



**Brighton & Hove
City Council**

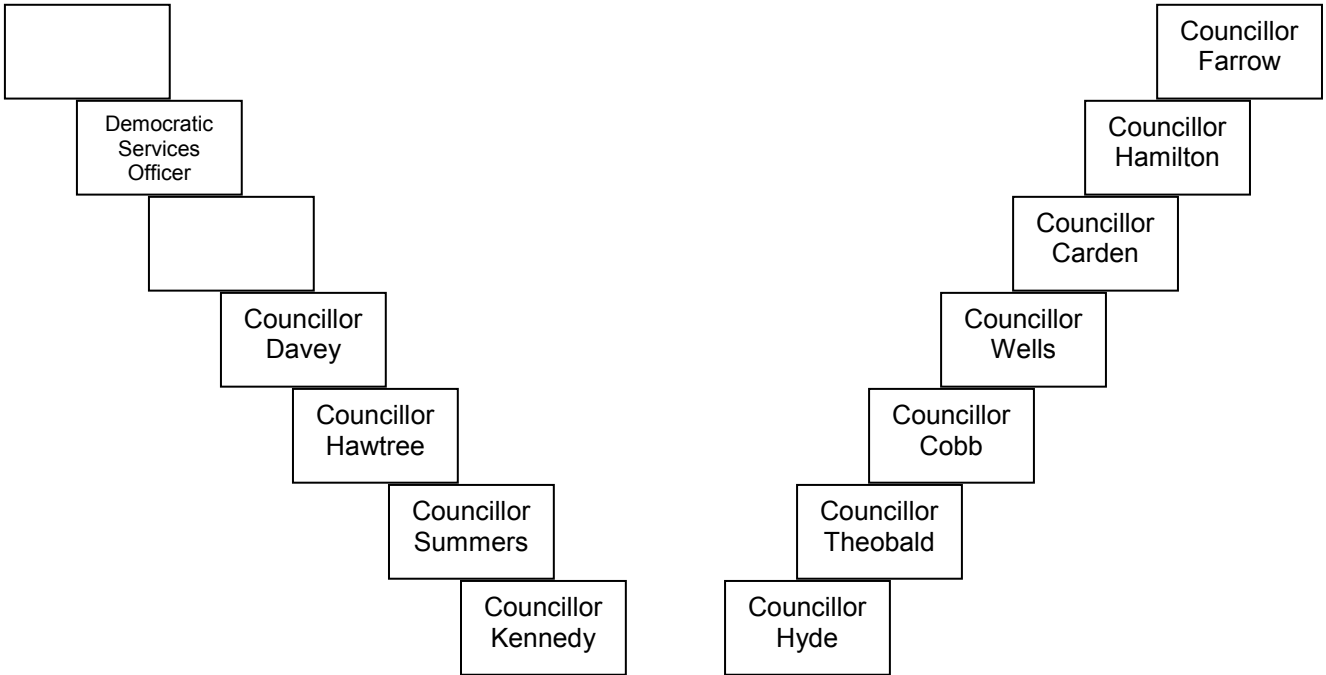
Planning Committee

Title:	Planning Committee
Date:	23 November 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 Senior Democratic Services Officer 01273 291065 penny.jennings@brighton-hove.gov.uk</p>

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Democratic Services: Meeting Layout

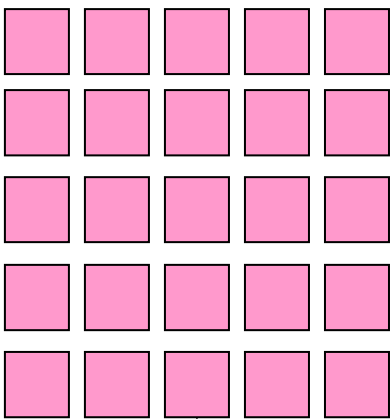
Senior Solicitor Chairman Head of Development Control



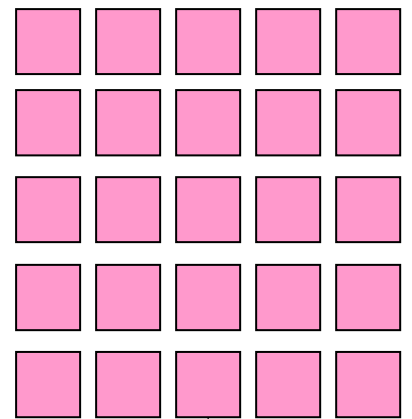
Chairman of CAG

Officers Officers

Press



Public Seating



Public Seating

AGENDA

91. 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 or Lobbying - All Members present to declare 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, and to declare any instances of lobbying they have encountered regarding items on the agenda.
- (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.

92. MINUTES OF THE PREVIOUS MEETING

1 - 16

Minutes of the meeting held on 2 November 2011(copy attached).

93. CHAIR'S COMMUNICATIONS

94. APPEAL DECISIONS

17 - 88

(copy attached).

95. LIST OF NEW APPEALS LODGED WITH THE PLANNING INSPECTORATE

89 - 90

(copy attached).

96. INFORMATION ON INFORMAL HEARINGS/PUBLIC INQUIRIES

91 - 92

(copy attached).

97. INFORMATION ON PRE APPLICATION PRESENTATIONS AND REQUESTS

93 - 96

PLANNING COMMITTEE

(details attached as appropriate).

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

99. TO CONSIDER AND DETERMINE PLANNING APPLICATIONS ON THE PLANS LIST: 23 NOVEMBER 2011

(copy circulated separately).

100. 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

101. TO CONSIDER AND NOTE THE CONTENT OF THE REPORTS DETAILING DECISIONS DETERMINED BY THE LOCAL PLANNING AUTHORITY INCLUDING DELEGATED DECISIONS

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

area.

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

Date of Publication - Tuesday, 15 November 2011

PLANNING COMMITTEE

Agenda Item 92

Brighton & Hove City Council

BRIGHTON & HOVE CITY COUNCIL

PLANNING COMMITTEE

2.00pm 2 NOVEMBER 2011

COUNCIL CHAMBER, HOVE TOWN HALL

MINUTES

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

Officers in attendance: Paul Vidler, Deputy Development Control Manager; Pete Tolson, Principal Transport Planner; Claire Burnett, Area Planning Manager (East); Hilary Woodward, Senior Lawyer and Penny Jennings, Democratic Services Officer

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PART ONE

80. PRODECURAL BUSINESS

80a Declarations of substitutes

80.1 There were none.

80b Declarations of interests

80.2 There were none.

80c Exclusion of the press and public

80.3 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.

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

81. MINUTES OF THE PREVIOUS MEETING

- 81.1 Councillor Summers referred to the following amendment to the minutes which had been notified in advance of the meeting. It was noted that this amendment had been made both to the set of minutes for signature by the Chair and in relation to those appearing on the Council's website:

Under Rosaz House application, page 6 item (8) - Councillor Cobb did not support her suggestion of an informative about food composting not because the report indicated there was insufficient space on site for such facilities but because it states (on page 101 of the Plans List):

The scheme does not provide composting facilities. There could be uncooked food waste from the cafe'. However, this waste is likely to be small in scale and therefore it is not considered necessary to provide composting facilities.

Following this reason from Cllr Cobb, Cllr Hawtree had then said that such reasoning would imply that all household food waste collection, being relatively small in scale, would not be considered necessary either.

- 81.2 In addition Councillor Hawtree referred to his comments made in Paragraph 5 in relation to Application BH2011/02034, 11 Ainsworth Avenue stating that he had also stated that he hoped that the planning officer could discuss a way forward with the applicant.
- 81.3 **RESOLVED** – That the Chair be authorised to sign the minutes of the meeting held on 12 October 2011 as a correct record subject to the amendments set out above.

82. CHAIR'S COMMUNICATIONS

- 82.1 There were none.

83. APPEAL DECISIONS

- 83.1 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.

84. LIST OF NEW APPEALS LODGED WITH THE PLANNING INSPECTORATE

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

85. INFORMATION ON INFORMAL HEARINGS/PUBLIC INQUIRIES

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

86. INFORMATION ON PRE APPLICATION PRESENTATIONS AND REQUESTS

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

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

87.1 **RESOLVED** – That the following site visit(s) be agreed:

Application:	Address	Requested by
BH2011/02857	“Aldi”, Carlton Terrace, Portslade	Deputy Development Control Manager

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

(i) MINOR APPLICATIONS

A. Application BH2011/02231, 15 Bishopstone Drive, Saltdean – Erection of single storey rear extension with raised terrace, glazed balustrading and steps to garden. Loft conversion incorporating raised ridge height, hip to barn end roof extensions, rear dormer, rooflights and associated works.

(1) It was noted that this application had formed the subject of a site visit prior to the meeting.

(2) The Area Planning Manager (East), Ms Burnett gave a presentation detailing the scheme by reference to elevational drawings and plans. It was noted that the main considerations in determining the application related to its design and appearance and its impact on residential amenity. Amended plans had been received on 23 September which had corrected inaccuracies on the existing plans. Reference was made to the letters of support and objection received and to the letter received from Councillors Mears and Smith, two of the local Ward Councillors.

- (3) It was considered that the proposal by virtue of its size, proportions and design would result in a bulky and overly dominant alteration, which in conjunction with the existing unsympathetic roof alterations would result in a cluttered and visually discordant appearance to the front roofscape which would detract from the appearance and character of the building and the surrounding area, contrary to policies QD1, QD2 and QD14 of the Brighton & Hove Local Plan and the Supplementary Planning Guidance on Roof Alterations and Extensions. The proposed rear dormer window, by virtue of its excessive size and design, which included large areas of cladding, was considered to be overly bulky, oversized, poorly designed and poorly related to the existing building and therefore of detriment to the character and appearance of the existing property and the wider area. Refusal was therefore recommended.

Questions, Debate and Decision Making Process

- (4) Councillor Hyde sought clarification regarding issues relating to the planning officers objections in relation to the rear dormers which did not align with the windows below them. The Area Planning Manager (East) explained that the cill was considered too large, it did not sit just above the roofslope and the dormers were considered too large and bulky.
- (5) Councillor Hyde stated that whilst she was in agreement that the proposed rear extension did not represent an attractive addition to the property she had observed a number of similar extensions in the immediate vicinity, as close as three doors away from the application site. She considered that on balance the extension would be acceptable as it would not be visible except from the rear and its appearance would be relieved by the front dormers. Councillor C Theobald considered that whilst it was regrettable that the rear dormers were not smaller, there were many others which were similar nearby.
- (6) Councillor Hawtree stated that whilst supportive of sympathetic extensions to buildings, he considered the proposed extensions would be bulky and would overwhelm the existing building, he therefore supported the officers recommendation
- (7) A vote was taken and on a vote of 10 to 2 planning permission was refused on the grounds set out below.
- 88.1 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in the report and resolves to refuse planning permission for the following reasons:

1. The proposed new roof form, by virtue of its appearance and the resulting bulk is considered to be incongruous within the Bishopstone Drive street scene and a development which adversely affects the appearance and character of the host building, the Bishopstone Drive street scene and the wider street scene. The development is therefore contrary to policies QD1, QD2 and QD14 of the Brighton &

Hove Local Plan and Supplementary Planning Guidance on Roof Alterations and Extensions (SPGBH1); and

2. The proposed rear dormer window, by virtue of its excessive size and design, which includes large areas of cladding, is considered to be overly bulky, oversized, poorly designed and poorly related to the existing building and therefore of detriment to the character and appearance of the existing property and the wider area. The proposal is contrary to policy QD14 of the Brighton & Hove Local Plan and Supplementary Planning Guidance on Roof Alterations and Extensions (SPGBH1).

Informative:

1. This decision is based on drawing nos. 2567 – 2 and 2567/6 RevB received on 27 July 2011.

B. **Application BH2011/01773, 68-70 High Street, Rottingdean** – Erection of 8, 3 bedroom 3 storey town houses with gardens, new entrance gate to site and off road parking.

- (1) It was noted that this application had formed the subject of a site visit prior to the meeting.
- (2) The Area Planning Manager (East), Ms Burnett gave a presentation detailing the proposed scheme by reference to photographs (showing the juxtaposition between the application site and the neighbouring school), elevational drawings and plans. Since publication of the report a letter had been received from Environmental Health indicating that they did not wish to comment in respect of the application. A further letter of objection had been received from the Headmaster of the neighbouring St Aubyns school.
- (3) It was considered that this application represented an improvement on the previously approved scheme for 9 three bedroom houses. Although the proposed development was of a scale and height not characteristic of the surrounding area, it was considered that in comparison to the scheme approved in 2007, to which weight needed to be given, the proposal would not be detrimental to the visual amenities of the High Street, the surrounding Rottingdean Conservation Area or the setting of the adjacent Listed Buildings. The proposed development would provide adequate family accommodation without being detrimental to the amenities of neighbouring properties. Approval was therefore recommended.

Public Speakers

- (3) Mr S Hitchins spoke on behalf of neighbouring objectors to the scheme setting out their objections to it. He stated that the school had grave concerns in relation to overlooking which could arise from the development, both of a school play area which was in constant use and of a dormitory and other accommodation to the rear of the school

buildings. It was considered that the amended plans did not sufficiently address the schools concerns.

- (4) Mr Mayhew spoke on behalf of the applicants in support of their application. He explained that the applicant had used the extant permission as their starting point. That development could still be built and represented a more intensive form of development than that now proposed. In order to address concerns expressed in relation to overlooking the number of windows to be provided to the rear had been reduced and additionally obscure glazed top opening windows would be installed.

