitable for live music concerts.
- (14) Mr Dibley replied that they would have capacity to do small theatre productions and music as well. There was a lot of experience in the project management team around showing cinema events, and they would be planning to do special screening once a month. It would be kept as a traditional cinema offering.
- (15) Councillor Summers asked if the all night events would be on the same day each week, or on the weekends. Mr Peake replied that it would almost certainly be a Saturday night.
- (16) Mr Zara, Architect for the application, addressed the Committee and said that the scheme before Councillors was not really about demolition of the building, but about a new building on the site. English Heritage accepted that the building was no longer a viable use, and much of the interior elements were covered with asbestos plaster that would need removal. It was costed at around £4 million to merely make the building sound. This did not include costs to restore it to its 1930s appearance. The previous owners of the site had made enquiries to the Heritage Lottery Fund and had been told that a stage one application was not likely to be successful. It would take around 6-7 months to make a stage one application.

The applicants had conducted community consultation, and this had revealed that there was not much enthusiasm for a community centre in this area, and residents did not want a hostel or overnight activities to take place. The area needed a space for people to work, and offices with new media facilities were in demand. The design

had been very carefully considered to provide flexible working space. There were examples of other nightclubs in the area, and some of these were struggling to stay open. The demand that this scheme satisfied was supported by many in the community and by the Local Council Officers. It would improve the lives for those residents in the North Laine, and provide a much better outlook for residents on the northern elevation, as the new building would be narrower. The offices would be the most environmentally friendly in the city.

Finally, Mr Zara thanked Ms Brocklebank and the Planning Team for the thorough and fair tests they had put the site through, and the work they had put into the process.

- (17) Councillor Mrs Theobald asked if any thought had been given to providing additional car parking on the site. Mr Zara replied that it had been considered, but the site was in a very sustainable location near town centre, and it was felt that access to public transport made up for the lack of parking. A contribution of £60,000 for sustainable transport was being provided.
- (18) Councillor Cobb noted the start up office space on site, and felt that those business users might need a vehicle to run their start up business. She asked where these could park. Mr Zara replied there was a delivery bay at the front of the building for start up users to use. If it was necessary for them to have parking space, then a business permit could be applied for to allow for on street parking.
- (19) Councillor Hawtree asked if the café would only be used by office workers. Mr Zara replied that it would be open to the public. There would be enough trade from people in the office building to support the café, but it was useful for extra trade from the public to be available.
- (20) Councillor A Norman referred to the development of the Ocean Hotel in Saltdean, where it had been possible to maintain the structure of the building, and when this hadn't been possible, it was covered to be preserved for future generations. Councillor A Norman asked if the applicant would take the same approach with the Astoria. Mr Zara replied that if any parts could be salvaged they would look at this. The main problem with the building was asbestos plastering, which needed removing, but he agreed that a memory of the building needed to remain.
- (21) Councillor Davey asked for reassurances that this project was deliverable and the building would not be demolished without development going ahead. Mr Zara said that the proposed conditions included a condition that said that the building could not be demolished until there was a clear commitment to rebuild it.

Questions and debate

- (22) Councillor Cobb referred to a letter from an objector and asked where the office space was that they were indicating in the letter. Ms Brocklebank replied that this assertion had been made by the North Laine Community Association, but they did not reference where. The Council made separate assessments about what type of office space was needed in the city.
- (23) Councillor Farrow asked if it was possible to delay this planning application to allow the charity to put together a proposal. Ms Brocklebank replied that the Planning Authority was under an obligation to make a decision on a submitted planning application. She felt that Synergy had been given a generous amount of time. The Heritage Lottery Funding took a long time to achieve, but 3 months had been given for Synergy to start initial discussion with them. Only phone discussions had taken place, and she was aware that the Heritage Lottery Fund had some concerns. A licence application was recommended to provide evidence for the viability of the scheme, but this was not forthcoming either.
- (24) Councillor Mrs Theobald asked if the charity's proposal had changed over time, and Ms Brocklebank agreed.
- (25) Councillor Mrs Theobald asked if the lamp post would also need removing as well as the Elm trees. Ms Brocklebank replied the Elm trees were less than 10 yrs old. Alterations to Blenheim Place and the removal of the lamp post would be dealt with under highways legislation.
- (26) Councillor Davey asked for clarification on the relationship between demolition and construction, and whether efforts had been made to find a new owner and use for building. Ms Brocklebank replied that the conditions assured that construction would begin after demolition. The work undertaken by previous owners from Yes-No Productions showed that there were practical difficulties in bringing the building back to use.
- (27) Councillor Hawtree felt there was a balance to be struck between what existed and what Councillors would like to have. He noted that the inside of the building was much more significant. Other important buildings had been lost over the years in the city, and he worried that Brighton was losing its theatrical heritage. He felt that more time might be needed to establish a better use for the complex.
- (28) Councillor Kennedy said she was shocked at the state of the interior, which was the main reason why this was listed. The building had deteriorated since the 1970s and successive owners had tried and failed to bring the building back into use for entertainment. The Baptist Church next door was clearly impacted by the proposals but was in support of demolition. English Heritage did not object, and the Heritage Lottery Fund had not guaranteed any funding for Synergy. She appreciated that these proposals were not just for a night club, but number of venues in area had closed that were all night events. She was pleased to see the building achieving BREEAM 'Outstanding' and felt the architecture was excellent. There was a need for

this type of high tech office space, and the scheme would provide 170 jobs. It was a complex issue, but on balance she was in favour of this application.

- (29) Councillor Mrs Theobald said she was sad to see the Astoria demolished as she had fond memories of seeing films there. It was not the best looking building however, and whilst it did have some good interior features, she was pleased to see elements retained in the current scheme. She felt that more parking could have been included. She thought that the building would be good architecture and it fitted in well with the street scene. Councillor Mrs Theobald was not convinced the building could be renovated successfully, and didn't realistically think the funding would be achieved.
- (30) Councillor Farrow said he was concerned about the loss of the entertainment heritage of the city. The main economy of the city was entertainment and Synergy's proposals would reinstate entertainment for all age ranges. He was not convinced that the current proposals were what were required. He agreed that business units were need, but was not sure that this was the right place.
- (31) Councillor Wells noted that there had only been verbal plans for any alternative scheme. He felt that Synergy had been given enough time to put forward a better community use. There were 170 jobs proposed with this scheme, and it was a lot nicer than the existing building. He felt the proposals from Synergy would take too much time to achieve and the building would deteriorate even further. The building was an eyesore at present and so he supported the application.
- (32) Councillor A Norman said that the city had waited for years for someone to rescue the building, but it had become more and more dilapidated during that time. The city had moved on from the days when the Astoria was an entertainment centre. The only reasonable alternative was the Synergy proposals, but there were too many uncertainties and unknowns in it. The Heritage Lottery Fund bid was not far enough advanced, and whilst she wouldn't be happy to see the building demolished, it would improve the state of the block. The Baptist Church supported the proposals, and so there was evidence of community support for the scheme.
- (33) Councillor Summers said she had worked in the area with communities for several years and knew that the economy of the area was a concern. She felt that these proposals would breathe new life into the area. Brighton was not short of entertainment places, and she was not convinced that enough people had been consulted on the Synergy proposals, and didn't believe there would be support for them. She felt the proposed scheme would give small businesses in the area a chance to succeed.
- (34) Councillor Davey said he was torn by this application, as he felt the Synergy proposals were reasonable. It was very sad to see the dilapidated interior of the building, but he felt it was difficult to support demolition of a listed building where every effort had not been made to restore the building. He did not believe the building had been marketed properly and did not feel the Heritage Lottery Funding had been pursued properly. The building did have the potential to offer something unique as a culture offering to the city that did not relate to alcohol.

- (35) Councillor Carden did not think a theatre was viable on this site any more. He was sad to see the building demolished, but would support the application.
- (36) A vote was taken and on a vote of 9 for and 3 against minded to grant planning permission was granted subject a Section 106 planning agreement and to the conditions and informatives listed in the report, and amendments to the conditions as listed on the Late List.
- 66.1 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out below and in section 7 of the report and resolves it is minded to grant planning permission subject to the applicant entering into a S106 Planning Agreement and the conditions and informatives listed in the report, amendments on the Late List, and amendments to conditions to read:
1. Condition 24: No development shall commence until details of the construction of the green roofs have been submitted to and approved in writing by the Local Planning Authority. The details shall include a cross section, construction method statement and the seed mix. The scheme shall then be carried out in accordance with the approved details.
 2. Condition 27: No development shall take place until sample elevations at 1:20 scale showing all the architectural elements of each elevation of the development, including gates and solar screens, have been submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in strict accordance with the approved details.
- B. Application BH2010/03760, The Astoria, 10-14 Gloucester Place, Brighton – Demolition of existing Grade II listed building.**
- (1) The presentation for the application was taken together with application BH2010/03759, The Astoria, 10-14 Gloucester Place, Brighton.
 - (2) A vote was taken and on a vote of 9 for and 3 against Listed Building Consent was granted subject to the conditions and informatives listed in the report.
- 66.2 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in section 7 of the report and resolves to grant listed building consent subject to the conditions and informatives listed in the report.
- C. Application BH2011/01558, Royal Sussex County Hospital, Eastern Road, Brighton – Erection of a six storey modular building for a period of seven years with alterations to vehicle access on Eastern Road.**
- (1) The Senior Planning Officer, Ms Boggiano, introduced the application and presented plans, photos and elevational drawings. She said that this application was linked to the 3Ts development due to be submitted and in order to keep the building operational a temporary building would be required to decant services whilst construction took place. The services located in the new building would need to be

located on site for use. Following stage one completion of the 3Ts application, services would be decanted into the new building.

The new building was proposed to the front of the Barry Building and the MRI centre. Nine visitor spaces and 4 disabled spaces would be lost due to the build, but the disabled spaces would be relocated elsewhere. This parking loss equated to only 3.3% of the total on site provision however. Access points to the building would need to be changed, and this would result in changes to the bus stops along the road which would need to be relocated. The modular build would be 11 meters taller than the Barry Building.

A total of 7 letters objected to the wider development of the hospital, and 2 objected to the hours of construction that were anticipated. One objection referred to the fact that this application had been submitted before the 3Ts application, and would predetermine the decision. The proposal was considered acceptable however, subject to a solution being found to the parking and transport issues. Conditions were proposed to manage construction and operation noise. It was necessary to put the building in this location to ensure links through to the existing services in the Barry Building would be maintained. Demolition would commence on site in 2013 but services would need to be decanted before demolition took place. There would be a long lead-in for the modular building to be erected as it was a bespoke design with medical equipment that needed to be ordered.

It was accepted that the modular building would detract from the Listed Barry Building, but it would have an acceptable impact against the backdrop of demolition of stage one buildings and a construction site. However, if demolition had not commenced within 3 years the building would need to be removed.

Questions and debate

- (2) Councillor Kennedy referred to the updated conditions in the Late List. She noted that the Environmental Construction and Management Plan included a British Standard, and asked if this included time limits. If not, could the Committee add an informative to limit construction times of between 8am – 6pm and no weekend working. Ms Boggiano agreed that an informative could be added in relation to this.
- (3) Councillor Hawtree asked what happened to the building after it was removed. Ms Boggiano replied that it was a bespoke building and she was unsure what would happen to it.
- (4) Councillor Carden was concerned about the loss of parking on site as this was often used by residents from across the region, who could not use public transport. Ms Boggiano replied that there would be longer distances for some patients to walk in terms of moving the bus stops, but it would be of advantage to others depending on which part of the site they needed to access.
- (5) Councillor Mrs Theobald asked if any alternative sites had been considered for the hospital development, and whether they considered more staff parking or freeing up more spaces on site for visitors. She also asked if construction was allowed on Saturdays and Sundays. Ms Boggiano replied that more parking had been

considered at the St Mary's site. The Local Planning Authority would normally allow Saturday morning construction. There was no other place where this building could go on site and the facilities would be needed for the critically ill patients in the Barry Building.

- (6) The Chair asked if this application complied with Highway policies that stated that developments should not increase danger to pedestrians and other road users. Mr Tolson replied that the Highways Team had promoted changing the arrangements to increase visibility for traffic exiting the site as they believed this was the best solution.
- (7) Councillor Mrs Theobald said she realised that this building was very much needed, but expected that there would be an application to extend the 7 year temporary permission. She felt it was a horrible looking building and should be in a less prominent position. The loss of any parking spaces was regrettable
- (8) Councillor Kennedy asked for an informatives regarding construction hours be included and this was agreed.
- (9) Councillor A Norman said that it was good news to see a long awaited redevelopment moving forward. The building was functional and consideration had been given to clinical need and to relocate services efficiently and quickly. She agreed that parking and transport arrangements needed to be looked at carefully.
- (10) Councillor Hawtree asked for legal clarification that this application had no bearing on a decision on the 3Ts application.
- (11) Mrs Woodward, Senior Lawyer, said that the application should be decided on its merits and would not prejudice the determination of any further applications that may come in for the site. She added that if the 3Ts application did not go ahead the proposed conditions provided that the modular building would need to be removed in 3 years time.
- (12) Councillor Hamilton said it was worth looking at creating temporary car parking spaces on site once demolition had been completed and was a point for the applicants to bear in mind.
- (13) A vote was taken and on a unanimous vote planning permission was granted subject to the conditions and informatives listed in the report, the amendments to conditions as listed on the Late List, and with an additional informative regarding hours of construction as proposed by Councillor Kennedy.

66.3 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in section 7 of the report and resolves to grant planning permission subject to the conditions and informatives listed in the report, the amendments to conditions as listed on the Late List, and with an additional informative regarding hours of construction as proposed by Councillor Kennedy, to read as follows:

1. The applicant is advised that, to safeguard the amenities of the locality, the Planning Committee has requested that within the details agreed in the Construction Environmental Management Plan, working on site should only take place between the hours of 08.00 and 18.00 Monday to Friday.

D. Application BH2011/01852, Cavendish House, Dorset Place, Brighton – Change of use from offices (B1) to non residential education/training centre (D1).

(1) The Area Planning Manager (East), Ms Burnett, introduced the application and presented plans, photos and elevational drawings. She said that the application was for a change of use from office space to non-residential education/training centre use. The scheme was speculative and did not involve any external alterations. One representation had been received and a letter from the agents.

Policy EM5 secured office use unless it was generally redundant and the method of marketing in this case had been detailed in the report. At least 1 year of marketing was expected by the Council. Marketing for this building started in January offering mixed or whole building use. Use of 65% of the building had been achieved through this marketing and the site was occupied by an office user. No reduction in price had been offered over the marketing period however, despite the applicant confirming the price would be flexible, and it was considered that more interest would be gained by reducing the price. There was also an issue with parking as the owners could reclaim nine spaces for office users, but no details were given as to how this would be achieved. The Sustainable Transport Team had raised a number of objections to the proposed scheme and the applicant had not provided details of how the scheme would accord with Supplemental Planning Document 08 and policy SO2.

Public Speakers

(2) Mr Burgess, agent for the applicant, addressed the Committee and stated that apart from Robert McAlpine, who had let on a short term lease, there was no other interest in the building. The current owners wanted to find a lessee or new owner to ensure the building was filled. The property had been marketed for over twenty months and absolutely no interest from a permanent occupant had been shown, and would be empty again by January 2012. He did not feel the offices were attractive and they were not in the main office area of the city. If consent was granted today the building would continue to be marketed as offices, but also as D1 education use. The potential for finding an occupant would be increased if the application was granted. Robert McAlpine had 3 parking spaces available, with a licence to take back the other 9 spaces. There is no notice required for this arrangement, and so this often put off other users.

(3) Councillor Hawtree asked what the possibility of demolishing and redeveloping the site was. Mr Burgess replied that the current owners had not looked into demolition yet. They wanted to find the quickest solution to achieving occupancy.

(3) A vote was taken and on a vote of 11 for and 1 abstention planning permission was refused for the reasons given in the Officer's report.

66.4 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in section 7 of the report and resolves to refuse planning permission for the following reasons:

1. There is insufficient evidence to demonstrate that the application site is no longer economically viable as a Class B1 office building and therefore the premises had not been adequately demonstrated as genuinely redundant. As such the proposals would be contrary to policy EM5 of the Brighton & Hove Local Plan.
2. The application fails to provide any cycle parking provision and as such would be contrary to policy TR14 of the Brighton & Hove Local Plan and SPG04: Parking Standards.
3. The application fails to demonstrate that the proposal would meet adequate levels of sustainability and as such would be contrary to policy SU2 of the Brighton & Hove Local Plan and SPD08 Sustainable Building Design.

Informatives:

1. This decision is based on drawing nos. Location and Block Plan, 823 01, 823 02, 823 03, 823 04 and 823 05 received on 12.07.11.

(ii) **MINOR APPLICATIONS**

E. Application BH2011/02034, 11 Ainsworth Avenue, Brighton – Erection of two storey side extension incorporating dormers.

- (1) Ms Burnett introduced the application and presented plans, photos and elevational drawings. She said that 11 letters of support and 1 letter of objection had been submitted. The applicant had submitted a letter as to why they were applying for the scheme also.

An additional reason for refusal was based on the fact that the plans were inaccurate. A scheme had been submitted and refused last year, with a large extension refused as it would have been detrimental to the neighbours and the street scene. There would be changes to the front elevation including French doors, a veranda and a new balcony. The extension was considered out of context with the surrounding character of the area. The loss of the visual gap from numbers 9 to 11 was considered detrimental to Ainsworth Avenue and the extension would also add significant bulk and massing, and was contrary to policy. The main changes were the loss of the kitchen door, the relocation of the roof lights and the increased length of the extension.

Public Speakers

- (2) Mrs Plant, the applicant, addressed the Committee and said that she had applied for planning permission to enable her mother, who was registered disabled, to live with them in order that they could care for her. Disabled bathing and toilet facilities were needed for her mother, and for the 24 hour nursing provision she needed. The second storey was needed for additional living space. Many properties in the road and in Ovingdean had flat roofs and extensions, and she therefore felt the street scene would not be affected. The buildings on the street were all different types and not consistent. This was a very modest extension designed to reduce impact on the neighbours, and would not exceed the main roof height. The extension would blend in and be subservient to the main house. The neighbouring property had been granted permission in 2006 to be a 4 bedroom house and this would have had a higher ridgeline than her proposal. She felt the decision was subjective bearing in mind the degree of development that had taken place in Ovingdean. Mrs Plant added that the plans being displayed by the Officer were incorrect, and newly drawn plans had been submitted.
- (3) Ms Burnett clarified that if the plans had been submitted via email to the Case Officer, she was currently on leave and there would have been a notification to say this.
- (4) There was some discomfort expressed by Committee Members at proceeding further without the correct plans, and on this basis the Committee voted unanimously to defer the application until the plans could be assessed.

F. Application BH2011/01057, Coach House, Norton Close, Hove – Demolition of garages and conversion of single storey extension to existing coach house to form 1no two bedroom dwelling and erection of 1no detached single storey two bed dwelling.

- (1) The Area Planning Manager (West), Ms Hurley, introduced the application and presented plans, photos and elevational drawings. She said that an application had been dismissed at appeal for three dwellings. The current application sought consent for two residential units. The Coach House made a positive contribution to the area and the application would enhance and restore the building. Detailing on the extension would match existing Coach House. Removal of the existing garages would make a positive contribution to the area, and there was no objection to this. An earlier application had been dismissed because of the flat building design and profile, which would not enhance the character of the neighbourhood. The design approach was considered appropriate to the site and its constraints as were the materials. The development would create a uniform height along the boundary but would be a modest increase in size and would not be overbearing or create overshadowing. The previous application had been dismissed as it would have had a poor outlook and living conditions for future occupiers. Amenity space was proposed and would overcome this refusal reason. It was accepted that the application could displace vehicles that had been using the garages but there was no objection from the Sustainable Transport Team as this site would not create a high travel demand.

- (2) Mr Markham, local resident, spoke in objection to the scheme and said that he lived at 29b Norton Road. He did not feel the application adhered to the Local plan policies and was not suitable as it was too narrow. Mr Markham felt that residents would be disturbed by noise from new residents, and the scheme did not match surrounding areas of housing. It was close to two Conservation Areas and he didn't think proposals would preserve or enhance their character. The site was very constrained, and Mr Markham was concerned that emergency services would not be able to access site, which could create a fire hazard to existing and new occupants. Many residents felt they would be overlooked by the proposals as there were window openings along the boundaries. He stated that the original petition submitted by residents was not carried over to this scheme, as they had been told it would be. Finally, there was not a lack of demand for the garage, and he felt they should be utilized.
- (3) The agent for the applicant, Mr Plocki, spoke in support of the scheme and said that the plans had been subject to great deal of discussion. What appeared to be window openings were in fact solar panels on roofs and not windows. All windows in the scheme looked into the courtyard or gardens. Currently the area was hard-standing and garages and was used for fly-tipping. It was proposed to restore the Coach House and build a new dwelling to create a more pleasant area. The walls of the scheme would be built using local materials. The site footprint would not be enlarged any more than the existing garages on the site, and would only have additional height in the form of pitched roofs. In terms of access for emergency services, statutory distances for Fire Brigade requirements stipulated that the furthest point of the development be less than 45 metres away and the scheme was within this. The development would improve the environment for the general neighbourhood and would replace garages that were a fire hazard and were under used.
- (4) Councillor Carden asked if the developer would be prepared to put sprinklers in. Mr Polcki replied that they would do this if the Fire Brigade required it.
- (5) Councillor A Norman referred to the Council's Ecologist report regarding bats and asked if it was confirmed that there were no bats in the area. Mr Polcki replied that if a bat survey was needed they would be able to do this. He added that the Ecologist thought it was very unlikely that there were bats in the area; however they were happy to erect bird and bat boxes on site.
- (6) Councillor Mrs Theobald asked if the garages had recently been marketed. Mr Plocki replied that the bottom had dropped out of the market for the garages when the multi-storey car park was built next door.
- (7) Councillor Davey asked if the area as it was currently attracted any anti-social behaviour. Mr Plocki replied that it did attract fly-tipping and unsavoury characters.
- (8) Councillor Cobb asked if the access road was wide enough for emergency vehicles. Mr Plocki replied that there had been lorries down the road, and so he assumed emergency vehicles could access as well.