Questions, Debate and Decision Making Process

- (5) Councillor Wells requested to see plans of the site showing the location of the rear windows in relation to the school. Councillor Kennedy sought confirmation as to whether or not the development would be gated. Councillor Hyde also sought clarification as to whether officers had requested the applicants provide obscure glazing to the rear windows of the development or whether this had been offered by the applicant. The Area Planning Manager (East) confirmed that this had been offered.
- (6) Councillor Hawtree referred to arrangements to be put into place to ensure that access/egress arrangements did not result in congestion bearing in mind the proximity of traffic lights in the High Street and bearing in mind that the number 2 bus also travelled along that street. The Principal Transport Planner, Mr Tolson confirmed that "Keep Clear" markings would be provided. Councillor Davey enquired whether it would be possible to provide a crossover driveway/ pavement markings in order to improve pedestrian safety. The Principal Transport Planner explained that there had been no injury accidents over the past three years. In answer to questions as to whether it would be possible to require additional traffic safety measures, the Legal Adviser to the Committee explained that as this had not been required as a condition of the earlier extant permission it would be necessary to demonstrate that this was necessary.
- (7) Councillor Wells stated that access/egress from the site had not proved problematic in the past. When the premises had operated as a garage there had been considerably more vehicle movements than would be generated by the proposed residential development. Councillor Hyde concurred in that view stating that local residents were used to exercising caution when crossing the entrance to the site on foot. Councillor Cobb sought confirmation that when the site had operated as a garage it had generated between 60-70 vehicle movements per day and it was confirmed that had been the case.
- (8) Councillor Summers sought clarification of the arrangements which would be put into place for removal of refuse from the site on collection days. It was explained that this would be collected from the High Street entrance to the site.
- (9) Councillor Mrs Theobald sought clarification of the distances from the neighbouring dwelling houses and from the school and was satisfied that they were sufficient. It was

explained in answer to further questions that the development would not be higher than its neighbours by virtue of differing levels across the site, the fourth storey would be set within the roof space. Councillor Theobald considered that the proposed development was attractive and welcomed the fact that the houses would have amenity space and on site parking and therefore supported the officers recommendation that planning permission be granted.

- (10) Councillors Hyde and Wells supported the application. Councillor Hyde stated that she considered the current application represented a considerable improvement on the previous scheme
- (11) Councillor Hawtree stated that he remained undecided regarding the proposals, notwithstanding the improvements made to the previous scheme and the need for housing in this part of the city.
- (12) A vote was taken and on a vote of 9 with 3 abstentions planning permission was granted in the terms set out below.

88.2 **RESOLVED** - That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in Section 7 of the report in relation to policies and guidance and to the recommendations set out elsewhere in the report and resolves to grant planning permission subject to the conditions and informatives also set out in the report, the statement “new entrance gates to site” to be deleted from the description”.

Note: Councillors Davey and Kennedy explained that as they had voted to refuse the earlier application, they felt unable to vote on this occasion and would therefore abstain from voting. Councillor Hawtree also abstained.

C. Application BH2011/02016, 42 & 43 George Street, Brighton – Erection of new building at 43 George Street to replace existing and second floor extension at 42 George Street development comprised of retail/financial and professional services/offices (A1/A2/B1) on part ground floor and 34 student rooms on part ground and upper floors incorporating cycle parking and bin storage.

- (1) It was noted that this application had formed the subject of a site visit prior to the meeting.
- (2) The Area Planning Manager (East), Ms Burnett gave a presentation by reference to photographs showing the neighbouring street scene and by reference to indicative drawings and plans. The main considerations in determining the application related to the impact on the character and appearance of the East Cliff Conservation Area, the impact on the amenity of surrounding residents/occupiers and future occupants, traffic issues, sustainability and contaminated land.

- (3) The principle of loss of part of the retail floor space at the rear of no 42 was considered acceptable as two reasonable sized retail units would remain. Whilst the lower part of George Street fell within the St James' Street district shopping centre, but outside of the prime frontage, the site itself was in the upper part of George Street which lay outside of the district centre. The principle of student accommodation within no 42 and residential within no 43 had been accepted by the applications approved in 2010. Whilst this proposal amended the residential use within no 43 to student accommodation, this did not raise concern in view of the comprehensive provision and effective site use offered by this proposal and was not in conflict with policies EM3 and EM4.
- (4) In conclusion, it was not considered that the proposal would be detrimental to the character and appearance of the street scene or the conservation area and would not materially harm the amenity of surrounding residents. The standard of accommodation was acceptable and the scheme would not jeopardise highway safety or lead to parking problems. Approval was therefore recommended.

Public Speakers

- (5) Mr Durairaj spoke as an objector to the scheme. He explained that he lived in one of the properties located to the rear of the site and was very concerned in relation to the level of overlooking and loss of amenity and un-neighbourliness which could result from the development. The design and scale of the development was completely out of keeping with that of the neighbouring properties.
- (6) Mr Dowsett spoke on behalf of the applicants in support of their application. He stated that the current application had sought to amalgamate use of the two buildings and to improve on the previous planning approvals and to address previous concerns. He confirmed that Brighton Institute of Modern Music (BIMM) had supported the application and were interested in the site for their students. Members of their staff would hold keys to the buildings and instances of misbehaviour would be addressed directly.

Questions, Debate and Decision Making Process

- (7) Councillor Mrs Theobald enquired regarding the size of the units, whether they would have en-suite facilities. It was confirmed that the size of the units would be consistent with that agreed by the earlier permissions.
- (8) Councillor Kennedy enquired regarding the current status of negotiations with BIMM and it was confirmed that subject to planning approval they would be taking on the

student accommodation on site. The retail units would be offered up on the open market.

- (9) Councillor Wells expressed grave concern regarding use of the site for student accommodation as this could give rise to anti-social behaviour and other nuisance to local residents. Councillor Kennedy stated it was a generalisation to imply that all students behaved in an anti-social or inappropriate way. It was confirmed in answer to further questions that all key holders would live in close proximity to the site.
- (10) Councillor Mrs Theobald enquired whether students would be practising music on site but it was explained that professional quality soundproofed studios were available on site at the nearby BIMM buildings and purely residential accommodation was to be provided on this site. Councillor Theobald stated that the proposals represented improvements on the previous schemes and supported them provided the residential element could be properly managed.
- (11) Councillor Hawtree considered that the proposals would improve the current appearance of the site, although he noted the objectors concerns in relation to potential overlooking.
- (12) Councillor Davey proposed that a formal Management Plan be put into place to include key holders details and other relevant information which should be made available to immediate neighbours, with that proviso he considered the scheme to be acceptable. Councillor Kennedy concurred in that view and seconded his proposal. A vote was taken and members voted unanimously that a Management Plan should be put into place.
- (12) A vote was taken and on a vote of 11 to 1 minded to grant planning permission was granted in the terms set out below.

88.3 **RESOLVED** - That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in the policies and guidance at Section 7 of the report and elsewhere in the report and resolves that it is minded to grant planning permission subject to the applicant entering into a Section 106 legal agreement with the Heads of Terms Conditions and informatives also set out in the report and to the following amendments set out in the Late Representations List:

Informative 3 to be amended to readCondition 16;

Additional Condition:

18. None of the student accommodation hereby approved shall be occupied until a site management plan has been submitted to and approved in writing by the Local Planning Authority. The student accommodation shall be operated in accordance with the site management plan as approved.

Reason: To safeguard the amenities of the locality and to comply with policies QD27 and SU10 of the Brighton & Hove Local Plan.

Additional Informative:

4. The applicant is advised that the site management plan required to be submitted by Condition 18 should include details of the management arrangements of the property, how noise, disturbance and nuisance are to be dealt with if they occur and measures for the future review and amendment of the site management plan.

Note: Councillor Wells voted that the application be refused.

D. Application BH2011/02017, 42 & 43 George Street, Brighton – Demolition of 43 George Street.

(1) A vote was taken and on a vote of 11 to 1 the Committee resolved to grant conservation area consent in the terms set out below.

88.4 **RESOLVED** – That the Committee has taken into consideration and agrees to the reasons for the recommendation set out in policies and guidance at Section 7 of the report and resolves to grant conservation area consent subject to the conditions and informatives also set out in the report.

Note: Councillor Wells voted that conservation area consent be refused.

E. Application BH2011/02440, Garages 53 & 54, 14 Church Place, Brighton - Demolition of existing double garage and erection of new 2 storey two bed dwelling house.

(1) It was noted that this application had formed the subject of a site visit prior to the meeting.

(2) The Area Planning Manager (East), Ms Burnett gave a presentation detailing the scheme by reference to photographs and plans. It was explained that 10 letters of objection had been received including one from the Kemptown Society. The application related to an existing double garage located on the eastern side of Church Place. The site was located within the Kemp Town Conservation Area and within the setting of a number of Listed Buildings located in Sussex Square and close to St. Mark's Church which was located on the corner of Church Place and Eastern Road.

(3) It was considered that the design of the development now proposed was more sympathetic to the character of the area than the development approved under the earlier application BH2007/03493 and as such it was considered that the proposed development would not be detrimental to the character of the immediate vicinity or the wider area, including the surrounding Conservation Area and the setting of the adjacent Listed Buildings. Furthermore it was deemed that the proposed development, would provide adequate accommodation and would not have a significant adverse impact upon the amenities of the neighbouring properties. Approval was therefore

recommended. The current extant approval was also a relevant planning consideration.

Public Speakers

- (4) Mr De Young spoke on behalf of the Kemptown Society and other neighbouring objectors. He stated that the proposed development within the curtilage of Grade 1 Listed Sussex Square would have a vast detrimental impact on the character of the adjacent Listed Buildings, many of them Georgian buildings and would destroy the symmetry of the existing rears of the buildings in Sussex Square. There would also be loss of privacy, aspect and amenity. The previous permission had “slipped through the net” and there was an opportunity to send a clear message to property developers who had purchased garages in this row that the site was important and deserved to be protected.

Questions, Debate and Decision Making Process

- (5) Councillor Mrs Theobald enquired regarding the distance between the rear of the application site and properties in Sussex Square. It was confirmed that this was 6 metres at the closest point.
- (6) Councillor Davey enquired whether it would be appropriate to require obscure glazing to the window located at the side but was advised that as the property overlooked other garages that would not be considered proportionate. It was confirmed that the development would be car free.
- (7) Councillor Hawtree stated that the area was characterised by a number of fine buildings, although many of them had a less distinguished appearance when viewed from the rear. He was concerned however, that there would be overlooking and loss of privacy as a result of the proposed development.
- (8) Councillor Hyde also referred to the potential for overlooking and in answer to questions it was confirmed that permitted development rights had been removed and planning permission would need to be sought in relation prior to any further works being undertaken to the property.
- (9) Councillors Mrs Theobald and Cobb stated that they did not support the application as they were of the view that there would be overlooking of neighbouring properties and considered that if granted the application could set a precedent for further loss of garages on site and their replacement with housing.
- (10) A vote was taken and on a vote of 9 to 2 with 1 abstention the Committee resolved to grant planning permission in the terms set out below.

88.5 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in policies and guidance in Section 7 of the

report and resolves to grant planning permission subject to the conditions and informatives also set out in the report.

Note: Councillors Cobb and C Theobald voted that the application be refused. Councillor Hawtree abstained.

- F. Application BH2011/02251, 6 Cliff Approach, Rottingdean –** Demolition of existing four bedroom house and erection of 6 self-contained apartments comprising 2 three bedroom units at first and second floors and 4 two bedroom apartments at lower and upper ground floors with associated communal garden, car parking, refuse and cycle storage.
- (1) It was noted that this application had formed the subject of a site visit prior to the meeting.
 - (2) The Area Planning Officer (East), Ms Burnett gave a presentation by reference to photographs of the site, the neighbouring street scene and elevational drawings of the previously approved and current schemes. The previous planning history was relevant and the current scheme had been amended to seek to reduce the impact on the neighbouring properties. Only secondary or bathroom windows were to be provided within the west elevation and a condition was recommended to ensure that this was obscure glazed to avoid overlooking and loss of privacy.
 - (3) It was considered that the proposal would be of a design, scale, bulk and massing that would cause no harm to the character and appearance of the street scene or wider area. The proposal was not considered to give rise to any undue amenity or highways impacts and would achieve an acceptable level of sustainability. As such the proposal was considered to be in accordance with development plan policies and was therefore recommended for approval.

Public Speakers

- (4) Mr Mower spoke on behalf of Roedean Residents Association and other local objectors to the scheme. It was considered that the building would be incongruous within the street scene and the scheme had failed to address the reasons for refusal of the 2010 application. The parking situation in the area was at breaking point and this development would exacerbate that as the number of on site parking spaces proposed was inadequate. There would also be overlooking and the level of amenity space provided for future residents of the development was inadequate and would result in an unsatisfactory residential environment.
- (5) Councillor Mears spoke in her capacity as a Local Ward Councillor setting out her objections to the scheme. This was the fourth application for development of the site following refusal of the previous ones. At four storeys high the development was considered to have an excessive size and bulk. Only minor amendments had been made to the previously refused scheme and the established building lines of The Cliff

and Cliff Approach had not been respected which would result in a structure which would be overly dominant in the street scene. In her view the development would be contrary to policies QD1, QD2, QD3 and QD5.

- (6) Mr S Bareham, spoke on behalf of the applicants in support of their application. He stated that the current proposals would be set further back than those put forward in the most recent previous application. The applicant had sought to address the previous reasons for refusal. The Planning Inspector's decision and the grounds on which the earlier appeal had been dismissed were relevant and the applicant considered that these had now been overcome.

Questions, Debate and Decision Making Process

- (7) Councillor Summers enquired regarding the principal differences between the most recently refused scheme and that currently before the Committee.
- (8) Councillor Hyde sought clarification as to whether the Inspector had taken account of the nearby development (not constructed when he visited the site) and the degree of overlooking to it which could result. It was explained that this had been referred to in the Inspector's decision. Councillor Hyde remained of the view however, that that significant overlooking would occur. She also considered that in view of the incline and height of the site, it would be visible from some distance away and would therefore be overly dominant in the street scene and would by virtue of its bulk and massing have a negative impact on the immediately neighbouring properties and would be harmful to the neighbouring streetscape. In addition she was aware of the on-street parking issues in the vicinity and in consequence considered the level of on-site parking proposed would be inadequate. Councillor Mrs Theobald concurred with those views.
- (9) Councillor Mrs Theobald sought further clarification regarding the level of parking proposed and this was in line with that set out in SPG 4. Councillor Theobald stated that in her view there was little difference between this and the previously refused scheme. Councillor Wells agreed.
- (10) Councillor Hawtree asked questions in relation to the height of the building when viewed in the context of the neighbouring street scene and also in relation to materials proposed. Whilst noting the improvements proposed he was not convinced that issues relating to its height and bulk had been overcome.
- (11) A vote was taken and on a vote of 6 to 3 with 3 abstentions the Committee voted that planning permission be refused the terms set out below.

88.6 **RESOLVED** - That the Committee refuses planning permission in respect of the above application on the grounds that:

- (1) The proposed development by reason of its mass, bulk (particularly in relation to 2 Cliff Road) and height of four storeys is out of keeping with and does not contribute

positively to the surrounding area and these concerns are particularly exacerbated when the proposed development is viewed from the public highway known as The Cliff. The proposed development is therefore contrary to policies QD1 and QD2 of the Brighton and Hove Local Plan 2005;

(2) The proposed amenity space is insufficient particularly as the proposed development would comprise 2 and 3 bedroom apartments which could be occupied by families. The proposed development is therefore contrary to policy HO5 of the Brighton and Hove Local Plan 2005; and

(3) The applicant has not demonstrated that the proposed development will not cause displaced parking into an area that already suffers from parking stress. The proposed development is therefore contrary to policy TR2 of the Brighton and Hove Local Plan 2005.