Questions and debate

- (9) Councillor Cobb asked whether the existing parking space was in separate ownership, where the covered cycle parking would be, how emergency vehicles would access the site, and how refuse would be collected. Ms Hurley replied that access for emergency vehicles was not a material planning consideration. The parking space adjacent to the Coach House would not affect the application and so ownership was not an issue and the area has communal bins on street that prospective residents would need to use. She indicated where the cycle storage would be on site.
- (10) Councillor Davey believed this was a good use of a small site, and a sensitive and appropriate development. He could see that there would be no demand for garage parking in this area, and the development would deter any additional antisocial behaviour in the area.
- (11) Councillor Hawtree felt that this was clearly fitting a lot onto the site and it was a very finely balanced case. However, there was a need for more housing in the city.
- (12) A vote was taken and on a vote of 8 for, 1 against and 3 abstentions planning permission was granted subject to the conditions and informatives listed in the report.
- 66.5 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in section 7 of the report and resolves to grant planning permission subject to the conditions and informatives listed in the report.
- G. Application BH2011/01777, Arqiva Transmitting Station, Hangleton Way, Brighton** – Retention of existing transmitting station and installation of 1no panel antenna to replace 2no log periodic antennas on existing monopole for Digital Switchover.
- (1) Mrs Hurley introduced the application and presented plans, photos and elevational drawings. She said the site was currently an existing transmitting site. Temporary planning permission had been granted in March 2000, expiring in 2009, and now permanent retention with an additional antenna to allow for digital switchover was sought. Letters of objection had been received. The mast was visually prominent from the local area and from the National Park and retention of the mast would harm the visual quality of Park, but it was used by several companies and was considered a preferable option to several separate masts. Alternative sites which would provide the same coverage would be sited in much more highly sensitive positions.

Questions and debate

- (2) Councillor Cobb asked if any enforcement had taken place when the temporary permission ran out, and Mrs Hurley replied she was not aware of any.
- (3) Councillor Mrs Theobald said the mast was very visible and now a blot on the landscape as it could be seen from the National Park.
- (4) Councillor Kennedy said that several different networks use the mast, and its upgrade would enable digital switchover. She asked if another temporary permission could be given. Mrs Woodward replied that a good planning reason would be needed to make the permission temporary. The Chair added that the original rationale behind the temporary permission was that it was considered that technology may have moved on to an extent that the mast would be redundant by now.
- (5) Councillor Davey said that the mast was already in situ, and did not affect anyone's homes and was not near a school. He felt that if this location was rejected, an alternative location in a much more sensitive area might come forward.
- (6) Councillor Cobb agreed that she did not like the mast but it was needed and in a more suitable location than others that might be proposed.
- (7) A vote was taken and on a vote of 9 for, 1 against and 2 abstentions planning permission was granted subject to the conditions and informatives listed in the report.

66.6 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in section 7 of the report and resolves to grant planning permission subject to the conditions and informatives listed in the report.

H. Application BH2011/01760, 80 Stoneham Road, Hove – Demolition of existing single storey building and construction of a three storey block to form 7 residential units.

- (1) Ms Hurley introduced the application and presented plans, photos and elevational drawings. She said that the building was currently a vacant single storey building in a bad state of repair. Planning permission had been granted in 2007 for demolition and construction of a 3 storey unit for residential and office space. A time limit extension had been agreed in 2010. The new plans proposed 7 residential units and no office space. The elevations were very similar to the extant permission and a high boundary wall with planting on either side was proposed to reduce overlooking. Windows on the rear elevation ground and first floors would be obscured by the proposed wall. Balconies proposed on the second floor would not be screened by the wall, but proposed condition 6 was for additional screening to the second floor balconies. Information had been submitted with the application to show office space was not viable.

Questions and debate

- (2) Councillor Davey referred to the 2007 planning permission where a £14,000 contribution to sustainable transport had been sought, and the scheme was designated car free. He asked why the contribution was a significantly lower amount this time and the application had not been designated car free, given concerns raised around parking in the area. Mr Tolson replied that it was likely that the formula to calculate sustainable transport contributions had changed, which accounted for the different. He felt that the application could be designated as car free if the Committee felt a condition for this was needed.
- (3) Councillor Hamilton asked if there was a controlled parking zone waiting list for this area and Mrs Hurley replied there was no waiting list for a permit in this area.
- (4) Councillor Davey said that he lived close by and was aware of several problems with parking in the area, especially around West Hove School. As such he felt the argument for making the development car free had only increased with time.
- (5) Councillor Cobb was alarmed that the city was losing so many industrial units. Other large applications had recently been approved in this area, which would add to the parking issues. She felt that Code Level 3 for Sustainable Homes was not high enough for the application, and the scheme was overdeveloped and not in keeping with the area. She supported the objections made to scheme.
- (6) Councillor Hawtree felt there was a variety of style in the area but felt that this design was very mediocre and did not add anything to the area.
- (7) Councillor Kennedy agreed that the design was poor, and very bland when compared with its neighbour. The amenity space inside the flats was also a concern, and she felt that there should at least be provision for affordable housing on site. She agreed there were car parking problems in the area as well. However, permission had been regrettably granted in 2007 and she believed that it would be difficult to refuse this application on that basis. She would not be voting for the recommendation however.
- (8) Councillor Mrs Theobald believed that the loss of office space was regrettable, and there had been several objections made to the scheme. She did not feel it blended in, and was worried about car parking situation.
- (9) Councillor Davey felt there was not a great deal of difference to the scheme already granted, and as such would be voting in favour of the application.
- (10) A vote was taken on a condition to require that the development was car free and this was carried on the Chair's casting vote.
- (11) A vote was then taken on the recommendation to grant planning permission and on a vote of 5 for, 4 against and 3 abstentions planning permission was granted subject to the conditions and informatives listed in the report, with amendments suggested by officers, an additional condition and informative.

- 66.8 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in section 7 of the report and resolves that it is minded to grant planning permission subject to a Section 106 agreement and the conditions and informatives listed in the report, with amendments suggested by officers, an additional condition and informative to read as follows:

Amended wording to condition 2:

“The development hereby permitted shall be carried out in accordance with the approved drawing nos. 3856/ 004B, 005F, 007G, 008D, 010D, 011D, 013A, 014, 015, 016A, 017A, 018D, 019B received on 6 September 2011 and 006H, 009E, 012E, 020C received on 14 September 2011.”

Additional condition (number 16):

“The development hereby permitted shall not begin until such time as a scheme has been submitted to and approved in writing by the Local Planning Authority to provide that the residents of the development, other than those residents with disabilities who are Blue Badge Holders, have no entitlement to a resident's parking permit.

Reason: To ensure that the development is car-free and to comply with policy HO7 of the Brighton & Hove Local Plan.”

Additional informative:

“The applicant is advised that the scheme required to be submitted by Condition 16 should include the registered address of the completed development; an invitation to the Council as Highway Authority (copied to the Council's Parking Team) to amend the Traffic Regulation Order; and details of arrangements to notify potential purchasers, purchasers and occupiers that the development is car-free.”

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

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

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

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

68. 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

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

Application	Requested
BH2011/02181, Rosaz House, 2-4 Bristol Gate, Brighton	Development Control Manager
BH2010/03999, Block J, New England Quarter, Brighton	Development Control Manager
BH2010/03128, 19-27 Carlton Terrace, Portslade	Development Control Manager

The meeting concluded at 5.50pm

Signed

Chair

Dated this

day of

APPEAL DECISIONS

	Page
A. BRUNSWICK & ADELAIDE	
Application BH2010/02108, 10 Wilbury Road, Hove – Appeal against refusal to grant planning permission for the demolition of 8 no. garage units situated to the rear of 10 Wilbury Road and construction of 2 no. new single-storey residential units. APPEAL DISMISSED (delegated decision).	25
B. CENTRAL HOVE	
Application BH2011/00480, 181 Church Road, Hove – Appeal against refusal to grant planning permission for application to renew lapsed application BH2004/00674/FP change of use from storage on lower ground floor to two bedroom self-contained flat to include extension (approved 12/05/2004). APPEAL ALLOWED (delegated decision).	29
C. HOLLINGBURY & STANMER	
Application BH2011/00248, 36 Hollingdean Terrace, Brighton – Appeal against refusal to grant planning permission for replacement and enlargement of timber platform incorporating steps and glazed screens (part retrospective). APPEAL DISMISSED (committee decision).	33
D. HOVE PARK	
Application BH2011/01446, 17 Rigden Road, Hove – Appeal against refusal to grant planning permission for removal of existing garage and erection of a two storey extension. APPEAL ALLOWED (delegated decision).	37
E. MOULSECOOMB & BEVENDEAN	
Application BH2010/02021, Land r/o 62 Bevendean Crescent, Brighton – Appeal against refusal to grant planning permission for 2 new semi detached houses on land to the rear of 62 Bevendean Crescent including associated refuse and cycle storage areas APPEAL DISMISSED (committee decision)	39
F. PRESTON PARK	

Application BH2011/00067, 81-89 Beaconsfield Road, Brighton – **43**
Appeal against refusal to grant planning permission to erect a terrace
of 4 , 2 bedroom houses on garage site 81-89 Beaconsfield Road
(including demolition of garages) **APPEAL DISMISSED** (committee
decision)

G. ROTTINGDEAN COASTAL

Application BH2011/01153, 30 Roedean Crescent - Appeal against **47**
refusal to grant planning permission to erect an extension to create a
second floor and alterations to the rear to form a balcony providing
access to an existing roof terrace. **APPEAL ALLOWED** (delegated
decision)

H. REGENCY

Application BH2011/00266, 49 Silwood Street, Brighton – Appeal **51**
against refusal to grant planning permission for demolition of single
storey rear extension at basement level and erection of supporting
structure at basement level, with two storey rear extension above and
roof terrace at second floor level. **APPEAL DISMISSED** (delegated
decision).

I. WISH

Application BH2011/00551, 313 Kingsway, Hove – Appeal against **55**
refusal to grant planning permission for loft conversion, remodelled
roof, new porch roof. **APPEAL DISMISSED** (delegated decision).

J. WOODINGDEAN

Application BH2011/00606, 44 Crescent Drive South, Woodingdean – **57**
Appeal against refusal to grant planning permission for loft
conversion, remodelled roof and new porch roof **APPEAL DISMISSED**
(committee decision)



Appeal Decision

Site visit made on 4 August 2011

by J O Head BSc(Econ) DipTP MRTPI

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

Decision date: 19 August 2011

Appeal Ref: APP/Q1445/A/11/2149876

10 Wilbury Road, Hove, East Sussex BN3 3JN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Paul Hazeldine (HR Investments) against the decision of Brighton & Hove City Council.
 - The application Ref BH2010/02108, dated 9 July 2010, was refused by notice dated 27 October 2010.
 - The development proposed is the demolition of 8 no. garage units situated to the rear of 10 Wilbury Road and construction of 2 no. new single-storey residential units.
-

Decision

1. **The appeal is dismissed.**

Main Issues

2. No 10 Wilbury Road is a substantial Victorian villa, used as 9 flats, within the Willett Estate Conservation Area. The main issues are whether the proposed development would preserve or enhance the character or appearance of the conservation area; and whether adequate living conditions would be created for the future occupiers of the proposed residential units, with particular reference to outlook, natural light and privacy.

Reasons

Character and appearance

3. The appeal property is situated on the east side of Wilbury Road, which retains many of its characteristic Willett houses. The existing block of 8 garages is situated on the rear boundary of No 10 and is noticeable from the street only at the gap between Nos 10 and 12. There are garages in a similar position at the rear of Nos 4 and 24 and an extension at No 32 but, apart from these, buildings in the rear gardens are not a characteristic feature of this part of the Conservation Area. The garden area between the rear of the properties in Wilbury Road and those in Selborne Road is generally well vegetated, with a number of mature trees, which enhances the setting of the houses.
4. The existing block of garages is utilitarian in appearance and appears to be unused. Car parking for the existing flats at No 10 is accommodated in the

- remainder of the former rear garden area which, with the exception of a small planted strip adjacent to the boundary wall with No 12, is hard surfaced. This situation would not change as a result of the appeal proposal. The existing tree in the planted strip would be retained and a further small planting strip would be formed in front of the proposed building.
5. Since it would replace the existing garage block and would not increase its footprint, the proposed building would not result in any overall expansion of built development in the rear garden area. Although of an uncharacteristic form for the Conservation Area, the building, which would be of contemporary design, would be well proportioned and detailed, with a flat roof only a little higher than that of the existing garages. The proposed "green" roof surface would soften the appearance of the development when viewed from the upper windows of surrounding dwellings and would go a little way towards offsetting the lack of vegetation at the rear of the appeal property. It would have little impact on the street scene in Wilbury Road. Subject to agreement on the use of a suitable colour and texture of brickwork (which could be the subject of a condition if the appeal were to be allowed), the proposed building would be of a suitably high standard of design to meet the requirements of Local Plan Policies QD1, QD2, QD3 & HE6. It would represent a visual improvement in comparison to the existing garage block and would, at the least, preserve the character and appearance of the Conservation Area.
 6. The proposal includes the erection of a recycling store and a cycle store for the occupiers of the existing building at No 10. Subject to details of design, the recycling store could be an improvement on the existing storage of boxes in the open to the left of the driveway, where they are on view to passers-by and create harmful visual clutter. The cycle store would occupy an area on the south side of the existing house, adjacent to the boundary with No 8 Wilbury Road and extending to the front elevation of the house. That area is currently undeveloped, apart from the small boiler room attached to the south-east corner of the house, and provides a green gap between the buildings that is visible from the street. Its enclosure with a cycle store, sited as proposed, would not meet the requirements of Policy HE6. It would harm the street scene and would fail to preserve the appearance of the Conservation Area.

Living conditions

7. Moving to the second issue, Local Plan Policy QD27 indicates that planning permission will not be granted for any development where there would be material nuisance and loss of amenity to proposed residents. Although much of the lighting to the interior of the proposed dwellings would be from clerestorey windows, the bedrooms would have main windows facing onto the car parking area and separated from it only by a small planting bed. This would result in a low level of privacy and potential for disturbance from noise and from car headlamps at night. Sound insulation and/or fixed glazing, as proposed, could minimise noise disturbance but, if obscure glass or shutters were to be used to protect privacy, an unacceptably claustrophobic internal environment would result. Whilst there are habitable room windows on the rear elevation of the existing house which face the car park, these are physically separated from it by the width of the sunken rear lightwell area and are also at a different level to those proposed. They are therefore less likely to suffer from these harmful impacts.

8. In contrast to the flats in the existing house, the proposed residential units would have some private external amenity space, in the form of a terrace or patio at each end of the building. Although the appellant says that this would exceed the standards set out in the Code for Sustainable Homes, the terraces would be only some 2.5 metres wide, providing a limited outlook from the patio doors of the living rooms onto the boundary walls of the adjoining properties. The space would be further restricted by the inclusion of a cycle and recycling store.
9. The site is also surrounded by large trees, most of which are in neighbouring gardens. The Council accepts that the construction of the building would cause no direct harm to the trees, in accordance with the details given in the appellant's Arboricultural Report. However, the trees would restrict light levels on the terraces and at the patio doors of the proposed building, particularly in the case of the north-facing unit which would have little, if any, direct sunlight and would be likely to appear gloomy. The Elm tree on the appeal site, which would be close to the north-facing terrace, could be thinned and/or crown lifted to allow some additional daylight, but the extent of such work would be constrained by the need to protect the value of the tree as a visual amenity in the Conservation Area. The same would apply to any work to trees in surrounding gardens and the presence of the proposed residential units might well result in pressure for such work in the future as tree cover increases.
10. Overall, the constraints of the site would result in the proposed residential units having a poor standard of outlook, natural light and privacy. This would conflict with Policy QD27 and would not create adequate living conditions for the future occupiers if the dwellings.

Overall conclusion

11. The appeal site is in an urban area where residential development is acceptable in principle. The architectural design of the proposed residential units would be of a high standard and the building could result in a visual improvement to the Conservation Area. The proposed cycle storage facility would, however, be harmful to the street scene and the Conservation Area. The appellant has suggested that a split decision could be issued if the proposal is otherwise satisfactory. However, in view of the conclusions on the second issue, above, that is not the case.
12. The harm caused by the inadequate living conditions that would be created for the future occupiers of the residential units, together with the visual impact of the proposed cycle store, are sufficient to outweigh the benefit to the Conservation Area from replacing the garages with a building of better design. Accordingly, the proposed development is unacceptable and the appeal does not succeed.
13. In reaching that conclusion, account has been taken of the representations made by interested persons. Although the proposed building would be higher than the existing, the impact that this would have on the rear boundary wall of No 11A Selborne Road would have a minimal effect on the amenity value of the garden. Bearing in mind the design and use of the proposed building, the development would be unlikely to cause any unusual noise and disturbance in this residential area. No alteration to the existing car parking area is proposed,

other than a formalisation of the existing parking spaces, and the site is in an area subject to a controlled parking regime.

John Head

INSPECTOR



Appeal Decision

Site visit made on 23 August 2011

by Ann Skippers BSc (Hons) MRTPI

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

Decision date: 14 September 2011

Appeal Ref: APP/Q1445/A/11/2152215

181 Church Road, Hove, East Sussex BN3 2AB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by K.C and J.C. Patel against the decision of Brighton and Hove City Council.
 - The application Ref BH2011/00480, dated 17 February 2011, was refused by notice dated 18 April 2011.
 - The development proposed is 'application to renew lapsed application BH2004/00674/FP change of use from storage on lower ground floor to two bedroom self-contained flat to include extension (approved 12/05/2004)'.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use from storage on lower ground floor to two bedroom self-contained flat to include extension at 181 Church Road, Hove, East Sussex BN3 2AB in accordance with the terms of the application, Ref BH2011/00480, dated 17 February 2011, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: AP/CRP/03/012B and AP/CRP/03/013B.
 - 3) The materials to be used in the construction of the external surfaces of the extension hereby permitted shall match those used in the existing building.
 - 4) All new windows shall be painted softwood, double hung vertical sliding sashes with concealed trickle vents and shall be retained as such thereafter unless otherwise agreed in writing by the local planning authority.
 - 5) No development shall take place until details of secure bicycle storage and refuse storage have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and shall be retained as such thereafter unless otherwise agreed in writing by the local planning authority.
 - 6) No development shall take place until an investigation and risk assessment to assess the nature and extent of any contamination on the site, whether or not it originates on the site, has been completed in accordance with details submitted to and approved in writing by the local planning authority. In the
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event that contamination is found to exist, a scheme for remediation to bring the site to a condition suitable for the intended use must be submitted to and approved in writing by the local planning authority. The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the local planning authority. Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced and is subject to the approval in writing of the local planning authority.

Reasons

2. 181 is a three storey property with basement located on the corner of Church Road and Connaught Road. At present the ground floor of the premises is in use as a pharmacy whilst upper floors appear to be in residential use. The proposal seeks to convert the lower ground floor (basement) level into a self-contained flat and to add a modest extension. This lower ground floor level is presently used for storage and staff facilities, but both parties agree that this area is surplus to requirements.
3. The site falls within the Old Hove Conservation Area. The Council has not raised any objection to the development on the basis of its Conservation Area designation and I agree that the development would preserve or enhance the character or appearance of the Conservation Area. Therefore the main issue in this case is the effect of the proposal on the living conditions of future occupiers of the proposed development with particular regard to outlook and light.
4. The proposed flat would be accessed via steps from street level along Connaught Road which leads directly into a courtyard area. A modest extension is proposed and this would infill a small area to the rear of the existing building and the retaining brick wall. Various internal alterations would reconfigure the space to provide two bedrooms of a good size, two shower rooms and an open plan lounge, dining area and kitchen.
5. The Council is rightly concerned about the living conditions of future occupiers as often conversions of this nature can lead to a poor living environment. However, in this particular case both bedrooms would have relatively large windows facing onto the courtyard. This area is of a reasonable size and could be made into a pleasant space with planting providing adequate amenity space as the Council concurs. In addition the second bedroom would have a door with direct access onto the courtyard with glazing in it providing more natural light. Even though the rear of the property is north facing, an adequate level of natural light would be achieved and the outlook from these windows and door onto the courtyard would be pleasant.
6. With respect to the kitchen, dining room and lounge, the lounge area has a window which would overlook the courtyard and I agree with the Council's assessment that this part of the open plan living area would be served satisfactorily with natural light. It would also have an acceptable outlook to the courtyard. The kitchen and dining area located towards the front of the property would be less well served by natural light, but the kitchen would have

two windows and a door and whilst the outlook from these windows would be to a retaining wall, they would afford the room some natural light gained from lightwells at street level. Therefore some natural light would be available throughout the flat and at both ends of this open plan living area. Given the nature of the living space and its configuration, I consider that, on balance, this would provide a satisfactory level of amenity for future occupiers.

7. I have also had regard to a previous approval for this proposal on the site ref Bh2004/00674/FP which has lapsed. I appreciate that since the date of that decision the Brighton and Hove Local Plan (LP) has been adopted in 2005. The Council also refer to another case dismissed on appeal, but I have found the appeal proposal to be acceptable on its own merits.
8. A neighbour has raised concern about the loss of privacy to a nearby day nursery. However, the relationship between the two properties would not result in any undue overlooking.
9. Accordingly, the proposal would not have a materially harmful effect on the living conditions of future occupiers of the proposed development with particular regard to outlook and light. The proposal would accord with the objectives of LP Policy QD27 which seeks to protect amenity.
10. I have considered the conditions put forward by the Council in the light of the advice in Circular 11/95. In addition to the standard commencement condition, I have added a condition requiring the development to be carried out in accordance with the approved plans for the avoidance of doubt and in the interests of proper planning. I agree with the Council that it is necessary to add a condition about window detailing, and I will also add a condition relating to materials because of the extension, bearing in mind the site's location in a conservation area. Cycle storage facilities and refuse provision are also required, but not shown on the plans. The courtyard area would satisfactorily accommodate both these elements and therefore I will add a condition covering these matters in the interests of proper planning. A consultee response also points to the need to investigate potential contamination because of previous uses of the site and I will add a condition to this effect in order to protect the health and wellbeing of future occupiers.
11. For the reasons given above and having had regard to all other matters raised, the appeal should be allowed.