Note 1: A vote was taken and on a vote of 6 to 3 with 3 abstentions planning permission was refused.

Note 2: Councillor Hyde, the Deputy Chair proposed that planning permission be refused on the grounds set out above, this was seconded by Councillor Wells. A recorded vote was then taken. Councillors Cobb, Hyde, Farrow, Hawtree, C Theobald and Wells voted that planning permission be refused. Councillors MacCafferty (Chair), Carden and Davey voted that planning permission be granted. Councillors Hamilton, Kennedy and Summers abstained. Therefore on a vote of 6 to 3 with 3 abstentions planning permission was refused.

89. 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

89.1 **RESOLVED** – That the following site visit had been agreed:

Application	Address	Requested by
BH2011/02857	“Aldi”, Carlton Terrace, Portslade	Deputy Development Control Manager

90. TO CONSIDER AND NOTE THE CONTENT OF THE REPORTS DETAILING DECISIONS DETERMINED BY THE LOCAL PLANNING AUTHORITY INCLUDING DELEGATED DECISIONS

90.1 **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.]

The meeting concluded at 5.25pm

Signed

Chair

Dated this

day of

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Appeal Decision

Site visit made on 25 October 2011

by Jessica Graham BA(Hons) PgDipL

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

Decision date: 1 November 2011

Appeal Ref: APP/Q1445/A/11/2156828

Land to the rear of 197 Old Shoreham Road, Portslade, Sussex BN41 1XR

- 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 Peter Bradford against the decision of Brighton & Hove City Council.
 - The application Ref BH2011/00834, dated 11 March 2011, was refused by notice dated 23 May 2011.
 - The development proposed is the erection of a pair of semi-detached houses.
-

Decision

1. The appeal is allowed and planning permission is granted for the erection of a pair of semi-detached houses on land to the rear of 197 Old Shoreham Road, Portslade, Sussex BN41 1XR in accordance with the terms of the application, Ref BH2011/00834, dated 11 March 2011, subject to the nine conditions set out in the schedule attached to this decision

Main issues

2. The main issues are
 - (a) the effect that the proposed development would have upon the character and appearance of the area;
 - (b) whether the proposal would be capable of complying with relevant sustainability standards; and
 - (c) the impact of the proposed development upon existing trees.

Reasons

Character and appearance

3. Together with No. 199, No. 197 is one of a pair of semi-detached two-storey dwellings on the southern side of Old Shoreham Road, immediately adjoining the eastern edge of Victoria Park. No. 197 has been converted to flats, and this semi-detached pair is separated from the others to the east by the intervening presence of the library and clinic buildings. The proposed development would be constructed on land adjoining the rear gardens of Nos. 197 and 199, cut into the slope such that the ground level would be some 3m below the level of the existing gardens.
4. The design of the proposed dwellings is contemporary, with a strong vertical emphasis, slightly curved roof profiles to break up the massing, and articulated facades which would provide interest in views from Victoria Park. I consider

this an appropriate design response to the location of the site between the modern commercial buildings to the south, and the 1930s style of the existing dwellings. The overall height of the new houses would be comparable to that of the existing houses, and although the proportion of built form to plot size would be considerably greater, the separation distance from Nos. 197 and 199, the drop in levels and the context of the adjoining parking areas and recreation park would ensure that the development would not appear overly dominant, or unduly cramped, within its setting.

5. The Council contends that the area behind existing properties on Old Shoreham Road has a spacious and open character, within which the bulk of the proposed new building would be excessive. However, as noted above, the intervening library and clinic buildings sever the dwellings at Nos. 197 and 199 from the run of houses fronting the southern side of the road; they appear instead as an isolated pair, set against a backdrop of commercial buildings. In views eastward along Old Shoreham Road, and from within Victoria Park, the development would occupy a plot that currently has the appearance of empty wasteland adjoining the parking area of a large commercial building. In my judgment, this appearance would be improved by the construction of the proposed dwellings, which would help to provide an appropriately domestic-scale enclosure to part of this eastern side of the park, in keeping with the residential properties that front its western and southern sides along Beaconsfield Road and Victoria Road.
6. I conclude that the proposed development would meet the aims of Policies QD1, QD2 and QD3 of the Brighton & Hove Local Plan 1995, which seek to ensure that new development makes a positive contribution to the visual quality of the environment, taking account of local characteristics and making efficient and effective use of its site.

Sustainability standards

7. The Council's second reason for refusal concerned the fact that the proposed development is intended to achieve Level 3 rather than Level 5 of the Code for Sustainable Homes; it does not consider this a sufficiently high level of sustainability. The aim of the Code is to improve the overall sustainability of new homes by setting a single national standard for England and Wales within which the building industry can design and construct homes to higher environmental standards. It is important to note that in land use planning terms (as distinct from the requirements of the Building Regulations, which is a separate regime) compliance with the Code remains entirely voluntary.
8. Government advice set out in *Planning and Climate Change* (a supplement to Planning Policy Statement 1) advises that when proposing any local requirement for sustainable buildings, local planning authorities should specify that requirement in terms of nationally described standards, for example by reference to a Level of the Code for Sustainable Homes. However, it goes on to state that any such policy should be set out in a Development Plan Document, not a Supplementary Planning Document, so as to ensure examination by an independent Inspector.
9. The Council's position that new residential development on 'greenfield' sites should achieve a minimum rating of Level 5 is not derived from the provisions of any adopted Development Plan Document, but rather is based on the advice set out in its adopted Supplementary Planning Document 08: *Sustainable*

Building Design. This approach has not, then, been the subject of examination by an independent Inspector.

10. While Policy SU2 of the Local Plan states that permission will be granted for proposals which demonstrate a high standard of efficiency in the use of energy, water and materials, it does not refer to the Code for Sustainable Homes, or set out any other measurable requirements. I am not convinced by the Council's argument that the wording of this Policy should be interpreted as requiring efficiency over and above that required by Building Regulations. It quite simply does not say that. While I sympathise with (and applaud) the Council's desire to improve the sustainability of new housing, I consider that in the current absence of an adopted Development Plan Policy specifying the Code Level to be achieved, it would be unreasonable to seek to make compliance with this voluntary Code mandatory through the imposition of conditions, unless the developer has specifically indicated that the proposal would achieve a particular Level.
11. The Council has drawn my attention to an appeal decision (ref APP/Q1445/A/11/2147191) in which an Inspector imposed a condition requiring the development to achieve Level 5 of the Code, but it is apparent from the text of the decision that the appellant in that case had confirmed that Level 5 would be achievable. In the current case, the appellant has indicated that the proposed development would achieve Level 3 of the Code (which would be sufficient to meet current Building Regulations requirements), and the Council has not expressed any dissatisfaction with the information contained in the Waste Minimisation Statement that was submitted with the application.
12. On that basis, I consider that a condition requiring the new dwellings to achieve Level 3 of the Code for Sustainable Homes would be sufficient to ensure that they would comply with current relevant sustainability standards.

Trees

13. The proposed development would be constructed in close proximity to an existing sycamore tree that lies outside the appeal site, at the edge of Victoria Park. The appellant has not conducted a survey of the impact that the proposed development would have upon this tree. He has instead provided a copy of a letter from a tree care company, advising that one option would be to ensure that footings are dug at least 5m from the base of the tree. The letter also advises that any development work would be conditional on an effective root protection zone being fenced off with adequate materials during construction, and if access to the site was required within the root protection zone, the fitting of adequate compaction reduction surfacing. The appellant contends that since the footings of the proposed development would be at least 5m from the base of the tree, its protection could be ensured by condition.
14. The professional opinion of the Council's Arboricultural Manager, to which I attach considerable weight, is that the proximity of the sycamore to the proposed development would make it susceptible to damage from compaction, which could ultimately lead to the loss of this otherwise healthy tree. However, he has also advised that since the visual amenity of this particular tree is duplicated by a closely situated maple, a possible solution might be to allow the appellant to fell the sycamore at his own expense, and compensate for its loss by purchasing and planting a number of replacement trees in the open space nearby.

15. With this in mind, it seems to me that the matter should be easily capable of satisfactory resolution, and need not constitute a reason to refuse planning permission. An appropriately worded condition could be imposed to secure the submission of a landscaping scheme, prior to the commencement of development. This landscaping scheme would be required to include details of the measures that would be taken to protect the sycamore tree, and if these proved unacceptable to the Council, provision to be made for compensatory off-site tree replacement planting.
16. The requirement to submit details of a landscaping scheme for prior approval would also address the Council's concern, set out in its second reason for refusal, that the landscaping of the site has not been given due consideration. Subject to an appropriately worded condition, then, I consider that the proposed development would not conflict with the requirements of Policies QD15 and QD16 of the Local Plan, concerning adequate consideration of landscape design, and the retention of existing trees where possible.

Other matters

17. The proposed development would involve the removal of the existing vehicle access and parking area alongside No. 197 to form a pedestrian access, the installation of guard rails on the outside edge of the pavement opposite this access, and the reinstatement of the pavement and kerb dropped to form the associated vehicle crossover. Since these would provide valuable highway safety benefits outweighing any harm caused by increased pressure for parking arising from the new dwellings, I consider it necessary to attach a condition requiring these works to be carried out before the dwellings are occupied.
18. I note the concerns of the occupier of No. 199 about the construction of new dwellings at the end of that property's rear garden, but since the ground level of the new houses would be very much lower than that of the existing, the openings in the upper level of their northern elevation would be screened by the proposed cycle store and the boundary walls, and so would not result in any overlooking of, or reduction of privacy at, the existing pair of semi-detached houses. I understand the concerns of the occupier of the ground floor flat at No. 197 about the access to the new dwellings passing his kitchen door, but since this route would provide pedestrian access only, I am satisfied that it would not result in any harmful increase in noise or disturbance.

Conditions

19. In addition to the conditions discussed above, I have attached the Council's suggested condition requiring the submission of samples of materials, to ensure that these are appropriate to the character and appearance of the development and its setting. I also agree with the Council that conditions are needed to secure the provision of the refuse and recycling storage and cycle parking prior to the occupation of the dwellings, and the future retention of these important facilities. I have attached the Council's suggested condition requiring compliance with Lifetime Homes standards, as the appellant has confirmed that the proposal is designed to achieve those standards, but I do not consider it necessary to impose separate conditions governing hard surface materials and tree protection fences, since those concerns are addressed by the condition that requires submission of details regarding landscaping matters.

Conclusion

20. For the reasons set out above, and subject to the attached conditions, I conclude that the appeal should be allowed.

Jessica Graham

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) Subject to condition no. 3 below, the development hereby permitted shall be carried out in accordance with the following approved plans: 25546/2D, 25546/3B, 25546/7A and 25546/8.
- 3) Notwithstanding condition no. 2 above, no development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include means of enclosure; hard surfacing materials (including information as to their porosity); proposed new planting on the appeal site; indications of all existing trees and hedgerows on or in close proximity to the land, and details of any to be retained, together with measures for their protection in the course of development; and proposals for off-site replacement tree planting to replace any that would be lost as a result of the development.
- 4) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of either of the two permitted dwellings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation. All hard landscaping works and means of enclosure shall be completed in accordance with the approved details before either of the dwellings is occupied.
- 5) No development shall take place until samples of the materials (including colour of render, paintwork and colourwash) to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 6) Neither of the dwellings hereby permitted shall be occupied until the bollard and guard rails are erected, and the existing vehicle crossover removed and the kerb and pavement reinstated, in accordance with the details shown on plan no. 25546/3B.
- 7) Neither of the dwellings hereby permitted shall be occupied until the refuse and recycling storage facilities, and cycle parking facilities, have been provided in accordance with the details shown on plan no. 25546/8 and made available for use. These facilities shall thereafter be retained for their intended purpose at all times.
- 8) The dwellings shall achieve Level 3 of the Code for Sustainable Homes. No dwelling shall be occupied until a final Code Certificate has been issued for it certifying that Code Level 3 has been achieved.
- 9) The dwellings shall be constructed to Lifetime Homes standards prior to their first occupation, and retained as such thereafter.



Appeal Decision

Hearing held on 1 November 2011

Site visit made on 1 November 2011

by Joanna Reid BA(Hons) BArch(Hons) RIBA

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

Decision date: 8 November 2011

Appeal Ref: APP/Q1445/A/11/2155653

8 West Way, Hove, East Sussex BN3 8LD

- 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 Arif Essaji against the decision of Brighton & Hove City Council.
 - The application Ref BH2010/03486, dated 8 November 2010, was refused by notice dated 6 May 2011.
 - The development proposed is "addition of first floor storey to form 2 x 2no bedroom units and 2 x 1no bedroom units, including ground floor extension and alterations to existing building".
-

Decision

1. The appeal is allowed and planning permission is granted for "addition of first floor storey to form 2 x 2no bedroom units and 2 x 1no bedroom units, including ground floor extension and alterations to existing building" at 8 West Way, Hove, East Sussex, BN3 8LD, in accordance with the terms of the application, Ref BH2010/03486, dated 8 November 2010, subject to the conditions set out in Schedule A at the end of this decision.

Application for costs

2. At the Hearing an application for costs was made by Mr Arif Essaji against Brighton & Hove City Council. This application is the subject of a separate Decision.

Preliminary matters

3. The appeal proposal is the same as the scheme considered by my colleague in his appeal decision ref APP/Q1445/A/09/2102145, but the site plan has been corrected. My colleague dismissed the appeal for 2 reasons. Firstly, it had not been shown that the living conditions of the neighbouring occupiers at 6 and 10 West Way would not be harmed, with regard to sunlight and daylight. Technical evidence was submitted with the application which addresses this matter and no harm has been found. Secondly, the payment of a financial contribution for sustainable transport had not been properly secured. The Council currently has in place *Planning – Temporary measures to assist the development industry*, which has raised the bar on transport contributions from all schemes for new dwellings to schemes of 5 residential units and above. The proposal is for 4 flats so no financial contribution is sought.

4. Whilst my colleague's decision is a material consideration in this appeal, I shall deal with this appeal afresh.

Main issues

5. The main issues in this appeal are the effect that the proposed development would have on: the character and appearance of the surrounding area; the living conditions of the occupiers of 6 and 14 West Way and 76 Dale View with regard to overlooking and privacy; highway safety and the free flow of traffic in the nearby streets; and community facilities in the local area.

Reasons

Character and appearance

6. The appeal site is within a fairly low density mainly residential area close to local shops and services. The sloping topography in the locality allows views to the downs and to the sea. The site is within the Hangleton neighbourhood in the *Brighton & Hove urban characterisation study*, which is classified as a downland fringe with a twentieth-century residential suburb, including development that has evolved over time, and planned public housing. The existing single-storey flat-roofed appeal building includes a dental surgery and a children's nursery. The proposal is for 4 flats at first floor level and a ground floor single-storey extension.
7. Due to its limited storey height and its partly set back flat-roofed design, and thus its minimal mass, the first floor extension, including the projection at the back, would respect the scale and massing of the existing building and its surroundings. The use of timber cladding and rendered panels would give the whole building a unified contemporary appearance. The completed building would provide a harmonious transition in the street scene in West Way, between the 2-storey pitched-roofed dwelling at 6 West Way on higher ground to the east and the pitched-roofed bungalow at 10 West Way on lower ground to the west. Its scale would complement the 3-storey flats on the opposite side of West Way and the 1½-storey medical centre at the back of the site.
8. The local area includes buildings in a variety of styles. Whilst the proposed timber cladding is not typical of the local area, it has been successfully incorporated in contemporary schemes elsewhere in the City, and it would enhance the appearance of the building as a whole. I therefore agree with my colleague's view that the design, scale, height and use of materials would be appropriate, and that the proposal would not harm the character and appearance of the surrounding area. It would satisfy Policy QD2 of the *Brighton & Hove Local Plan 2005 (LP)* which seeks good design that emphasises and enhances the positive qualities of the local neighbourhood, and LP Policy QD14 which seeks well designed extensions and alterations that respect the locality.

Living conditions

9. Because of the siting and scale of the proposed privacy screening; the window positions in, and the internal and external arrangement of, the proposed flats; and their distance from the nearby dwellings and their gardens; harmful overlooking, including the perception of being overlooked, would not be likely to occur. The high level windows in the south-eastern elevation of the extension would be seen in some views from the back garden at 6 West Way.

However, due to their siting and the higher level of that garden, they would not be likely to contribute to an unacceptable perception of overlooking, because some degree of overlooking could reasonably be expected in an urban area.

10. I consider that the proposed development would not harm the living conditions of the occupiers at 6 and 14 West Way and 76 Dale View, with regard to overlooking and privacy. It would satisfy LP Policy QD27, which seeks to protect the living conditions of existing, adjacent and future occupiers.

Highway safety and the free flow of traffic

11. The site is close to the shops and local services at the Grenadier local centre, and it is well served by public transport including a major bus route with relatively frequent services. The site is not within a controlled parking zone so car free development could not reasonably be controlled by condition. Six secure cycle parking spaces and no on-site car parking spaces are proposed.
12. The Council's maximum car parking standards reflect the City's aim to reduce excessive parking provision that encourages the non essential use of the car, in line with Planning Policy Guidance Note 13: *Transport*. There are parking restrictions in the nearby parts of West Way and Hangleton Road. Thus, if the occupiers of the flats were to need to park cars, they would be likely to use the unrestricted parts of Dale View and other nearby streets. Concerns have been raised that such additional parking would cause parking stress in the nearby streets, endangering highway safety and impeding the free flow of traffic, but little technical evidence was put to me to support this view. The highway authority has raised no concerns about highway capacity and public safety. I see no reason to disagree.
13. The Local Transport Plan seeks financial contributions to enhance public transport infrastructure and pedestrian and cycle routes for all new residential units, in accordance with LP Policies TR1 and QD28. However, in accordance with the Council's current *Planning – Temporary measures to assist the development industry*, no financial contribution is sought, and there is nothing in the measures to imply that car parking should be provided at the site instead. Whilst the Council is considering reducing bus services, little evidence of the likelihood of a significant reduction was put to me. Due to the relatively sustainable location of the site, the access to public transport and the proposed provision of cycle storage, the absence of on-site parking for the proposed flats would be acceptable.
14. I consider that the proposal would not be likely to endanger highway safety and the free flow of traffic in the nearby streets. It would satisfy LP Policy TR1, which aims for proposals to provide for the demand for travel that they create, and to maximise the use of public transport, walking and cycling; Policy TR7, which aims to not increase danger to users of adjacent highways; and TR19 which permits development where parking levels meet the adopted standards.

Community facilities

15. The proposal would improve the facilities for the nursery by remodelling the soft play area, improving the entrance to the building and providing a buggy store. Whilst arrangements for the current occupiers of the existing nursery and dentists' practice would need to be made during the construction phase, this is a private matter between the landlord and his tenants. From the evidence put to me it would seem that the present nursery use would be

protected during the construction phase. As no change of use is proposed, the proposal would satisfy LP Policy HO20, which aims to avoid the loss of community facilities.

Conditions

16. I have considered the conditions suggested by the Council in the light of the advice in Circular 11/95 *The Use of Conditions in Planning Permissions*. A condition identifying the application drawings is reasonable for the avoidance of doubt and in the interests of proper planning. Conditions to control materials, including the green roof, and refuse and recycling facilities, are necessary to protect the character and appearance of the area. The condition for terrace screens is necessary to protect the living conditions of nearby occupiers. The condition for cycle storage is necessary to encourage means of transport other than the private motor vehicle, in the interests of sustainable development. The condition for contaminated materials is reasonable having regard to the historic use of the site. A condition for a final certificate to show that EcoHomes Very Good rating has been achieved is necessary in the interests of sustainable development. I shall impose these conditions.
17. The condition for obscure-glazing to the first floor windows in the south-eastern elevation is not necessary as the sills are above 1.7 m above finished floor level, and the development is some distance from the site boundary, so harmful overlooking of the neighbouring dwelling and its garden would be unlikely to occur. Sound insulation is dealt with under building regulations so the condition is not necessary. The development has been designed to achieve an EcoHomes Very Good rating, which is broadly comparable with Code level 3 of the Code for Sustainable Homes. The Council accepts that this accreditation is appropriate to the extension of the existing building, so the condition for a design stage assessment is not necessary. The development has also been designed to satisfy Lifetime Homes standards, insofar as it is reasonably practicable, and the condition for compliance with the plans would be imposed, so the condition for Lifetime Homes standards is not necessary. I shall not impose these conditions.

Other matters and conclusion

18. The living conditions of the occupiers of 74 Dale View and 10 West Way were not concerns of the Council in their reasons for refusal. I see no reason to disagree. Noise from the future occupiers of the flats would not be likely to cause harm in a residential area. I have taken into account all of the other points raised, but they do not outweigh those planning considerations which have led to my decision.
19. For the reasons given above and having regard to all other matters raised, the appeal succeeds.

Joanna Reid

INSPECTOR

Schedule A

- 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: unnumbered and untitled site location plan (H M Land Registry title number ESX191711), 2975.EXG.01 B, 2975.EXG.02 B, 2975.PL.01 B (excluding the site plan), and 2975.PL.03 B.
- 3) If during development any visibly contaminated or odorous material is found, no further development shall take place until a method statement to identify, risk assess, and deal with the contaminant(s) has been submitted to and approved in writing by the local planning authority. No further development shall take place except in accordance with the approved method statement.
- 4) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the building hereby permitted, and details of the green roof, have been submitted to and approved in writing by the local planning authority. Development shall be carried out, and the green roof shall be implemented, in accordance with the approved samples and details.
- 5) The dwellings shall achieve an EcoHomes Very Good rating. No dwelling shall be occupied until a final certificate has been issued for it certifying that EcoHomes Very Good has been achieved.
- 6) No dwelling shall be occupied until the refuse and recycling facilities shown on the approved plans have been implemented and are available for use. The refuse and recycling facilities shall be retained thereafter for those purposes.
- 7) No dwelling shall be occupied until details of the first floor terrace screens have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and the screens shall be retained thereafter in accordance with the approved details.
- 8) No dwelling shall be occupied until the cycle parking facilities shown on the approved plans have been implemented and are available for use. The cycle parking facilities shall be retained thereafter for use by the occupiers of and visitors to the development at all times.

APPEARANCES

FOR THE APPELLANT:

Mr Arif Essaji	Appellant.
Mrs Essaji	Appellant's wife.
Ms Carol Wheeler	Appellant's agent, PlanRight UK Ltd.

FOR THE LOCAL PLANNING AUTHORITY:

Mr Guy Everest	Planning officer, Brighton & Hove City Council.
Cllr Mrs Denise Cobb	City Councillor, Brighton & Hove City Council.

DOCUMENTS PUT IN AT THE HEARING

- 1 The Council's notification of the hearing and the list of persons notified.
- 2 *Bus Times and Pocket Bus Times and Route Map*, put in by the appellant.
- 3 *Planning – temporary measures to assist the development industry*, put in by the Council.



Costs Decision

Hearing held on 1 November 2011

Site visit made on 1 November 2011

by Joanna Reid BA(Hons) BArch(Hons) RIBA

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

Decision date: 8 November 2011

Costs application in relation to Appeal Ref: APP/Q1445/A/11/2155653 8 West Way, Hove, East Sussex BN3 8LD

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Arif Essaji for a full award of costs against Brighton & Hove City Council.
 - The hearing was in connection with an appeal against the refusal of planning permission for "addition of first floor storey to form 2 x 2no bedroom units and 2 x 1no bedroom units, including ground floor extension and alterations to existing building".
-

Decision

1. The application for an award of costs is allowed in the terms set out below.

The submissions for Mr Arif Essaji

2. The costs application was submitted in writing. The following additional points were made orally.
3. The *Brighton & Hove urban characterisation study* is the only new document referred to by the Council which has been issued since the previous Inspector's decision. The *Brighton & Hove urban characterisation study* is an unadopted evidence base, which was produced for the emerging Local Development Framework, part of which has since been withdrawn. Having read the character study, it is the appellant's view that the proposed development would fit in with the character and appearance of the area.

The response by Brighton & Hove City Council

4. The response was made in writing.

Reasons

5. Circular 03/2009 *Costs Awards in Appeals and other Planning Proceedings* advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
6. The appellant made a timely application for an award of costs.
7. The proposed development in the appeal before me was not materially different to the scheme considered by my colleague in his appeal decision ref APP/Q1445/A/09/2102145. It had been refused for 2 reasons concerning

- the living conditions of nearby occupiers, and character and appearance. My colleague found that, apart from his concerns about the living conditions of the occupiers of 2 neighbouring dwellings with regard to daylight and sunlight, and a proper means of securing the then required financial contribution for transport, the scheme was acceptable.
8. Reason for refusal 1 refers to the living conditions of nearby occupiers with regard to overlooking. My colleague had considered nearby occupiers' living conditions, including overlooking, and, apart from a lack of technical evidence concerning sunlight and daylight, had found no harm. The appellant submitted technical evidence with the planning application for the appeal proposal which shows that there would be no harm to the living conditions of neighbours with regard to daylight and sunlight.
 9. Paragraph B18 of the Circular explains that planning appeals often involve matters of judgment concerning the character and appearance of a local area or the living conditions of adjoining occupiers. Where the outcome of an appeal turns on an assessment of such issues it is unlikely that costs will be awarded if realistic and specific evidence is provided about the consequences of the proposed development. On the other hand vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis, are more likely to result in a costs award.
 10. The Council's officer recommended that the proposal should be approved subject to the imposition of conditions. Paragraph B20 of the Circular states that planning authorities are not bound to accept the recommendations of their officers. However, if officers' professional or technical advice is not followed, authorities will need to show reasonable planning grounds for taking a contrary decision and produce relevant evidence on appeal to support the decision in all respects. If they fail to do so, costs may be awarded against the authority. Whilst Planning Committee Members had visited the site before determining the application, the Council produced little substantive evidence to support reason for refusal 1.
 11. The advice in paragraph B29 of the Circular is that persisting in objections to a scheme, or part of a scheme, which an Inspector has previously indicated to be acceptable, may lead to an award of costs. The Council persisted with reason for refusal 1, contrary to the decision of the previous Inspector, and their professional officer's advice, and it was supported by little evidence. This was unreasonable behaviour.
 12. Reason for refusal 2 refers to the unacceptable impact on on-street parking, and, thus, the effect that it would have on highway safety and the free flow of traffic in the nearby streets. The proposal was consistent with the objectives of national policy in Planning Policy Guidance Note 13: *Transport* and it satisfied the maximum car parking standards in the Local Plan. The highway authority did not object to the proposed development. Paragraph B24 of the Circular explains that what matters in any subsequent costs application is whether or not the authority can show good reason for accepting, or rejecting, the consultee's advice. However, insufficient reasons were put to me.
 13. The Council's officer had recommended the scheme for approval. There had been no significant change to relevant Development Plan and national policy since my colleague's decision. The recessionary measures put in place by the Council do not say that there is any requirement for otherwise acceptable

schemes to compensate for the measures, for example, by providing on-site parking where none would be required to satisfy Local Plan policy. The site plan for the scheme considered by my colleague differed from the site plan in the appeal before me, but in both cases no on-site car parking was proposed. Thus, this was not a sufficient reason to justify the Council's stance. The Council had not determined like cases in a like manner, contrary to the advice in paragraph B29 of the Circular. To introduce a new reason for refusal without a significant change in circumstances was unreasonable behaviour.