Ann Skippers

INSPECTOR



Appeal Decision

Site visit made on 11 July 2011

by Elizabeth Lawrence BTP MRTPI

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

Decision date: 18 July 2011

Appeal Ref: APP/Q1445/D/11/2152896
36 Hollingdean Terrace, Brighton, BN1 7HA.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Paul Cullen against the decision of Brighton and Hove City Council.
 - The application Ref BH2011/00248, dated 26 January 2011, was refused by notice dated 21 March 2011.
 - The development proposed is replacement and enlargement of timber platform incorporating steps and glazed screens (part retrospective).
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Decision

1. I dismiss the appeal.

Main Issues

2. The first main issue is the effect of the scheme on the character and appearance of the host building and the surrounding area. The second main issue is the effect of the scheme on the living conditions of the occupiers of the adjacent properties with particular regard to visual impact and privacy.

Reasons

Character and appearance

3. The timber platform and steps have already been constructed and replace a smaller platform and steps in a similar position. The proposed glazed screens and trellis have not yet been provided.
 4. Due to its elevated position and materials the proposed development would be prominent within the rear garden environment and would detract from the simple lines and symmetry of the rear of the terrace. In particular the timber railings, trellis and glazed screens would be visually dominant and would obscure the first floor rear windows, both upsetting the rhythm of the terrace and appearing totally out of keeping with the host building.
 5. By comparison the previous landing, railings and steps were far more modest and did not obscure the first floor windows or dominate the rear elevation of the building. Likewise the landing and steps at the rear of 38 Princes Terrace are modest and do not dominate the rear elevation of that property. The first floor
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rear extensions at both 38 and 40 Hollingdean Terrace are fully enclosed and are not directly comparable to the proposed scheme in relation to materials, appearance or use. Notwithstanding this, they illustrate how first floor rear additions can impact on the character and appearance of the dwellings concerned and the terrace as a whole.

6. I conclude on this issue that the proposal would unacceptably harm the character and appearance of the host property and the surrounding rear garden environment. Accordingly the scheme would conflict with policy QD14 of the Brighton & Hove Local Plan 2005, which requires residential extensions and alterations to be well designed, sited and detailed in relation to the host building, neighbouring properties and the surrounding area.

Living conditions

7. From the proposed terrace there are clear views of the rear ground floor windows and doors of the adjacent properties in Roedale Road. Whilst the proposed trellis would reduce the area from which those properties would be overlooked, there would still be direct views from the northern end of the proposed terrace area. Having regard to the elevated position of the terrace and the fact that it could well be used as an outdoor entertaining and recreational area, its use would result in a significant level of actual and perceived loss of privacy for the occupants of the dwellings opposite.
8. Although the previous landing overlooked the rear of the properties opposite, due to its limited size and function it did not result in the same levels of actual and perceived overlooking. The same applies to the existing landing at 38 Princes Terrace.
9. The proposed glazed screens and trellis would ensure that the use of the proposed terrace would not result in a material loss of privacy for the occupants of 34 Princes Terrace. However the proposed glazed screen and trellis would be visually dominant when viewed from the adjacent rear windows and garden area at No.34. Its impact would be intensified when the terrace was in use and as a result would have an overbearing impact on the living conditions of the occupiers of that property.
10. In relation to No.38 the proposed glazed screen at the northern end of the terrace would improve the level of privacy between the two properties. In addition as No.38 has a rear first floor extension and external landing and stairs the proposal would not have an overbearing impact on the living conditions of that property.
11. I conclude on this main issue that the proposal would materially and unacceptably harm the living conditions of the occupiers of the adjacent dwellings in Roedale Road due to loss of privacy. It would also materially harm the living conditions of the occupiers of 34 Hollingdean Road due to its overbearing visual impact. Accordingly the scheme would conflict with policies QD14 and QD27 of the Local Plan. These policies seek to ensure that new development does not cause significant harm to the living conditions of existing residents.

Conclusion

12. The conclusions on both main issues represent compelling reasons for dismissing this Appeal, which the imposition of conditions would not satisfactorily address.

Elizabeth Lawrence

INSPECTOR



Appeal Decision

Site visit made on 30 August 2011

by Ann Skippers BSc (Hons) MRTPI

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

Decision date: 8 September 2011

Appeal Ref: APP/Q1445/D/11/2157199

17 Rigden Road, Hove, East Sussex BN3 6NP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr. and Mrs. M. Charles against the decision of Brighton and Hove City Council.
 - The application Ref BH2011/01446, dated 18 May 2011, was refused by notice dated 14 July 2011.
 - The development proposed is 'removal of existing garage and erection of a two storey extension'.
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Decision

1. The appeal is allowed and planning permission is granted for the removal of [the] existing garage and erection of a two storey extension at 17 Rigden Road, Hove, East Sussex BN3 6NP in accordance with the terms of the application, Ref BH2011/01446, dated 18 May 2011, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 11-106/Loc 2A, 11-106/10, 11-106/11A, 11-106/12.
 - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.

Main Issue

2. The main issue in this case is the effect of the proposal on the character and appearance of the host property and surrounding area.

Reasons

3. No 17 is a detached property along Rigden Road. It is a property of unusual appearance in that it has a hipped roof to the north side and a cat slide gable end to the south, but there are other properties along the street of similar design. The appeal property is on a wide plot and has a substantial garden. At present there is a detached garage set back from the road broadly in line with the existing rear elevation of the property. It is proposed to construct a two
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storey rear extension across the width of the property and replace the garage with a two storey side extension which would effectively 'sit' behind the existing dwelling joining onto the rear extension.

4. One of the most noticeable characteristics of Rigden Road is the enormous variety and difference of designs, styles and detailing of the dwellings along this road. Many of the properties have been extended and altered which adds interest to the street scene and in itself is an important attribute of, and forms a large part of, the character and appearance of the street.
5. Given the great variety of the street scene with its plethora of dwelling types and alterations and the property's immediate context, next to a large and imposing dwelling to the south, No 15, which has an inset two storey flat roofed extension with a roof terrace and the pair of properties to the north, the proposal would not look out of place. The side extension would be set back some eight metres from the front of the dwelling which itself is set back from the road. In addition it would have a hipped roof with its ridge sitting below the dominant ridge of the cat slide roof. Both factors would further help to integrate the proposal into its surroundings by ensuring that the extension would read as a subordinate element rather than as an incongruous or overly wide or bulky addition.
6. Accordingly, the proposal would have an acceptable effect on the character and appearance of the host property and the surrounding area. The proposal would therefore accord with Policy QD14 of the Brighton and Hove Local Plan 2005, which, amongst other things, requires extensions to be well designed, sited and detailed in relation to the host property and adjoining properties.
7. The appellants also draw my attention to a recently approved application ref BH2011/01445 for extensions to the property arguing that a precedent has been set. I have had regard to this other scheme, and the likelihood of its implementation, but as I have found that the appeal proposal to be acceptable on its own merits, there is no need for me to further consider any fallback position.
8. I have considered the conditions put forward by the Council in the light of the advice in Circular 11/95. In addition to the standard commencement condition, I have added a condition requiring the development to be carried out in accordance with the approved plans for the avoidance of doubt and in the interests of proper planning. A condition relating to materials is also necessary to safeguard the character and appearance of the area.
9. For the reasons given above and having had regard to all other matters raised, the appeal should be allowed.

Ann Skippers

INSPECTOR



Appeal Decision

Site visit made on 30 August 2011

by Ann Skippers BSc (Hons) MRTPI

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

Decision date: 22 September 2011

Appeal Ref: APP/Q1445/A/11/2152805

Land to the rear of 62 Bevendean Crescent, Brighton, East Sussex BN2 4RA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr. Paul Newman against the decision of Brighton and Hove City Council.
 - The application Ref BH2010/02021, dated 30 June 2010, was refused by notice dated 18 November 2010.
 - The development proposed is '2 new semi-detached houses on land to the rear of 62 Bevendean Crescent including associated cycle and refuse storage areas'.
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Decision

1. The appeal is dismissed.

Main Issues

2. There are three main issues in this case. The first issue is the effect of the proposal on the character and appearance of the area and the setting of the adjacent South Downs National Park. The second is whether the proposed access and parking provision is acceptable. The third issue is the effect on the living conditions of the occupiers of No 62 Bevendean Crescent with particular regard to noise and disturbance.

Reasons

3. The site lies within the built-up area boundary within an established area of residential development close to local amenities. As such there is no objection in principle to development on the site. The proposal is for a pair of semi-detached, three bedroomed properties of a contemporary modernist design.
 4. No 62 is an end of terrace property with a spacious corner plot. The properties in this area have a distinctive pattern and a regular building form and line with gardens forming a boundary with the South Downs National Park (SDNP) as it curves into the area wrapping around the pockets of the existing built-up area, effectively separating two areas of residential development on this estate and The Avenue in a narrow 'finger'. There is a very clear and distinctive edge to the residential areas with the generally long gardens with mature vegetation and trees providing separation between the built-up and countryside areas.
 5. Whilst the appellant indicates that the plot has already been sub-divided, the block plan shows the subdivision of No 62's original area into three plots. The
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- proposed units would be sited into the garden area far beyond the existing building line and whilst I concur with the Council's view that the street frontage would not be adversely affected, the siting of such a large building, with a far larger footprint than those buildings nearby, in this area would be at odds with the prevailing pattern and grain of development.
6. In addition, No 62 would retain a particularly small area of garden, far smaller than any of its neighbours and although I accept that these corner plots have larger gardens than those around them, the particularly small size of the garden retained for No 62 would be uncharacteristic of the area.
 7. A footpath runs along the edge of the built-up area giving access to and from the SDNP. The area is well treed with mature vegetation. The South Downs Society consider that subject to the retention of the existing tree coverage and new planting, the visual impact of the scheme would be minimal. In contrast the SDNP Authority considers that the setting of the SDNP would be harmed. I walked a considerable distance in the area after the site visit, including up the stepped footpath accessed from The Avenue. It would be difficult to obtain more than long distance glimpses of the proposed new development from within the SDNP because of the trees and land levels. However, the proposed houses would be very close to the rear boundary, footpath and the SDNP introducing built development into the soft urban edge. This would reduce the important visual separation between the built form and the SDNP as the new dwellings would be seen from close up views despite the tree coverage because of the change in land levels and this would harm the setting of the SDNP.
 8. On the first issue, the proposal would have a harmful effect on the character and appearance of the area and the setting of the adjacent SDNP. This would not accord with Policies QD1 and QD2 of the Brighton and Hove Local Plan (LP) 2005 which, amongst other things, require development of a high standard of design which takes account of local characteristics and makes a positive contribution to the visual quality of the environment and LP Policy NC8 which resists development within the setting of the SDNP if it would be unduly prominent in, or detract from views into, or out of the SDNP.
 9. Turning now to the second issue, at present there is an access alongside No 62 which serves a detached garage. This garage would be demolished as part of the proposal to enable access to be taken into the site providing parking for the new properties. The Council and a number of local residents have expressed concern about the suitability of the access and in particular its width. At the site visit, both parties agreed that the access has a width of 1.68m to the common boundary with No 60. The occupiers of No 60 have pointed out that this is not a shared driveway and that they take access to a garage and also use their driveway for parking. It is clear that this access is of insufficient width to provide vehicular access for average sized cars into the site.
 10. So although one parking space for each of the new dwellings is shown on the plans, the usability of proposed access to this parking area is in some doubt as I have identified above because of its narrow width. Furthermore, no replacement parking for No 62 would be provided and this adds to my concerns about the proposal. Therefore despite the provision of cycle storage which is to be welcomed, the proposed access would not be suitable or appropriate for the development and this would result in inadequate parking provision. This would

not accord with LP Policies TR1 and TR19 which seek to ensure that the development provides for the travel demand it creates and complies with the Council's parking standards.

11. With regard to the third issue, the access would run along the side of No 62 as it does now. The land levels are such that No 62 and its two side windows are at a higher level than the access. However, the access would be extended, running the full length of the retained and uncharacteristically small garden area for No 62 and would be used by two additional properties. It would also be the only way to reach the new dwellings. Notwithstanding the narrowness of the access, if it was used for vehicles, the proposal would introduce traffic together with other movements close to these side windows and along the garden area where the occupiers might reasonably expect some peace and quiet. The parking area would be close to the boundary too. There is little opportunity for any boundary treatment or landscaping. Therefore the proposal would harm the living conditions of the occupiers of No 62 with particular regard to noise and disturbance. This would not accord with the objectives of LP Policy SU10 which seeks to minimise the impact of noise on the occupiers of neighbouring properties.

Other Matters

12. The Council objects to the proposal as it would not achieve level 5 of the Code for Sustainable Homes (CfSH). LP Policy SU2 states that permission will be granted for proposals which demonstrate a high standard of efficiency in the use of energy, water and materials. Supplementary Planning Document (SPD) 08 *Sustainable Building Design* has been adopted by the Council and sets out various recommendations including the need for schemes of this nature to achieve CfSH level 5. The appellant points out that this exceeds current building regulations and could only be a requirement if contained in a development plan document and points to a number of appeal decisions which support his stance. The Code is voluntary and the Supplement to Planning Policy Statement (PPS) 1 *Planning and Climate Change* makes it clear that any local requirements, such as this, must be set out in a development plan document rather than a SPD. Given this, and the appellant's confirmation that the development would meet level 3, had the appeal been allowed it would have been reasonable to require the scheme to achieve level 3 through the imposition of a condition.
13. I have also had regard to the advice in PPS1 *Delivering Sustainable Development* and PPS3 *Housing*. Since the changes to PPS3, the appeal site is no longer defined as previously developed land. That said PPS3 indicates that efficient and effective use should be made of land, but both PPSs make it clear that development which is inappropriate in its context or which fails to take the opportunities available for improving the character and quality of the area should not be accepted.
14. Accordingly, for the reasons given above and having had regard to all other matters raised, the appeal should be dismissed.

Ann Skippers

INSPECTOR



Appeal Decision

Site visit made on 30 August 2011

by Ann Skippers BSc (Hons) MRTPI

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

Decision date: 22 September 2011

Appeal Ref: APP/Q1445/A/11/2151330

81-89 Beaconsfield Road, Brighton, East Sussex BN1 6DD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr. Mark Leach of John Leach Properties Ltd against the decision of Brighton and Hove City Council.
 - The application Ref BH2011/00067, dated 6 January 2011, was refused by notice dated 21 March 2011.
 - The development proposed is 'erection of terrace of 4 No. 2 bedroom houses on garage site at 81-89 Beaconsfield Road, Brighton, East Sussex, BN1 6DD (including demolition of garages)'.
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Decision

1. The appeal is dismissed.

Main Issues

2. There are three main issues in this case:
 - the effect of the proposal on the character and appearance of the area including the nearby Preston Park Conservation Area
 - whether the proposal would provide satisfactory living conditions for future occupiers with particular regard to daylight and sunlight and the provision of amenity space and
 - the effect of the proposal on a preserved beech tree on the adjoining site.

Reasons

Effect on character and appearance

3. The site is located on the western side of Beaconsfield Road, a major route to the city centre. The site comprises five garages and has an irregular shape, backing onto a storage/garage building which has a lower land level and a car park serving properties on Stanford Avenue at the rear. To the south is a row of commercial properties with residential above. This part of this wide road is very busy with one way traffic, on-street parking and a mix of styles of properties and uses adding to the area's hustle and bustle.
 4. It is proposed to demolish the garages and construct a terrace of four, two bedroom dwellings. The dwellings would be two storeys above ground level
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and three of the units would have an additional lower ground floor. There is little doubt that the site is suitable for redevelopment and the removal of the existing garages would do much to enhance the character and appearance of the area. The building's form, scale and design would enhance the locality and would preserve and enhance the setting of the nearby Preston Park Conservation Area.

5. However, the proposal would leave little space around the built form effectively filling the site with the creation of four units which as I go onto explain would not provide acceptable living conditions for future occupiers. This leads me to conclude on this first issue that despite the desirability of redevelopment and the design of this scheme, it would result in overdevelopment of the site. This would not accord with Policy QD3 of the Brighton and Hove Local Plan (LP) 2005 which seeks efficient and effective use of sites and, amongst other things, an appropriate intensity of development to be incorporated.

Effect on living conditions of future occupiers

6. With regard to the lower ground floor, a daylight assessment has been submitted at the appeal stage. The assessment confirms that the proposed light reaching the lower ground floor would be acceptable so long as the accommodation is 'enhanced with the provision of supplementary electric lighting'. There is little doubt in my mind that the decking areas and windows to the three units' kitchen and living areas would be hampered by a lack of daylight and sunlight given the context of the site, the buildings and trees around it and its orientation. Although the appellant draws my attention to another development at No 17 The Upper Drive to illustrate that this situation is typical in Brighton and that light wells present a common solution, the context for this particular site is different and in any case each application and appeal must be considered on its own merits.
7. In addition the outlook from windows at both the lower ground and ground levels would be rather gloomy and limited by the site's configuration and the presence of the buildings and trees and car park on adjoining sites. This would result in a greater sense of enclosure on this awkwardly shaped and constrained site.
8. Furthermore, the amenity areas would be limited in size and scope particularly at lower ground floor level and particularly for unit 2. Even with the provision of amenity space at other levels for some of the units, the plan form for four units would result in awkwardly shaped and sized spaces of limited usability and voids. Although there is a park nearby, the proposed amenity space on the site is not of an appropriate size or standard for these two bedroom houses.
9. On this second issue, the number of units proposed and resultant layout would result in unacceptable living conditions for future occupiers with particular regard to daylight and sunlight and the provision of amenity space contrary to the objectives of LP Policies QD3, QD27 and HO5 which respectively seek to ensure that the intensity of development is appropriate to the locality, to protect amenity and provide appropriate private amenity area.

Effect on the beech tree

10. A large beech tree subject to a tree preservation order lies immediately to the north of the site. This tree, together with others in the area, makes an important contribution to the area and the setting of the nearby Preston Park Conservation Area. The arboricultural report submitted at the appeal stage rightly points out that the new building would be about a metre further away from the tree than the existing garage and a large area of hardstanding, which has probably restricted the root spread of the tree, would be removed. However, I am not convinced by the report's conclusion that this important tree would not be adversely affected by the proposal as construction work would necessarily take place very close to the tree.
11. In addition, the majority of the unit closet to the tree would be under its canopy and whilst generally tree protection and construction methods can be satisfactorily dealt with by conditions had I been minded to allow the appeal, anticipating the wishes of future occupiers of the proposed dwellings is always difficult. I consider that, particularly in relation to Unit 4, pressure may well occur at a later date to reduce or remove the tree because of its proximity to the building, amenity area and habitable room windows. This adds to my concerns about the future well-being of this tree.

Other Matters

12. The Council has also objected on the grounds that the proposal fails to demonstrate that the displaced parking demand from the loss of the garages and the demand created by the units will not have a detrimental effect on highway safety. In contrast the appellant considers the scheme will improve highway safety by removing the access onto a footway and busy road. It seems to me that the removal of the garages might result in some displaced parking need, but there is no evidence of this before me.
13. The Council require a maximum of six parking spaces in accordance with their policies and standards and point out that some street works would be necessary to deal with the existing crossovers and footway. I noted at the site visit the road was heavily trafficked and side roads congested. Therefore in the absence of any evidence or justification to the contrary, and noting the site's location outside the controlled parking zone, the lack of any parking for a scheme of four units would not accord with LP Policies TR1, TR7 and TR8 which seek to ensure developments provide for the demand for travel they create and do not increase the danger to highway users. This adds to my overall concerns about the amount of development proposed on this site.
14. The appellant has submitted revised plans during the appeal process to try and overcome one of the reasons for refusal relating to Lifetime Homes. The Council has had an opportunity to consider these plans and are of the view that the revised plans do not accord with the standard as required by LP Policy HO13. In reaching this decision I have had regard to these revised plans insofar as they relate to internal changes and notwithstanding the details shown on these revised plans had I been minded to allow the appeal compliance with the Lifetime Home standard could have been satisfactorily conditioned.

Conclusions

15. There are a number of matters including the desirability of redeveloping this site and the design of this scheme which weigh in favour of the proposal. However, in carefully balancing the issues it is apparent that the harmful effect on the living conditions for future occupiers in respect of light and amenity area, together with the uncertainty over the future well-being of the preserved beech tree and the inadequate justification for, and lack of, parking provision in this location point to overdevelopment of the site and outweigh the positive benefits of the visual enhancement of the site.
16. For the reasons given above and having had regard to all other matters raised, the appeal should be dismissed.

Ann Skippers

INSPECTOR



Appeal Decision

Site visit made on 5 September 2011

by Michael Evans BA MA MPhil DipTP MRTPI

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

Decision date: 21 September 2011

Appeal Ref: APP/Q1445/D/11/2158160
30 Roedean Crescent, Brighton BN2 5RH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Jonathan Allen against the decision of Brighton and Hove City Council.
 - The application Ref BH2011/01153, dated 30 March 2011, was refused by notice dated 10 June 2011.
 - The development proposed is the erection of an extension to create a second floor and alterations to the rear to form a balcony providing access to an existing roof terrace.
-

Decision

1. The appeal is allowed and planning permission is granted for the erection of an extension to create a second floor and alterations to the rear to form a balcony providing access to an existing roof terrace, at 30 Roedean Crescent, Brighton BN2 5RH, in accordance with the terms of the application Ref BH2011/01153, dated 30 March 2011, subject to the following conditions:
 - 1) The development hereby permitted shall begin before the expiration of three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: LH10-197-100, LH10-197-101A, LH10-197-102, LH10-197-103, LH10-197-103C, LH10-197-104A, LH10-197-105, LH10-197-106, LH10-197-201, LH10-197-202A, LH10-197-204A, LH10-197-205B, LH10-197-206A(east elevation), LH10-197-206A(west elevation), LH10-197-208A.
 - 3) The materials to be used in the construction of the external surfaces of the extension hereby permitted shall match those used in the existing building.