14. Furthermore, paragraph B21 of the Circular states that whilst planning authorities are expected to consider the views of local residents, the extent of local opposition is not, in itself, a reasonable ground for resisting development. To carry significant weight, opposition should be founded on valid planning reasons which are supported by substantial evidence. Reason for refusal 2 was unsupported by technical evidence to show that if the occupiers of the development were to park cars in the nearby streets that this would endanger highway safety or impede the free flow of traffic. Thus, the Council's behaviour was unreasonable.
15. Reason for refusal 3 concerns the character and appearance of the area, which the previous Inspector and the Council's officer had found to be acceptable. Whilst the *Brighton & Hove urban characterisation study* has been finalised since my colleague's decision, it supports the appellant's view that the proposed development would respect the character and appearance of the area. My decision to allow the appeal reflects this.
16. Whilst the Council objects to the use of timber panelling, my colleague had explained in his decision that this material would be appropriate. The Development Plan policies do not say that materials which are not typical of the local area should not be used, and the Council has found timber panelling to be acceptable in other parts of the City. The Council's stance was unsupported by substantial evidence. The Council had persisted in objections to a scheme which an Inspector has previously indicated to be acceptable, contrary to the advice in paragraph B29 of the Circular. This was unreasonable behaviour.
17. Reason for refusal 4 concerns the loss of community facilities during the construction phase of the proposed development. This was not a concern of the Council in the previous appeal. Paragraph B29 of the Circular advises that Councils will be at risk of an award of costs for not determining like cases in a like manner – for example, imposing a spurious additional reason for refusal on a similar scheme to one previously considered by the planning authority where the circumstances have not materially changed.
18. Little evidence was put to me to show that the community facilities at the site would be unable to continue at the site during the construction phase. Nor was it shown that the community facilities would be displaced during the construction phase, and that suitable temporary accommodation would not be available in the local area. The Council's legal officer had advised the Council that the arrangements for the construction phase were a matter between the landlord and his tenants, and not a material planning consideration. No change of use to the ground floor of the appeal building was proposed, so no community facilities would be lost. Instead, the scheme would enhance those facilities. Thus, there would be no conflict with Local Plan policy. This was also unreasonable behaviour by the Council.

19. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in Circular 03/2009, has been demonstrated and that a full award of costs is justified.

Costs Order

20. In exercise of the powers under section 250(5) of the *Local Government Act 1972* and Schedule 6 of the *Town and Country Planning Act 1990* as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Brighton & Hove City Council shall pay to Mr Arif Essaji the costs of the appeal proceedings described in the heading of this decision.

21. The applicant is now invited to submit to Brighton & Hove City Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

Joanna Reid

INSPECTOR



Appeal Decision

Site visit made on 26 September 2011

by **JP Roberts BSc(Hons), LLB(Hons), MRTPI**

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

Decision date: 28 October 2011

Appeal Ref: APP/Q1445/A/11/2153030

Rear of 116 Goldstone Crescent, Hove, East Sussex BN3 6BF

- 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 Coastal Management Ltd. against the decision of Brighton & Hove City Council.
 - The application Ref BH2011/00132, dated 17 January 2011, was refused by notice dated 25 March 2011.
 - The development proposed is the erection of a two-storey flat roofed building comprising a 2 bedroom single dwelling with energy cabin, cycle store and refuse store.
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Decision

1. The appeal is dismissed.

Procedural matter

2. Two amended plans were submitted with the appeal. These show the photovoltaic panels on the front and rear elevations which are shown on other submitted plans. As these merely correct an omission, and ensure consistency, I am satisfied that no-one's interests would be materially prejudiced by my dealing with them.

Main Issues

3. The main issues are:
 - i) the effect of the proposal on the character and appearance of the surrounding residential area, and
 - ii) the effect of the proposal on the living conditions of the occupiers of 114-116 Goldstone Crescent, with particular regard to privacy and outlook, and on those of the occupier of Flat 32, Balmoral Court with particular regard to outlook.

Reasons

Character and appearance

4. The site forms a steeply sloping area of land fronting Nevill Road, which has been fenced off from the lower level rear garden of the 2-storey house at 116 Goldstone Crescent. To the south of the site is Balmoral Court, a split-level block of flats, which has 2½ storeys at the front and 2 further basement storeys. The proposed house would be a highly contemporary design, with split levels and flat roofs, notable features of which would be sedum roofs and

planted walls, with arrays of photovoltaic cells. From Nevill Road it would appear as a single storey building, with parking in front.

5. Such juxtaposition would create a stark contrast of a very modern, small scale and low profile dwelling next to the traditional, if unexceptional, architecture of Balmoral Court and the substantial difference in height and bulk of the two properties, and their closeness to each other would not fit comfortably. I recognise that, in places, innovative designs can fit in satisfactorily with dissimilar buildings, and in isolation, the design of the house in this case is of a high standard. However, Balmoral Court is one of several large blocks of flats on both sides of Nevill Road, where there is a clearly established pattern of development. On the north side of the site, the street frontage is characterised by trees and rear fences of houses on Goldstone Crescent. In such an unvaried context, the proposed dwelling would appear as incongruous, rather than enlivening the street scene, and in my view, it would be highly damaging to the character and appearance of the area.
6. I appreciate that the proposal is markedly different from the one that was dismissed on appeal in 2008; even so, the Inspector's finding in that case, that the proposed building would look awkward, applies here as well. Since that time, Planning Policy Statement 3 (PPS3): *Housing* has been amended to exclude private garden land from the definition of previously developed land. Whilst this does not preclude building on such sites, the change has the effect of emphasising the importance of ensuring that development on garden land is appropriate in its setting.
7. I therefore find on the first main issue, that the proposal would result in serious harm to the character and appearance of the area, in conflict with saved Policies QD1, QD2 and QD3 of the Brighton and Hove Local Plan.

Living conditions

8. The proposed dwelling would sit at a much higher level than the houses on Goldstone Crescent. The design of the house seeks to address the sloping land by having split levels, so that the highest part of the house would be closest to Nevill Road. Even so, the view from the gardens and rear facing windows of the nearest houses on Goldstone Crescent would be of a high mass of building, which would loom over the existing residential properties. I recognise that Balmoral Court dominates the outlook of the Goldstone Crescent houses which back onto it, and that Balmoral Court is even higher than the building now proposed. However, I do not consider that this relationship is a good example to follow. Moreover, the proposed house would be sited much closer to the boundary with No 116, and this adds to its overbearing impact.
9. The proposed house would have a terrace at the rear, from where clear views over the boundary fence could be obtained of No 116 and its neighbour at No 114. I consider that the occupiers of the neighbouring houses would experience an uncomfortable degree of overlooking which would materially harm their living conditions. I note that tree planting is proposed at the rear of the appeal site, and on the site visit it was evident that some new trees had been planted. Regardless of whether the planted trees would be sufficient to act as a screen, trees may die or become diseased, or may be removed, and I do not consider that they are an appropriate means of mitigating overlooking or an overbearing outlook.

10. The proposed house would be constructed close to the boundary with the Balmoral Court block. A bedroom window in a lower floor belonging to Flat 32 faces the appeal site. I saw the window both from within the flat and from outside on my site visit. Whilst the profile of the proposed house would allow light to reach the bedroom window, the outlook from the bedroom would be of the side wall of the house, at a distance of 3-4m. A higher part of the house would also lie close to the window, and this would compound the oppressive and bleak outlook that would be available from the window.
11. The window would still be able to obtain natural light from over the roof of the dwelling; however, a large tree lies behind the proposed house, and this already limits light reaching the bedroom window. Whilst light to and outlook from bedrooms may not be as important as they are in principal rooms such as living rooms I consider that in this case, the bedroom would become darker and much more uninviting, so as to materially harm the occupiers' living conditions.
12. I therefore find on the second main issue that the proposal would result in material harm to the living conditions of neighbouring occupiers, and would conflict with saved LP Policy QD27 which deals with the protection of amenity, including those of adjacent residents.

Other matters

13. The proposed dwelling would be highly energy-efficient, and this would accord with sustainability objectives in national and local policy. However, neither this nor the draft National Planning Policy Framework outweighs the strong objections I have found in respect of character and appearance and neighbours' living conditions.
14. For the reasons given above, I conclude that the appeal should be dismissed.

JP Roberts

INSPECTOR



Appeal Decision

Site visit made on 7 October 2011

by **C J Leigh** BSc(Hons) MPhil(Dist) MRTPI

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

Decision date: 26 October 2011

Appeal Ref: APP/Q1445/A/11/2156318
3 Scott Road, Hove, East Sussex, BN3 5HN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mrs Lisa Southon, against the decision of Brighton and Hove City Council.
 - The application Ref BH2010/02383, dated 26 July 2010, was refused by notice dated 6 May 2011.
 - The development proposed is described as 'to extend the childminding services from 9 to 18 children between 8am and 6pm Monday – Friday using the ground and first floor, the second floor will be used as a self-contained residential unit'.
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Decision

1. The appeal is dismissed.

Reasons

2. The main issue in this appeal is the effect of the proposed development on the living conditions of adjoining occupiers, with particular reference to noise and disturbance.
 3. The property currently has permission for use of the ground floor as a Day Nursery between 8.00am and 6.00pm Monday – Friday, with the property being used as a dwelling at other times, and a condition restricting the number of children to 9 (granted permission in January 2010, ref. BH2009/02405). The submitted drawings in this appeal show the first floor in childcare use, the ground floor and garden to be used for childcare in the daytime, and the self-contained flat having a kitchen, bathroom and bedroom area. The hours of childcare are to be unchanged, with an increase in children at the property to 18.
 4. The appellant has undertaken an acoustic report to determine background noise levels. This was taken during a period of children playing in the premises and, based on this report, the appellant submits that adequate acoustic mitigation measures could be undertaken to ensure no noise transfer and consequently no disturbance to neighbouring properties. However, I share the concerns of the Council's Environmental Health Officer that the short measurement period has not covered the typical and inevitable noise of children during the day that one might expect at a property used to this degree for childcare: crying, banging, shouting, music, singing, screaming, etc. These types of noise can be particularly intrusive and unpredictable throughout the hours of operation for the business, and evidence from neighbouring residents
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explains that there is currently disturbance and intrusion from such noise within their homes throughout much of the day.

5. The proposals would see the first floor of the property used for childcare and, since this area adjoins what would be expected to be quiet rooms of the neighbouring houses, it is important to ensure there would not be unreasonable noise transmission to these properties. The evidence submitted does not provide reassurance that the typical noise arising from the use of the property for childcare to the degree proposed could be adequately mitigated to provide the level of quiet internal environment to which the neighbours in the terrace are entitled; the location of the terrace close to commercial properties does not diminish the fact that a quiet internal environment can be expected by occupants.
6. Furthermore, the increased use of the premises for childcare, particularly at first floor, would lead to an increase in noise from children during the summer via open windows at first floor, which may be heard in the garden or in adjoining properties that also have their windows open. As pointed out by the Environmental Health Officer, that matter is not assessed in the submitted acoustic report. Again, neighbouring residents inform me that the current use of the property leads to noise from the premises. Based on the information submitted the noise is likely to increase through a more extensive, and intensive, use of the premises for childcare. This would be appreciable from neighbouring gardens and within properties, to the detriment of living conditions.
7. I understand that not all the children will be outside in the garden at any one time and, based on the submitted evidence and observations at the site visit, it is likely that any increase in the activities in the garden will be little greater than currently exists with the lawful permission. Thus, noise from garden play is unlikely to be materially different to at present.
8. Despite my comments above relating to the use of the garden, it is the increase in noise arising from the wider use of the premises for childcare and the more intensive use of the property that leads me to conclude the proposed development would lead to an increase in noise and disturbance for adjoining occupiers. This would be to the detriment of their living conditions, and so conflict with Policies SU10 and QD27 of the Brighton and Hove Local Plan 2005, which seek to protect the amenity of existing residents and to minimise the impact of noise on the occupiers of neighbouring properties.
9. I note the demand for childcare in the area and the support for the proposal. I also note the granting of permission for other facilities. However, I have determined this proposal on its own merits and, for the reasons given, found that the harm arising on the main issue outweighs other matters. The appeal is therefore dismissed.

C J Leigh

INSPECTOR



Appeal Decision

Site visit made on 1 November 2011

by Michael Evans BA MA MPhil DipTP MRTPI

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

Decision date: 8 November 2011

Appeal Ref: APP/Q1445/D/11/2160901
38 Walsingham Road, Hove BN3 4FF

- 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 Dr James Read against the decision of Brighton and Hove City Council.
 - The application Ref BH2011/01793, dated 21 June 2011, was refused by notice dated 15 September 2011.
 - The development proposed is the construction of a hip to gable alteration, a rear dormer extension and the insertion of rooflights to the front.
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Decision

1. The appeal is dismissed.

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 gable end has been constructed but the dormer addition has not been completed and is covered in a tarpaulin and not all the rooflights have been inserted. The appeal must, nevertheless, be considered on its own merits.

Main Issue

3. The main issue in the consideration of this appeal is the effect on the character and appearance of the host dwelling, the Sackville Gardens Conservation Area, within which the site is located, and the streetscene.

Reasons

4. Despite the variety of designs within the Conservation Area there are important groups of dwellings that have a particularly unified character. Moreover, the appeal concerns one of a number of adjacent properties, which are mainly semi-detached and of a similar design. These all have hipped roofs, as did that at the appeal site prior to the works starting. They are also characterised by features such as two storey bays and yellow bricks. Consequently, the group has a significant degree of uniformity and regularity, contributing positively to both the streetscene and Conservation Area.
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5. Furthermore, the dwellings are specifically identified in the Council's *Sackville Gardens Conservation Area Character Statement* as a group. This implicitly acknowledges their importance and consistency, despite the absence of any specific mention of the symmetrical hipped roof form of the overall buildings. The Appellant points out that there are gable ended properties next to others with hipped roofs in the street. However, these are not located within the group of dwellings which include that at the appeal site so that they do not detract from its integrity.
6. The constructed gable end abruptly and unacceptably contrasts with the hips of adjacent properties, as well as severely unbalancing the appearance of the pair of dwellings. This incongruous juxtaposition is readily seen from the street. Moreover, the presence and uncharacteristic additional bulk of the rear dormer extension at the side of the dwelling is also apparent from the road, due to its proximity to the gable end, further exacerbating the undue contrast with neighbouring buildings. The proposal has also resulted in the originally imposing chimney stacks being appreciably reduced in their height and appearing unduly stunted by comparison with others in the vicinity.
7. Because of their number, the rooflights would appear unacceptably cluttered and dominant in the enlarged front roof slope. The rear dormer extension due to the particularly limited gaps to the sides, ridge and eaves would be an overly assertive and box-like addition, appearing somewhat awkward as it partly emerges from the roof of the two storey rear projection. This would be the case despite the windows reflecting the vertical emphasis of those below. It would also be visible from a number of properties to the west and form part of the built fabric of the Conservation Area regardless of the absence of public viewpoints. In consequence, the proposal is unduly detrimental to the architectural integrity of the host dwelling and group and unacceptably diminishes the positive contribution they make to the Conservation Area and streetscene.
8. The Appellant has referred to development permitted elsewhere. However, the additions in Carlisle Road are outside the Conservation Area and the property at 24 Queens Park Rise is in a different Area. In addition, the front dormer addition at 43 Walsingham Road is on the opposite side of the road and not, therefore, within the same group as no. 38. Furthermore, the rear dormer in Walsingham Road, shown in the photograph on page 7 of the Appellant's Planning Support Statement, is noticeably narrower than that the subject of this appeal. Planning permissions at nos. 42 and 44 are also referred to but the full details and background have not been provided so that no meaningful comparison can be made with the current proposal. These other cases therefore lend no significant support to the appeal, which must, in any event, be considered on its own merits.
9. Due to the above factors, it is concluded that the proposal harms the streetscene and the character and appearance of the host dwelling, while failing to preserve that of the Conservation Area. The latter is contrary to the main aim of Brighton and Hove Local Plan 2005 Policy HE6. The proposal is also in conflict with Policy QD14, which among other things, intends that extensions should be well designed in relation to the property to be extended and the surrounding area.