Preliminary Matters

2. The proposal can most appropriately be described as given in the header above and it is on the basis of this description that the appeal will be considered. The plan numbers given on the Council's decision notice show discrepancies with those on the drawings submitted with the appeal. However, it has been clarified that with one exception these differences are due to errors on the decision notice. Drawing LH10-197-103C has not been seen by the Council or
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any other parties and comprises the proposed second floor plan. However, the only change is an increase in the width of the glazed opening to the bedroom on the eastern side at the rear. This does not affect the appearance of the building as the width is the same as that shown on the proposed rear elevation. Consequently, including this drawing as part of the proposal would not prejudice the interests of any other parties.

3. Local residents have suggested that the dwelling at 32 Roedean Crescent has been built higher than permitted by the Council. Nevertheless, this has not been corroborated by the Council and there is no information concerning any enforcement action. The effect of the current proposal must therefore be assessed in relation to the dwelling at no. 32 as it has been built.

Main Issues

4. The main issues in the consideration of this appeal are:
 - The effect of the proposal on the character and appearance of the area.
 - The effect on the living conditions of the occupiers of the adjacent dwellings in respect of overlooking and privacy.

Reasons

5. By replacing the current pitched roof with a more contemporary flat top, the height of the detached dwelling at the appeal site would only be increased by about a metre. Furthermore, the addition would be set in from each side by approximately 2m and 0.35m from the front, significantly limiting the perceived bulk. The set backs would also result in a reduction in bulk at the sides compared to the existing roof, as the front elevation of the enlarged building would not be as wide at this height. It would also respect the traditional hipped roof form at no. 28 and the juxtaposition with the contemporary form would not appear jarring.
6. The top would only be a metre higher than the vertical facade of the dwelling at no. 32. However, it would actually be lower than the sloping roof on top of this property, which is itself set at a lower ground level than no.30. In addition the distance of buildings from the street is not especially uniform and the dwellings to either side are modestly tilted, rather than strictly parallel to the road. There is also a pitched roof garage at no. 28 that is particularly close to the carriageway.
7. The central turret feature would be extended upwards but be no closer to the street than at present. The windows on the upper floor would be modestly taller but no wider than those below. However, the glazed areas on the lower floors of the turret would be noticeably higher than those above, balancing this effect. The set backs to the side and front of the addition would also serve to ensure that it does not appear top heavy, despite the size of the windows and the use of timber cladding.
8. Given these factors, matters such as the degree of projection forward beyond the adjacent dwellings, together with the flat roof form and height would not result in the extended dwelling appearing excessively bulky or overly dominant in the streetscene. It is therefore concluded that the character and appearance

- of the area would not be harmed. In consequence, there is compliance with the relevant aims of Brighton and Hove Local Plan 2005, Policies QD1, QD2 and QD14. These include preventing such adverse effects and ensuring an appropriate quality of development in relation to considerations such as height and scale.
9. The adjacent dwellings have their most private amenity space immediately to the rear, as well as the main outlook. Because the second floor balconies and the new first floor balcony adjacent to no. 32 would be set back appreciably from the rear of the adjacent dwellings, the privacy of these areas would not be significantly affected. From the adjacent second floor balcony it would be possible to look into a window in the side of no. 32. However, this would be at a reasonable distance and require the person concerned to stand towards the end of the relatively narrow balcony. The view would also be down into the window and therefore at a significant angle, requiring a conscious effort and noticeably limiting any consequent loss of privacy. The additional first floor balcony, linking to the existing roof terrace would have a full height screen erected at the end adjacent to no. 32 that would prevent any undue overlooking.
 10. The new balconies would not therefore result in an unacceptable loss of privacy in a location where there is already significant mutual overlooking. Consequently, it is concluded that the living conditions of the occupiers of the adjacent dwellings would not be harmed. The proposal therefore accords with Local Plan Policies QD14 and QD27, which, among other things, seek to avoid such detrimental impacts.
 11. Because of the absence of harm that has been found and taking account of all other matters raised, it is determined that the appeal succeeds. In reaching this decision the representations of local residents have been considered.
 12. Otherwise than as set out in this decision and conditions, it is necessary that the development shall be carried out in accordance with the approved plans for the avoidance of doubt and in the interests of proper planning. A condition specifying the approved plans is therefore justified. A condition requiring the facing materials of the extension to match those of the existing building would be sufficient to protect the visual amenities of the area.

M Evans

INSPECTOR



Appeal Decision

Site visit made on 23 August 2011

by Ann Skippers BSc (Hons) MRTPI

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

Decision date: 14 September 2011

Appeal Ref: APP/Q1445/A/11/2151429

49 Sillwood Street, Brighton, East Sussex BN1 2PS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Miss. Charlie Dwight against the decision of Brighton and Hove City Council.
 - The application Ref BH2011/00266, dated 26 January 2011, was refused by notice dated 24 March 2011.
 - The development proposed is 'demolition of single storey rear extension at basement level and erection of supporting structure at basement level, with two storey rear extension above and roof terrace at second floor level'.
-

Decision

1. The appeal is dismissed.

Preliminary Matter

2. The Council has altered the description of the proposal and as this more fully reflects the development, this has been used.

Main Issues

3. There are two main issues in this case. The first is the effect of the proposal on the character and appearance of the Regency Square Conservation Area. The second is the effect on the living conditions of the occupiers of No 47 Sillwood Street and No 10 Norfolk Buildings.

Reasons

4. No 49 falls within the Regency Square Conservation Area. There is a statutory requirement to have regard to the desirability of preserving or enhancing the character or appearance of the Regency Square Conservation Area in accordance with section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990.
 5. No 49 is an unusual property over four storeys with a small yard at basement level which houses the kitchen and single storey 'L' shaped bathroom extension. The upper floors have one room to each floor with a ground floor living room and two bedrooms on each of the upper floors. It is proposed to demolish the existing single storey extension to enable the proposed extension to be constructed to provide bathroom facilities at first floor (three storey) level nearer the bedrooms so that the layout is more convenient for the occupiers of
-

- the property. Special medical circumstances have been submitted in support of the proposal. It is proposed to construct a two storey extension supported by masonry plinths to allow some external space to be retained albeit most of it under the proposed extension and together with a proposed roof garden, this would provide some additional outdoor space for the property.
6. The existing basement level yard area is surrounded on all four sides by high flank walls of the host property and neighbouring properties. Even with the suspended design and the set back of a metre or so, the extension would infill most of the yard area and the space and gap it retains at all four storey levels and above into the roofscape. The general character of the surrounding area is a close knit, intimate and densely developed area. Whilst the yard area and the space it creates cannot be readily seen from the street, the space it gives and the relief it offers to the otherwise tightly knit pattern of development is important and should be retained as it is a distinctive and integral part of the development pattern and townscape and the Conservation Area's character and appearance. The loss of this space and gap in an otherwise built up form and infilling of this space would harm the plan form of the host property and surrounding townscape.
 7. On the first issue, I find the proposal would not preserve or enhance the character or appearance of the Regency Square Conservation Area and would, in fact, be harmful to it. This would not accord with Policies QD14 and HE6 of the Brighton and Hove Local Plan (LP) 2005 which, amongst other things, seek well-designed and sited extensions and to preserve or enhance the character and appearance of Conservation Areas in line with the statutory requirement.
 8. Turning now to the effect on the occupiers of neighbouring properties, the flank wall to the east, which serves No 47, has a small window to this elevation. The proposed extension would mean that the area directly outside the window and above it would be totally enclosed by the extension. Even though the window is small and obscure glazed apparently serving a non-habitable room and the existing outlook from this window is limited, some natural light can presently reach this window together with some natural ventilation. Indeed the neighbour indicates that the window feeds light into a kitchen/diner at basement level. It would not be acceptable to completely enclose the space around this window and despite the proposed mitigation measure of a solar light pipe, little information has been submitted about how this might mitigate this unfortunate effect. This measure also appears to rely heavily on the occupiers of No 49 to retain and maintain it and this would be difficult to secure through the appellant's suggestion of a Section 106 agreement.
 9. To the southern elevation is No 10 Norfolk Buildings which has a roof terrace. There is a high degree of mutual overlooking from the fourth storey bedroom window and the neighbour's roof garden at the present time. Whilst I tend to agree with the appellant that the proposed wall and opaque screen would help to remedy the existing relationship for the occupiers of the host property, given the proximity of the roof terrace and the relative height difference between the terraces, it would also add to a sense of overbearing as the already densely developed area would become closer knit for the occupiers of No 10 and this would also potentially result in a feeling of, if not actual, loss of privacy.

10. However, I do not agree with the Council's view that a screen would necessarily add bulk to the extension as a screen of suitable design which reflected the building's location within a Conservation Area could be found.
11. I have also noted the appellant's suggestion of a legal agreement to deal with the use of the roof terrace and potential noise and disturbance issues, but this would not be an appropriate mechanism to deal with these issues and would be hard to enforce and in any case the Council have not raised any concerns in these respects.
12. These two impacts on the neighbouring properties taken together reinforce my view that the proposal is not acceptable and would have a harmful effect on the living conditions of the occupiers of No 47 Sillwood Street and No 10 Norfolk Buildings. This would be contrary to LP Policies QD14 and QD27 which seek to protect the amenities of neighbouring occupiers.
13. I appreciate that the appellant has tried hard to overcome objections to a previously refused scheme by revising its design and offering mitigating measures including the replacement of windows and doors. I also have sympathy with the circumstances put forward by the appellant in support of the proposal. However, none of these matters which weigh in favour of the proposal outweigh the objections to it detailed above.
14. The appellant has also pointed to what is described as the Council's 'ad hoc' approach to building and development in the Conservation Area, but this is not a matter before me.
15. Having carefully weighed all these matters, I conclude that the proposal would not preserve or enhance the character or appearance of the Regency Square Conservation Area and would, in fact, be harmful to it and would have a harmful effect on the living conditions of the occupiers of No 47 Sillwood Street and No 10 Norfolk Buildings. The proposal would therefore not accord with the development plan policies outlined above.
16. For the reasons given above and having had regard to all other matters raised, the appeal should not succeed.

Ann Skippers

INSPECTOR



Appeal Decision

Site visit made on 30 August 2011

by Elizabeth Fieldhouse DipTP DipUD MRTPI

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

Decision date: 2 September 2011

Appeal Ref: APP/Q1445/D/11/2156342
313 Kingsway, Hove BN3 4LT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Michael Johnson against the decision of Brighton & Hove City Council.
 - The application Ref BH2011/00551, dated 22 February 2011, was refused by notice dated 20 April 2011.
 - The development proposed is 'loft conversion, remodelled roof, new porch roof'.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposed development on the character and appearance of the area.