10. It is made clear in the Council's Supplementary Planning Guidance (SPG) *SPGBH note 1, Roof Alterations & Extensions* that hip to gable alterations on semi-detached dwellings will be unacceptable because of the resultant imbalance, as in this case, and dormer additions should be kept as small as possible. In Conservation Areas rooflights should be kept to as few as possible and not dominate the roof. The proposal therefore conflicts with the SPG and because of the substantial adverse effects described above there are no sound reasons for not applying the guidelines in this instance.
11. The distance from the rear of properties in Carlisle Road means that there would be no unacceptable overlooking. Nevertheless, given the unacceptably detrimental impact and taking account of all other matters raised, it is determined that the appeal fails. In reaching this decision the views of local residents have been taken into account.

M Evans

INSPECTOR



Appeal Decision

Site visit made on 7 October 2011

by **C J Leigh** BSc(Hons) MPhil(Dist) MRTPI

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

Decision date: 26 October 2011

Appeal Ref: APP/Q1445/A/11/2154926
19-20 Westbourne Villas, Hove, BN3 4QG

- 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 Baron Homes Corporation Ltd, against the decision of Brighton and Hove City Council.
 - The application Ref BH2011/00310, dated 3 February 2011, was refused by notice dated 5 April 2011.
 - The development proposed is a second floor rear extension to form one additional flat.
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Decision

1. The appeal is dismissed.

Main issues

2. The main issues in this appeal are the effect of the proposed development on, firstly, the character and appearance of the Sackville Gardens Conservation Area and, secondly, the living conditions of existing occupiers.

Reasons

Character and appearance

3. The appeal property is a substantial building divided into flats, which has an attractive frontage and presence to Westbourne Villas and makes a positive contribution to the character and appearance of the Sackville Gardens Conservation Area. The wider area contains a mix of family houses and flats and there is an pleasant, mature residential character to the street.
 4. The architectural integrity of the rear of the appeal property has been compromised by the large extension which is imbalanced, being two storey to the rear of No. 20 and three storey to the No. 19; the third storey being tile-hung and flat roof. This extension relates poorly to the host property and dominates the building and back garden area with Sackville Gardens, and the imbalance highlights this prominence. Balconies and external staircases further emphasise the extension.
 5. The proposed development would see an additional storey to the 2-storey element of the extension and so match the 3rd storey tile-hung extension. Whilst there might be benefits from introducing a sense of balance to the rear of the property, by mirroring the design of an insensitive and prominent addition, the prominence and intrusion of the rear addition would be
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emphasised. The resulting rearward projection would appear dominant and imposing to the back garden location and further upset the integrity of the original building. Thus, harm would be caused to the character and appearance of the Conservation Area, which would be contrary to Policies QD1, QD2, QD14 and HE6 of the Brighton & Hove Local Plan 2005, which seek to ensure a high standard of design in the area that takes account of the local characteristics of the area, including conservation areas.

Living conditions

6. There is a window serving a bed-sit dwelling within the appeal property that adjoins the existing flat roof where the new extension is proposed. It is evident from the submitted information and observations at the site visit that occupants of that dwelling rely on good light through that window for a reasonable standard of internal accommodation.
7. The proposed extension would be located to the south of this window. The close proximity, depth and height of the extension give me concerns that there would be an appreciable and material loss of light and outlook to that window. Based on the submitted information this leads me to conclude that harm to the living conditions of existing occupiers would be adversely affected. The removal of the flat roof and the potential for disturbance from use of that area does not outweigh this matter. Thus, the proposal would be contrary to Policy QD27 of the Local Plan which, amongst other matters, seeks to ensure new development is not harmful to the living conditions of existing residents.
8. The distance retained from the proposed extension to the adjoining properties to the north and west would be sufficient to ensure no overbearing effect or loss of light to neighbouring residents. However, this does not alter the above findings and consequent conflict with the relevant Policy QD27 of the Local Plan.

Other considerations and conclusion

9. The proposed development would lead to a more intensive use of the appeal site through the provision of an additional small dwelling. I am informed by the Council there is a need for small dwellings, and the size and layout of the dwelling would provide suitable accommodation. An additional dwelling in this locality is therefore in principle acceptable.
10. However, the proposals in this appeal would lead to a form of development that is harmful to the character and appearance of the surrounding area and the living conditions of existing occupiers. These matters outweigh the provision of an additional dwelling and the appeal is dismissed.

C J Leigh

INSPECTOR



Appeal Decision

Site visit made on 7 October 2011

by **C J Leigh** BSc(Hons) MPhil(Dist) MRTPI

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

Decision date: 26 October 2011

Appeal Ref: APP/Q1445/A/11/2154871

130 Cowper Street, Hove, East Sussex, BN3 5BL

- 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 R Raggio, against the decision of Brighton and Hove City Council.
 - The application Ref BH2010/03782, dated 17 November 2010, was refused by notice dated 3 March 2011.
 - The development proposed is described as 'the change of use from offices/light industry to residential one unit'.
-

Preliminary matters

1. The proposed development would see the demolition of the existing single storey commercial premises on the site and the erection of a two storey, 3-bedroom house, and so I have determined the appeal on this basis.
2. I have had regard to the Draft National Planning Policy Framework document, issued for consultation on 25 July, but as this document is still in draft form and subject to change, I have accorded its policies little weight.

Decision

3. The appeal is dismissed.

Main issues

4. The first main issue in this appeal is whether the proposed development would be consistent with planning policies relating to the provision of employment use. The other main issues are the effect of the proposed development on the character and appearance of the surrounding area, and the effect on the living conditions of existing occupiers.

Reasons

Employment policy

5. The premises are currently occupied by a car repair workshop. There is dispute between the main parties as to the lawful commercial use of the premises: B1 or B2. But in relation to the relevant employment policies of the Brighton & Hove Local Plan 2005 there is no material difference. Policy EM3 states that land in industrial use (defined as Use Classes B1, B2 and B8) will not be released for other uses unless the site has been assessed and found to be unsuited for modern employment needs. A set of criteria are listed against
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- which sites will be assessed. If a site is released, then the Policy continues to say that preference will be given to alternative industrial or business uses, followed by live-work units or affordable housing.
6. Policy EM6 of the Local Plan contains similar objectives specifically in relation to small industrial premises (B1, B2 and B8 use of 235sq m or less, a definition which includes the appeal premises). This Policy requires, amongst other matters, premises to be vacant and marketed.
 7. The use of the appeal site as open market housing would be contrary to Policy EM3, which sets out the preferred uses for employment land. The site is not vacant and has not been marketed and so is contrary to Policy EM6. The Local Plan clearly envisages robust evidence to be provided to demonstrate why land is unsuited for continued employment use, and I have not been provided with sufficient justification as to why the land is inherently unable to continue for employment purposes. I noted the existing premises on the site, but it is relevant that, should those premises be wanting, the Local Plan seeks that the land be put to alternative employment uses; and, indeed, permission has been granted for a first floor extension to the existing workshop in 2009 (ref. BH2009/01561).
 8. Due to the dispute relating to the lawful use of the premises I give little weight to the appellant's claim that the current activities are in B2 use and cause undue disturbance to neighbours; the Council state that a B2 use should not be occurring and so, if B1 use occupied the premises, then by definition no disturbance would occur.
 9. On the basis of the evidence submitted, the requirements of Policies EM3 and EM6 have not been satisfied that set out the clear preference for land in employment use to be retained in such use. Loss of the employment use to open market housing would be contrary to these policies, and so there would be conflict with the first main issue in this appeal.
 10. I am also mindful of the Ministerial Statement on Planning for Growth (March 2011), to which I attach significant weight. This states that the Government's top priority is to promote sustainable economic growth and jobs. Local planning authorities are required to support enterprise and facilitate housing, economic and other forms of sustainable development and, in determining planning applications, they should ensure they give appropriate weight to the need to support economic recovery and that applications securing sustainable growth are treated favourably. The expectations upon local planning authorities set out in the Ministerial Statement are clearly relevant to the case before me, in light of my comments in the preceding paragraphs regarding the Council's clear policies that favour retention of land in employment use. This reinforces my conclusion that the appeal would conflict with the aforementioned Local Plan policies.

Character and appearance

11. Cowper Street is a tightly built-up, predominately residential road of terrace housing that display a similar form and massing. The proposed dwelling is poorly detailed in its fenestration, with size, proportions and positioning of windows and door significantly at odds with the rest of the terrace. This difference is mainly evident in the ground floor of the proposed building, which differs from the design of the approved 2009 extension permission.

12. I agree with the Council that, when combined with the setting-forward from the building line of the terrace and with the different roof form to the adjoining houses, the dwelling would appear incongruous and discordant to the street. The existence of the large Church nearby does not present a comparable feature in the street scene that supports the design of the proposed house: the submission is lacking in such quality in its elevations. This would cause substantial harm to the character and appearance of the surrounding area, which would be contrary to Policies QD1, QD2 and QD3 of the Local Plan, which seek to ensure a high standard of design in all new development.

Living conditions

13. The proposed development would bring a two storey building closer to the short rear gardens of the adjoining Rutland Road houses. There would be an imposing impact upon the outlook of these houses. However, this relationship would be very similar to that which would exist upon implementation of the 2009 permission: the slightly further projection to the rear in the current scheme would not have any materially greater impact on the neighbouring properties.
14. Due to the existence of this fallback position, which I consider a realistic possibility, my conclusions on the third main issue must be that the current proposal would have no different effect upon the living conditions of adjoining occupiers than that which is likely to occur in any event through the Council's grant of permission for the extension in 2009. Thus, there would be no conflict with Policy QD27 of the Local Plan, which seek to ensure new development is not harmful to the amenity of existing residents.

Conclusions

15. I have had regard to the other matters raised in this appeal, but the principal issues are the three identified above. Due to the clear conflict that arises with the policies of the Local Plan arising from the first two main issues, no other matters in this appeal outweigh those findings. The appeal is therefore dismissed.

C J Leigh

INSPECTOR



Appeal Decision

Site visit made on 14 October 2011

by J O Head BSc(Econ) DipTP MRTPI

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

Decision date: 27 October 2011

Appeal Ref: APP/Q1445/A/11/2153351

Site adjoining 72 Farm Road, Hove, East Sussex BN3 1FD

- 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 Manuel Aden against the decision of Brighton & Hove City Council.
 - The application Ref BH2010/03860, dated 15 December 2010, was refused by notice dated 25 February 2011.
 - The development proposed is the formation of a self-contained unit for preparation, storage and distribution, together with revised fenestration and a first floor extension to accommodate office space.
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Decision

1. **The appeal is dismissed.**

Clarification

2. The description of the development above is the one used by the Council, which reflects the details of the proposal more clearly than that on the planning application form.

Main Issue

3. Farm Road lies behind the large terraced houses in Brunswick Place and is within the Brunswick Town Conservation Area. It links the busy retail area of Western Road with Lansdowne Road, to the north, and is subject to a one-way traffic restriction in the south to north direction.
4. The main issue is the impact of the proposal on highway safety and the free flow of traffic on Farm Road, with particular reference to vehicles loading and unloading at the site.

Reasons

5. The appeal site is on the east side of Farm Road, which is lined by a mixture of garages, commercial and residential properties and open yards, on land that probably originally formed the ends of the rear gardens of the houses in Brunswick Place. The west side of Farm Road is more regularly built up, comprising 3-storey terraced dwellings and public houses with some commercial activity in mews behind.

6. The appeal proposal relates to the site immediately to the north of the 2-storey shop at No 72, which is occupied by a single storey flat roofed commercial building. The 2 buildings are currently linked internally and both are occupied by the appellant's butchers business. The single storey building is of utilitarian design and no architectural merit. It would be replaced by a pitched-roofed 2-storey building designed to have the appearance of a typical 19th century dwelling. Subject to satisfactory detailing, which could be ensured by condition if the appeal were to be allowed, this would represent a significant improvement to the street scene and would enhance the character and appearance of the conservation area.
7. The proposed new building would, however, have no connecting link with No 72. This physical separation would result in the formation of 2 self-contained commercial units. It is not clear whether the butchers business would continue to occupy No 72. The appellant states that the butchers would close as a retail outlet, and this therefore seems unlikely, given the lack of any internal linkage between the units. Whatever the appellant's intentions, however, no mechanism is suggested to prevent the two units being used in the future by separate occupiers with differing business needs and characteristics.
8. Farm Road is relatively narrow. There are residents' parking bays along the west side, together with communal wheely bin bays, one of which is opposite the appeal site. These restrict the available width of the carriageway. There is no footway on the east side and a double yellow line parking restriction applies. There is no provision at the appeal site or at No 72 for vehicles to load and unload clear of the highway, neither is there any on-site parking provision¹. Consequently, vehicles delivering to or collecting from the premises, as existing or as proposed, would need to park on the highway. This could cause a hazard to pedestrians and, for any vehicle larger than a carefully parked car or light van, would lead to an obstruction for traffic travelling along Farm Road.
9. The existing butchers business has been in operation for many years, apparently without this situation causing any difficulty. The appellant states that there is only one lorry delivery per week. However, there can be no guarantee that this situation will continue. Moreover, the separate occupation of No 72 for retail or other commercial use by another party would be likely to give rise to further traffic generation, with the possibility of more frequent deliveries and no control over the size of vehicles involved.
10. Local plan Policies TR1 and TR7 require development proposals to provide for the demand for travel that they create and not to increase the danger to road users. The Council's supplementary planning guidance on parking standards advises that, in all areas, uses such as that proposed should provide an area for waiting and unloading. That advice is not followed in the appeal proposal, with the result that large vehicles calling at No 72 or at the appeal premises would prevent the use of Farm Road by through traffic. Drivers turning into Farm Road from Western Road may not be aware of the obstruction. At worst, this could cause a back-up of traffic into Western Road or encourage reversing movements back out onto Western Road by drivers seeking an alternative route. Both situations would be hazardous to highway users.