Reasons

3. The appeal property is the centre of a group of three 20th century two-storey hip-roofed detached houses of similar design but with detailing differences due to more recent alterations. The area is mixed with frontage development having a range of hipped and gable ended roofs as well as building heights, including four storey flats nearby on the corner of Saxon Road.
4. The proposal would increase the ridge height of the dwelling by 0.915m and extend the ridge to new gable ends with the existing front hipped roof projection also changed to a gable and its height increased. The resultant gable end building would bear no resemblance to the adjacent properties but have a similar form to some of the detached houses to the east beyond Tandridge Road or the pair of semi-detached houses at 317 and 319 Kingsway. Nevertheless, the height of the proposed ridge that would be necessary to avoid a flat topped roof would not only dominate the immediate neighbouring dwellings but would be 0.3m higher than the ridge to nos.317 and 319.
5. The extended dwelling would appear over dominant and bulky in its location, by reason of the height of the main roof and the form and height of the front gable. Thereby it would be harmful to the character and appearance of this particular part of Kingsway. The glazed screen in the front gable would further draw attention to the uncharacteristic height and changed form of dwelling. The appeal property faces the sea over Hove Lagoon and therefore the

dominance of the extended dwelling would stand out, not only from Kingsway but from paths to, and along the esplanade.

6. The appellant has a Lawful Development Certificate for a roof conversion that would raise the side walls to a half hipped roof. The Council acknowledges that proposal would be inferior in design terms. There is no evidence that such a scheme would be implemented and it would not provide the floorarea in the proposal, the subject of this appeal. The scheme that would be lawful would not justify the scale of the increase in the ridge height from the proposal, which would dominate the height of the other dwellings between Saxon Road and Tandridge Road. By reason of its height compared to the adjoining properties, the proposal would harm the character and appearance of the area and would not accord with the Brighton & Hove Local Plan 2005 policy QD14 (a).
7. The proposed porch roof would have a gable end, rather than the current hipped roof, to reflect that which is proposed for the main roof. In the absence of the proposed roof remodelling, the proposed porch would be out of character with the existing building and therefore should not be approved. For the reasons given the appeal should fail.

Elizabeth Fieldhouse

INSPECTOR



Appeal Decision

Site visit made on 5 September 2011

by Michael Evans BA MA MPhil DipTP MRTPI

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

Decision date: 7 September 2011

Appeal Ref: APP/Q1445/D/11/2156290

44 Crescent Drive South, Woodingdean BN2 6RB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Lee Phillips against the decision of Brighton and Hove City Council.
 - The application Ref BH2011/00606, dated 10 February 2011, was refused by notice dated 24 May 2011.
 - The development proposed is to install a glass safety rail to a first floor flat roof area at the rear, adjacent to a dormer addition with French doors.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in the consideration of this appeal are:
 - The effect of the proposal on the character and appearance of the area.
 - The effect on the living conditions of the occupiers of the adjacent dwellings in respect of overlooking and privacy.

Preliminary Matters

3. The proposed safety rail has already been installed but the appeal must, nevertheless, be considered strictly on its own merits. The Appellant indicates that the rail is shown on one of the drawings submitted with a previous planning application that was approved by the Council. If, as a result, the Appellant considers that planning is not needed, this is not a matter to be determined in the context of an appeal made under section 78 of the above Act. It is open to the Appellant to apply for a determination under section 191/192 of the above Act to determine this matter. The determination of this appeal under section 78 of the above Act does not affect the issuing of a determination under section 191/192 of the same Act.

Reasons

4. The appearance of dwellings in the vicinity of the appeal site varies significantly. As a result the metal rails with glass panels below, despite suggesting the presence of a balcony, do not disrupt any significant regularity of design. Furthermore, the balustrade is a subordinate feature set below the ridge and of modest size and scale in relation to the overall roofscape.
5. Despite such features not being found at most properties in the immediate vicinity, it is therefore concluded that the character and appearance of the area has not been harmed. In consequence, there is compliance with the underlying aims of Brighton and Hove Local Plan 2005, Policies QD1, QD2 and QD14, which include preventing such adverse effects.
6. It is acknowledged that there is a condition imposed on the previous permission preventing the use of the flat roof as an amenity area and allowing access only for maintenance or emergency purposes. The Appellant indicates that this has been complied with. However, there is no impediment to entry onto the roof, which is readily facilitated by the French doors and encouraged by the presence of the safety rail. The area is therefore available for use as an external amenity space. Even if the Appellant is able to ensure that it is not used as such, it is likely that future occupiers would access this pleasant outside area to enjoy the attractive views available in this elevated position despite the condition.
7. However, this would be at the undue expense of the privacy of adjacent occupiers. Although relatively small, the space is large enough for more than one person to stand on and enables particularly intrusive overlooking down into the patio areas immediately to the rear of the adjacent dwellings. It is also possible to see into the rear of the house itself at no. 46. Visibility from within the bedroom at no. 44 looking through the French doors is noticeably more restricted, giving significantly less scope for undue overlooking.
8. The undue impact is, in itself, sufficient reason to justify dismissing the appeal, given the substantial detriment to privacy. This is the case even if the balustrade cannot be seen from the patio areas of the adjacent dwellings so that concerns regarding perceived overlooking are not justified, as contended by the Appellant.
9. The level of privacy at no. 42 has been diminished to a degree by rooflights in the side of the roof at the appeal site. However, these do not affect no. 46 and the current proposal has, in any case, resulted in unacceptable overlooking in addition to that possible from the rooflights. As a result these openings provide no significant justification for the proposal.
10. For the above reasons, it is concluded that the privacy of the occupiers of the adjacent dwellings has been unacceptably compromised and living conditions have been harmed. In this respect there is conflict with Local Plan Policies QD14 and QD27, which, among other things, seek to avoid such detrimental impacts.
11. No significant evidence has been submitted to support the contention that the balustrade is justified to enable access onto the roof for maintenance or emergency purposes. The Appellant has referred to other balconies in the

area. However, the full details and background of these relatively isolated examples have not been provided. Consequently, no meaningful comparison can be made with the current proposal which must, in any event, be considered on its own merits. It is concluded that none of the above, or any other matter raised, including the absence of harm in relation to character and appearance, is sufficient to outweigh the unacceptable effect on living conditions. It is therefore determined that the appeal fails.

12. There have been letters of support for the proposal from local residents but the concerns of the immediate neighbours regarding privacy are well founded in this instance. The photographs submitted by the Appellant have been carefully considered in reaching this decision.

M Evans

INSPECTOR

PLANNING COMMITTEE

Agenda Item 73

Brighton & Hove City Council

WARD

APPLICATION NUMBER

ADDRESS

DEVELOPMENT DESCRIPTION

APPEAL STATUS

APPEAL RECEIVED DATE

APPLICATION DECISION LEVEL

WOODINGDEAN

BH2011/00814

198 Warren Road, Brighton

Installation of new front wall. (Retrospective)

APPEAL LODGED

14/09/2011

Delegated

WARD

APPLICATION NUMBER

ADDRESS

DEVELOPMENT DESCRIPTION

APPEAL STATUS

APPEAL RECEIVED DATE

APPLICATION DECISION LEVEL

ST. PETER'S & NORTH LAINE

BH2011/00475

Maisonette, 62 Roundhill Crescent, Brighton

Installation of one uPVC window to front elevation (Retrospective)

APPEAL LODGED

14/09/2011

Delegated

WARD

APPLICATION NUMBER

ADDRESS

DEVELOPMENT DESCRIPTION

APPEAL STATUS

APPEAL RECEIVED DATE

APPLICATION DECISION LEVEL

HOLLINGDEAN & STANMER

BH2011/01862

218 Ditchling Road, Brighton

Erection of single storey side/rear extension.

APPEAL LODGED

14/09/2011

Delegated

WARD

APPLICATION NUMBER

ADDRESS

DEVELOPMENT DESCRIPTION

APPEAL STATUS

APPEAL RECEIVED DATE

APPLICATION DECISION LEVEL

CENTRAL HOVE

BH2011/00897

Land to rear of 33 Sackville Road, Hove

Demolition of existing garages and erection of 1no two bedroom dwelling adjoining 62 Stirling Place.

APPEAL LODGED

15/09/2011

Delegated

WARD

APPLICATION NUMBER

ADDRESS

DEVELOPMENT DESCRIPTION

HANOVER & ELM GROVE

BH2011/01159

Southern Water Reservoir, Islingword Road, Brighton

Installation of a 10 metre high mast supporting 3no O2 antennas and 3no Vodafone antennas and the installation of 1no equipment cabinet at ground level.

APPEAL STATUS APPEAL LODGED
APPEAL RECEIVED DATE 15/09/2011
APPLICATION DECISION LEVEL Delegated

WARD **WESTBOURNE**
APPLICATION NUMBER BH2011/01793
ADDRESS 38 Walsingham Road, Hove
DEVELOPMENT DESCRIPTION Loft conversion incorporating hip to gable roof extension, rear dormer and 3 no rooflights to front roof slope (Part retrospective)
APPEAL STATUS APPEAL LODGED
APPEAL RECEIVED DATE 19/09/2011
APPLICATION DECISION LEVEL Planning Committee

WARD **WESTBOURNE**
APPLICATION NUMBER BH2010/02682
ADDRESS Courtyard at rear of 218-234 Portland Road, Hove
DEVELOPMENT DESCRIPTION Demolition of existing workshop and store building (B1/B8) and erection of 2no two-storey two bedroom work/live units including cycle spaces, bin storage areas and 2no car parking spaces.
APPEAL STATUS APPEAL LODGED
APPEAL RECEIVED DATE 20/09/2011
APPLICATION DECISION LEVEL Delegated

WARD **MOULSECOOMB & BEVENDEAN**
APPLICATION NUMBER BH2011/02075
ADDRESS 36 Halland Road, Brighton
DEVELOPMENT DESCRIPTION Erection of single storey rear extension.
APPEAL STATUS APPEAL LODGED
APPEAL RECEIVED DATE 21/09/2011
APPLICATION DECISION LEVEL Delegated

WARD **HANGLETON & KNOLL**
APPLICATION NUMBER BH2011/01263
ADDRESS 86 Dale View, Hove
DEVELOPMENT DESCRIPTION Demolition of existing garage and erection of new treble garage.
APPEAL STATUS APPEAL LODGED
APPEAL RECEIVED DATE 20/09/2011
APPLICATION DECISION LEVEL Delegated

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

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: 1st November 2011

Location: Brighton Town Hall Council Chamber

227 - 233 Preston Road

Planning application no: BH2011/00336

Description: Change of Use of car showroom/workshop (SG04) to 2no retail units (A1) incorporating installation of external condenser unit, air conditioning units and an ATM machine.

Decision: Committee

Type of appeal: Informal Hearing

Date: 8th November 2011

Location: Brighton Town Hall Council Chamber

56-58 St James's Street

Planning application no: BH2011/00346

Description: Change of Use of part of ground floor from restaurant (A3) to self contained flat (C3) incorporating revised fenestration to North elevation.

Decision: Committee

Type of appeal: Informal Hearing

Date: 30th November 2011

Location: Committee Room 2, Hove Town Hall