¹ Staff vehicles and vans are parked in rented spaces further to the north in Farm Road. There is no evidence that this land is under the control of the appellant.

11. Accordingly, although the proposed development would be of benefit to the character and appearance of the conservation area, this would be outweighed by the harm that it would cause to highway safety and the free flow of traffic on Farm Road, in conflict with Local Plan policies. The proposal is, therefore, unacceptable and the appeal does not succeed.

John Head

INSPECTOR



Appeal Decision

Site visit made on 7 October 2011

by **C J Leigh** BSc(Hons) MPhil(Dist) MRTPI

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

Decision date: 26 October 2011

Appeal Ref: APP/Q1445/A/11/2155439

Tim Jones House (also known as Rochester House), Rochester Gardens, Hove, East Sussex, BN3 3AW

- 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 N Askaroff, against the decision of Brighton and Hove City Council.
 - The application Ref BH2011/00857, dated 22 March 2011, was refused by notice dated 18 May 2011.
 - The development proposed is described as 'minor external alterations and formation of residential unit within roof space'.
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Preliminary matters

1. The Council's description of the proposed development describes more accurately the proposed external alterations, and so I have determined this appeal on the basis of seeking planning permission for conversion of roofspace to form residential unit incorporating relocation of existing dormer, and additional dormer to front, rooflights to rear and associated works.

Decision

2. The appeal is allowed and planning permission is granted for conversion of roofspace to form residential unit incorporating relocation of existing dormer, and additional dormer to front, rooflights to rear and associated works at Tim Jones House (also known as Rochester House), Rochester Gardens, Hove, East Sussex, BN3 3AW in accordance with the terms of the application, Ref BH2011/00857, dated 22 March 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) No development shall take place until a scheme for the storage of refuse and recycling has been submitted to and approved in writing by the local planning authority. The scheme shall be carried out in full as approved prior to first occupation of the development and the refuse and recycling storage facilities shall thereafter be retained for use at all times.
 - 3) The development hereby permitted shall not be commenced until details of secure cycle parking facilities for the occupants of, and visitors to, the development hereby approved have been submitted to and approved in writing by the Local Planning Authority. These facilities shall be fully implemented and made available for use prior to the occupation of the
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development hereby permitted and shall thereafter be retained for use at all times.

- 4) No residential development shall commence until:
 - (a) evidence that the development is registered with the Building Research Establishment (BRE) under Ecohomes (or an equivalent or successor assessment tool) and a Design Stage Assessment Report showing that the development will achieve an Ecohomes Refurbishment rating for all residential units have been submitted to, and approved in writing by, the Local Planning Authority; and
 - (b) a BRE issued Design Stage Certificate demonstrating that the development has achieved an Ecohomes Refurbishment rating for all residential units has been submitted to, and approved in writing by, the Local Planning Authority. A completed pre-assessment estimator will not be acceptable.
- 5) The dwelling hereby approved shall not be occupied until an Ecohomes Design Stage Certificate (or certificate from equivalent or successor assessment tool) and a Building Research Establishment issued Post Construction Review Certificate confirming the residential unit built has achieved an Ecohomes Refurbishment rating has been submitted to, and approved in writing by, the Local Planning Authority.
- 6) The development hereby permitted shall be carried out in accordance with the following approved plans: 0136.EXG.001, 0136.EXG.002, 0136.EXG.003 and 0136.PL.001.

Main issues

3. The first main issue in this appeal is whether the proposed development would provide satisfactory living conditions for future occupants. The second main issue is whether adequate parking provision would be provided for the proposed development.

Reasons

Living conditions

4. The appeal premises are currently in the process of refurbishment for office use. The proposed dwelling would be provided within the roof space, with associated alterations to the roof. Whilst there would be a 'front door' to the dwelling at second floor, up to that point access to the dwelling would be shared with the staircase serving the office use from ground through to second floor. Residential access to this staircase from outside the building would, though, be separate from the office access: from the side of the building rather than the principal front entrance, though this would also be an emergency exit for office occupiers.
5. This access arrangement would be satisfactory. Residents would be able to enter the building away from the principal commercial access and use a staircase for direct and convenient access to their home. Although they may encounter office workers and visitors to the building, this mixing of activities would occur within an area outside their private home: behind their front door the flat would remain entirely private. This is akin to the situation that might occur in many instances where a private dwelling opens onto a mixed or public space. Furthermore, future occupants of the dwelling would be aware that they

may encounter workers once going beyond their private door: the quality of the proposed accommodation would not suffer from this, and I have little reason to doubt that the proposed flat would not be attractive to future occupants.

6. I am informed that compliance with the relevant building regulations and other legislation would ensure levels of noise transmission between the office use and the flat would not lead to unreasonable disturbance for future occupants, and would not impose upon the use of the offices. I see no reason to disagree with this.
7. The proposed flat would therefore provide satisfactory living accommodation for future occupants and would not be imposing upon the office use beneath. The proposal would therefore satisfy Policy QD27 of the Brighton and Hove Local Plan 2005, which seeks to ensure all development protects the amenity of proposed and existing users and residents.

Parking provision

8. The submitted drawings show the cycle parking facilities would be provided to the side of the premises. Whilst the Highway Authority accept the amount of cycle parking, and raise no objection to the absence of car parking, they require the facilities to be covered. I note that the Council's Supplementary Planning Guidance Note 4: Parking Standards 2000 (SPG) does not require cycle parking to be covered, but such a requirement is set out in Policy TR14 of the Local Plan for new dwellings.
9. The appellant raises no objection to providing covered parking and has submitted a drawing to demonstrate how this might be provided. Since that drawing has not been the subject of full consultation I have not accepted it as part of this appeal. However, along with my observations at the site visit, it illustrates to me that there appears to be the potential to provide a covered cycle store without harm to the character and appearance of the area, or without hindering access to the appeal property. This matter can therefore be dealt with by condition, as suggested by the appellant.
10. Due to the location of the appeal site close to local shops and services, within a sustainable urban location, I similarly concur that the absence of car parking in this instance is acceptable. I note the Highway Authority's request made at the planning application stage for a financial contribution towards improving sustainable modes of transport within the vicinity of the site, but the subsequent Planning Officer's Report states that such a payment was not being sought. I have not been informed during this appeal that the local planning authority's position has changed, and so in the absence of any renewed request for a contribution I find such a contribution would be unnecessary. With the provision of a covered cycle store, the proposed development would therefore satisfy the objectives of Policies TR1, TR14 and TR19 of the Local Plan, and the SPG, which seek to ensure development proposals make adequate provision for their travel demand and satisfy parking requirements.

Other considerations

11. The proposed alterations to the roof include the relocation of an existing dormer and insertion of new dormers and rooflights. These changes would be

sensitive to the building and wider area, and so there would be no harm to the character and appearance of the Brunswick Town Conservation Area.

Conclusions and conditions

12. The proposed development would therefore be consistent with the objectives of the Local Plan for the reasons given and the appeal is allowed.
13. I have attached the Council's suggested conditions requiring submission of details relating to the refuse store and cycle parking provision, to ensure a satisfactory provision of both, as indicated earlier. I have attached conditions relating to the construction of the development to the Code for Sustainable Homes and for Lifetime Homes, since those objectives are supported by Local Plan Policies SU2 and HO13, and the Council's Supplementary Planning Document SPD08. Finally, I have also imposed a condition identifying the approved plans because, 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 number of conditions have been modified in the interests of precision and enforceability.

C J Leigh

INSPECTOR



Appeal Decision

Site visit made on 25 October 2011

by Jessica Graham BA(Hons) PgDipL

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

Decision date: 1 November 2011

Appeal Ref: APP/Q1445/A/11/2155953
51 Buckingham Place, Brighton BN1 3PQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Ms J Bunday against the decision of Brighton & Hove City Council.
 - The application Ref BH2011/00730, dated 9 March 2011, was refused by notice dated 13 May 2011.
 - The development proposed is the demolition of the garage at the rear of the site, fronting Howard Place, and the construction of a detached two-storey house.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of the garage at the rear of the site, fronting Howard Place, and the construction of a detached two-storey house, at 51 Buckingham Place, Brighton BN1 3PQ in accordance with the terms of the application, Ref BH2011/00730, dated 9 March 2011, subject to the ten conditions set out in the schedule attached to this decision letter.

Main issues

2. I consider the main issues to be
 - (a) the effect that the proposed development would have upon living conditions of other existing dwellings at Buckingham Place, with particular regard to visual impact;
 - (b) the effect that the proposal would have upon the character and appearance of the area; and
 - (c) whether the development would make adequate provision for outdoor amenity space to serve each of the units of accommodation on the site.

Reasons

3. No. 51 is a terraced property composed of four storeys, including a basement and an attic, and has been converted to form flats. The rear elevation of the self-contained basement flat incorporates French doors opening on to a sunken patio, but aside from this private courtyard space, I am told that none of the existing flats have access to the area to the rear of the building. This currently contains a large single-storey garage set some distance back from the kerb behind a tarmac slope, with a pedestrian access route alongside the garage, and a small space behind it, laid to concrete. The property lies within the West Hill Conservation Area.

Living conditions at neighbouring properties

4. Views from the rear-facing windows of the lower storeys at No. 51 are already somewhat restricted. The kitchen window of the basement flat and the french doors serving the bedroom face a retaining wall on the opposite side of the sunken patio, such that to the extent that it is visible above this wall, the existing garage barely features in the outlook from those windows. That situation would be very little altered by the proposed replacement of the garage with the new dwelling.
5. While the appeal site would be levelled off so that the new house would be set slightly lower than the current garage, the height of the dwelling would be considerably greater than this existing single-storey structure. However, its roof would be hipped to the rear, to reduce the impact of the increased height upon the properties at Buckingham Place. I note that the two rear-facing windows of the ground floor flat both serve bedrooms, and the main living space is on the opposite side of the building. The proposed house would clearly be more noticeable than the existing garage in views from these bedroom windows, but in my judgment it would not be so obtrusive as to significantly reduce the outlook from the ground floor flat. Similarly, while it would have a greater presence than the garage in views from the windows of the flats above, that presence would not be so overbearing as to adversely affect the living conditions of their occupiers. Further, the disposition of the openings in the proposed house would be sufficient to prevent any overlooking between the new and existing dwellings.
6. The existing garage is set some distance in from the boundary wall of the rear garden serving No. 53, whereas the proposed dwelling would be constructed right against this wall, to an eaves height of some 4.8m. This would clearly make it far more obvious than the existing garage in views from the rear-facing windows of No. 53, particularly those at ground-floor level. I have not been provided with any information concerning the layout of the living accommodation at No. 53, but from what I saw at my site visit, the ground floor windows do not appear to serve main living areas. In any event, views from them toward the proposed development would be oblique, and I am satisfied that the modest proportions and roof profile of the new dwelling would ensure that it would not appear unduly dominant or overbearing.
7. I therefore conclude that the proposed development would comply with Policy QD27 of the Brighton & Hove Local Plan 1995, which provides that planning permission will not be granted where it would cause loss of amenity to existing residents.

Character and appearance

8. The existing garage fronts on to Howard Place, which lies at the top of a railway cutting and so is visible in views across Brighton's central valley. The West Hill Conservation Area Character Statement records that *The backs of the gardens to the properties in Buckingham Place, the mixture of modern and older buildings, and the many "left-over" spaces, results in a lack of visual cohesiveness to the streetscape in this part of Howard Place, accentuated by its rather run-down and neglected appearance*". I consider that a fair assessment; the poor condition of the tarmac in front of the garage, and of the brick arch alongside it, contribute to the rather dilapidated appearance of the area.

9. The proposed development would replace the garage with a modern interpretation of a coach house. Unlike the existing garage its street elevation would align with the garden walls to the east, reinstating the historic frontage. The simple, gabled form of this main elevation, incorporating timber boarding at ground floor level, is an appropriate design response that harmonises with the scale and character of the other existing buildings, and in my judgment would improve the current appearance of this part of the conservation area. While the angled frontage and hipped form of the rear part of the roof are slightly awkward features, they arise from the constraints of the context and do not undermine the visual benefit that would derive from replacing the existing garage with the proposed house.
10. The new dwelling would have a limited amount of outside amenity space, but that is not unusual in the context of a modest dwelling located within a built-up area, and there would be sufficient outdoor space for future occupiers to sit outside, grow some plants, and hang out their washing. In the context of the existing density of development in the area, I consider the scale and plot coverage of this proposal an appropriate form of development that would not appear cramped or excessive.
11. I find that the proposed development would accord with the objectives of Policies QD1, QD2 and QD3 of the Local Plan, which seek to ensure that any new building makes a positive contribution to the visual quality of the environment, enhancing positive characteristics of the local neighbourhood and making efficient and effective use of its site.

Outdoor amenity space

12. There is some disagreement between the Council and the appellant as to the existing use of the area to the rear of No. 51. The Council contends that the planning permission granted for the subdivision of No. 51 into flats (ref. BH2007/00080) included access to this area, as a shared outdoor amenity space, for the occupiers of the flats then created. The Council accepts that the current proposal would make adequate provision of outdoor amenity space, refuse/recycling facilities and cycle parking for the future occupiers of the new dwelling, but is concerned that no provision is made for access to outdoor amenity space, or refuse and recycling storage facilities, for the occupiers of the existing flats at No. 51.
13. The appellant, on the other hand, contends that it was not the intention of the earlier permitted conversion to provide outdoor amenity space for the occupiers of the flats at No. 51; the ground floor plan made provision for an internal cycle store, and access to a refuse store behind that, but this refuse store was subsequently found not to be necessary. The appellant's evidence is that the area around the garage has not been used as outdoor amenity space by the occupiers of the flats, and that there is no realistic prospect of it ever being used as such; all of the flats are rented and have proved very popular due to their central location and proximity to the railway station, with the typical tenants being young single people or couples who have no requirement for a garden.
14. I saw at my site visit that the extent of the outdoor amenity space to the rear of No. 51 is limited to a concrete path alongside the garage, and a very small area of hard-standing between the garage and the sunken patio that serves the basement flat. I find it difficult to believe that, even if access to this space

were made available to the occupiers of the flats at No. 51 in the manner that the Council contends was envisaged by the plans approved under ref. BH2007/00080, any meaningful or satisfactory use could have been made of it as a shared outdoor facility. On that basis, the loss of the possibility of its use for that purpose would have little if any adverse impact upon the living conditions of the flats at No. 51; it is far from unusual for small flats in a central urban location not to have access to private outdoor amenity space of any kind, and in this case, the evidence strongly suggests that shared use of a small area of neglected hard-standing is not a benefit that the current occupiers would miss.

15. As to the provision of refuse and recycling storage facilities, the appellant contends that following the Council's introduction of communal on-street refuse bins, the residents of the flats at No. 51 abandoned the inconveniently sited ground-floor storage area, accessed through the cycle parking area, because it was easier for them to place their recycling in boxes stored in the communal hallway (which I am told is wide enough for that purpose) or on the front steps. I have no reason to doubt (or indeed fault) this alternative arrangement, and on that basis, I consider that the use of this former refuse storage area to provide cycle parking for the future occupiers of the new dwelling would have no adverse impact on the living conditions or amenities of the occupiers of the existing flats. Nor would it conflict with the aims of Local Plan Policy SU2, which seeks to ensure a high standard of efficiency with regard to such matters as the provision of space for refuse and recycling.
16. Taking all of this into account, I am satisfied that the proposed development would make adequate provision for both the proposed and existing units of accommodation at No. 51, in terms of refuse, recycling and cycle parking facilities, in accordance with Policies SU2 and TR14 of the Local Plan. The proposal would incorporate sufficient outdoor amenity space to serve the new dwelling, and the lack of any such provision for the existing flats would not be inappropriate, given their size, location and context. I therefore consider that the proposal would also accord with Policy HO5 of the Local Plan, which seeks to ensure the provision of private useable amenity space, where appropriate to the scale and character of the development.

Conditions

17. The Council suggested a number of conditions that it believes would be necessary if the appeal were to be allowed. Given the proposed dwelling's fairly prominent location within the conservation area, I agree with the Council that conditions are needed to secure the prior approval of specific design details and materials, require the use of appropriate render and rooflights, and prevent the addition of any discordant external features. I also share the Council's view that conditions are needed to ensure the recycling and refuse facilities, and cycle parking, are put in place before the dwelling is first occupied and, given the size constraints of the plot, to remove permitted development rights for any extension or enlargement of the dwelling without first obtaining planning permission.
18. In accordance with the Council's adopted policy and the appellant's stated intention, I have attached a condition requiring the development to achieve Lifetime Homes standards. However, I have a number of concerns about the Council's suggested conditions concerning achievement of Level 5 of the Code for Sustainable Homes. Such a requirement is not contained in any adopted

policy of the Development Plan, as advised by government guidance set out in *Planning and Climate Change* (a supplement to Planning Policy Statement 1), but stems instead from the Council's Supplementary Planning Document (SPD) 08: *Sustainable Building Design*.

19. The SPD advises that new dwellings on "greenfield" sites (on its terms, sites which do not constitute "previously developed land" as defined by PPS 3) should achieve Code Level 5. I am not convinced that this a reasonable description of the appeal site. Most of it is currently occupied by the garage and the hard-standing that provides vehicular access to it, and notwithstanding the recent amendment that specifically excluded private residential gardens, the PPS 3 definition of "previously developed land" remains *that which is or was occupied by a permanent structure including... any associated fixed surface infrastructure*. In my judgment, the appeal site constitutes previously developed land, and as such the advice of the SPD would be that the proposed dwelling should achieve Code Level 3.
20. The appellant has confirmed that the proposed house will achieve Code Level 3, and this intention has informed many of the design features. I therefore consider that while a condition requiring the development to achieve Code Level 5 would be unduly onerous, and is not currently supported by any adopted Development Plan policy, a condition requiring the achievement of Level 3 would be reasonable.

Conclusion

21. I have found that the proposed development would enhance the appearance of the West Hill Conservation Area and would not cause any significant harm to the living conditions of existing residents, and that the amount of outdoor amenity space provided for the new and existing dwellings on the site would be appropriate to their scale and character. I do not consider there to be any other material considerations sufficient to outweigh its consequent compliance with the relevant Development Plan policies.
22. I therefore conclude that the appeal should be allowed.

Jessica Graham

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) Subject to the provisions of condition 3 below, the development hereby permitted shall be carried out in accordance with the approved plans numbered 270/P20 – 270/P34 inclusive.
- 3) Notwithstanding the provisions of condition 2 above, no development shall take place until the following details have been submitted to, and approved in writing by, the local planning authority:
 - (i) the treatment of the recessed entrance, its paving and door threshold;
 - (ii) the rooflights, which shall be of traditional design and made of steel or cast iron;
 - (iii) the solar panels, which shall be integrated and flush with the roof slates;
 - (iv) drawings showing elevations and sections of the features of the dwelling hereby permitted, including windows, doors, timber screen, glass balustrades, eaves, parapets and copings, at a scale of 1:20;
 - (v) drawings showing sections of the external joinery, at a scale of 1:1; and
 - (vi) samples of the materials and colours to be used in the construction of the external surfaces, including the rainwater goods, of the development hereby permitted.

The development shall be carried out in accordance with the approved details, and thereafter retained as such.
- 4) The walls shall be smooth rendered in a cement/lime/sand render mix down to ground level and shall be lined out with ashlar joint lines to match the original building and shall not have bell mouth drips above the damp proof course or above the window, door and archway openings and the render work shall not use metal or plastic expansion joints, corner or edge render beads and shall be painted in a smooth masonry paint in a colour to be approved by the local planning authority in accordance with condition 3 above.
- 5) No cables, wires, aerials, pipework, meter boxes or flues shall be fixed to the frontage elevation (facing Howard Place) of the dwelling hereby permitted.
- 6) All roof ventilation and extract outlets shall use flush, concealed slate/tile vents, to match the roof covering, and concealed ridge and eaves ventilators.
- 7) The dwelling hereby permitted shall not be occupied until the refuse and recycling storage facilities, and cycle parking facilities, have been provided in accordance with the details shown on the approved plans and made available for use. These facilities shall thereafter be retained for their intended purpose at all times.
- 8) The development shall achieve Level 3 of the Code for Sustainable Homes, and the dwelling shall not be occupied until a final Code Certificate has been issued for it certifying that Code Level 3 has been achieved.

- 9) The dwelling shall be constructed to Lifetime Homes standards prior to its first occupation, and retained as such thereafter.
- 10) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no extension, enlargement or other alteration of the dwelling hereby permitted shall be carried out without first obtaining planning permission from the local planning authority.



Appeal Decision

Site visit made on 25 October 2011

by Jessica Graham BA(Hons) PgDipL

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

Decision date: 1 November 2011

Appeal Ref: APP/Q1445/A/11/2157573

Land at Upper Hollingdean Road, Brighton, East Sussex BN1 7GA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under a development order.
 - The appeal is made by Vodafone Ltd against the decision of Brighton & Hove City Council.
 - The application Ref BH2010/03961, dated 17 December 2010, was refused by notice dated 7 February 2011.
 - The development proposed is the erection of a 12.5m high replica telegraph pole with 3 no. antennas, a radio equipment cabinet adjacent to the pole and development works ancillary thereto.
-

Procedural matter

1. In the course of determining the application, the Council noted some errors on the submitted plans. The appellant subsequently provided amended plans. Since the amendments are relatively minor and do not alter the substance of what is proposed, I am satisfied that in taking them into account, I would not prejudice the interests of any concerned parties. For the avoidance of doubt, then, my determination of this appeal is based on the details shown in the drawings numbered 100, 200 Rev A, 300 Rev A, 400, and 500 Rev A.

Decision

2. The appeal is allowed and approval is granted under the provisions of Part 24 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 (as amended) for the siting and appearance of a 12.5m high replica telegraph pole with 3 no. antennas, a radio equipment cabinet adjacent to the pole, and development works ancillary thereto on land at Upper Hollingdean Road, Brighton, East Sussex BN1 7GA in accordance with the terms of the application Ref BH2010/03961, dated 17 December 2010, and the plans submitted with it.

Reasons

3. The proposed mast would be 12.5m high, some 0.34m wide, and would be finished in brown paint to mimic a telegraph pole. It would be sited at the back edge of the stretch of pavement on the eastern side of the emergency access gates to the Hollingbury Depot, along with an equipment cabinet some 1.6m high, 1.8m wide and 0.5m deep, and a small electrical mains pillar cabinet.

4. These equipment cabinets, painted green and set against a 2m high brick and flint wall, would be of a simple and unobtrusive design that would blend in with the urban fabric of the area.
5. I saw at my site visit that there are various other types of street furniture of strongly vertical form nearby, including telegraph poles and street lights. The proposed mast would be taller, and wider in diameter, than these. However, Upper Hollingdean Road slopes steeply upward from east to west. In views from the east the mast would be seen against a backdrop of tall trees, telegraph poles and the Dudeney Lodge tower block, while from the west it would be screened, albeit to a limited extent, by the trees on the southern side of the street. In views from the north along Hollingbury Road, its setting would be the buildings of the Hollingbury Depot.
6. While it may reasonably be argued that any utilitarian structure, such as telecommunications equipment, will detract to some degree from the visual quality of its surroundings, I consider that this proposed installation would not appear isolated or incongruous in the context of the existing street furniture and urban character of this busy road. It would be noticeable, but would not appear unduly dominant, and would not cause any significant harm to the character or appearance of the area.
7. On that basis, I find that the proposed development would meet the objectives of Policies QD2 and QD23 of the Brighton and Hove Local Plan 2005, which aim to ensure that any new telecommunications development takes account of local characteristics, and has no serious adverse effect upon the character and appearance of the area.
8. The Council expressed concern that the proposal would result in an unacceptable reduction in the width of the pavement. I am mindful that this stretch of pavement forms part of a pedestrian route to nearby schools and is also used by the elderly and infirm, and I note that the amended plan submitted by the appellant shows that its width is more accurately measured as 2.4m, rather than the 2.7m originally stated.
9. Nevertheless, the siting of the proposed equipment would only reduce the width of the available pavement to 1.8m, which would still be more than adequate to allow passage for a wheelchair, or (for example) a parent pushing a pram while holding the hand of a child walking alongside. The proposal would therefore satisfy the aims of Policies TR7, QD2 and QD23 of the Local Plan, which seek to ensure that new development does not have an unacceptable impact on the safety or amenity of pedestrians.
10. The appellant provided a certificate confirming that the proposed equipment would comply with the International Commission for Non-Ionising Radiation Protection (ICNIRP) guidelines. On the basis of the evidence before me, there is nothing unusual about this proposal either technically or in its location in relation to existing buildings, and nothing to outweigh the Government's advice in Planning Policy Guidance Note (PPG) 8 that if telecommunication equipment meets the ICNIRP guidelines for public exposure, it should not be necessary to consider further its impact on health. Thus, while I acknowledge that the health-related fears of local residents are a material consideration, they do not weigh significantly against this proposal.

11. I have had regard to the various other concerns raised by local residents, but find that there are no material considerations sufficient to outweigh my conclusion that the proposed development would accord with the relevant policies of the Local Plan, and with national planning guidance set out in PPG 8. I therefore determine that the appeal should be allowed.

Jessica Graham

INSPECTOR



Appeal Decision

Site visit made on 25 October 2011

by Jessica Graham BA(Hons) PgDipL

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

Decision date: 27 October 2011

Appeal Ref: APP/Q1445/D/11/2160241
218 Ditchling Road, Brighton BN1 6JE

- 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 Shah against the decision of Brighton & Hove City Council.
 - The application Ref BH2011/01862, dated 27 June 2011, was refused by notice dated 22 August 2011.
 - The development proposed is the construction of a new single-storey extension to the rear and side of the property to provide an extension to the existing kitchen with adjacent utility room and bathroom.
-

Decision

1. The appeal is dismissed.

Main issue

2. The main issue is the effect that the proposed development would have upon the character and appearance of No. 218 and the wider area.

Reasons

3. No. 218 is one of a semi-detached pair of dwellings which, in common with the others on this side of Ditchling Road, has a central two-storey outrigger to the rear, and backs on to Ditchling Gardens. While the outrigger is of substantial size, its ridge and eaves heights are set below those of the main dwellings, indicating its subordinate function. The proposed extension would wrap around the end of this outrigger, creating an L-shaped single-storey structure with a gap of some 3m to the rear elevation of the main dwelling.
4. The new extension would be far wider than the existing outrigger serving No. 218; in fact it would be of equivalent width to the main dwelling. As such it would appear an unduly large addition to the rear of this property, with a bulk that would be out of keeping with the proportions of the existing house and outrigger, and unreflective of its function as a subsidiary extension. In my judgment the proposed development would appear an overly dominant addition to the existing dwelling, and as such would undermine its original character. The new extension would also appear as an incongruous addition in views from Ditchling Gardens, and so have a detrimental visual impact on the street scene.
5. I therefore find that the proposed development would conflict with the objectives of Policies QD1, QD2 and QD14 of the Brighton and Hove Local Plan 2005, which seek to ensure that any new extension makes a positive contribution to the visual quality of the environment, and relates well to the building to be extended.

6. I note that the occupiers of No. 216 have expressed concern about the impact the proposed extension would have upon the outlook from their property. While the extension would clearly be visible from No. 216, I am satisfied that its height and massing would not reduce the outlook from that property to such an extent as would harm the living conditions of the occupiers. However, the considerable harm that the proposed development would cause to the character and appearance of the host dwelling and the surrounding area, as discussed above, is sufficient reason in itself to refuse planning permission.
7. I therefore determine that the appeal should be dismissed.

Jessica Graham

INSPECTOR



Appeal Decision

Site visit made on 1 November 2011

by Michael Evans BA MA MPhil DipTP MRTPI

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

Decision date: 4 November 2011

Appeal Ref: APP/Q1445/D/11/2161374
95 Loder Road, Brighton BN1 6PL

- 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 Kevin Mills against the decision of Brighton and Hove City Council.
 - The application Ref BH2011/01899, dated 28 June 2011, was refused by notice dated 1 September 2011.
 - The development proposed is a single storey rear ground floor extension.
-

Decision

1. The appeal is allowed and planning permission is granted for a single storey rear ground floor extension, at 95 Loder Road, Brighton BN1 6PL, in accordance with the terms of the application Ref BH2011/01899, dated 28 June 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: 100 A, 101 A, 200 and 201 A.
 - 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) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no windows shall be constructed in the side elevations of the extension that face towards no. 93 and 97 Loder Road other than those shown on the approved plans.

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 host dwelling and surrounding area.
 - The effect on the living conditions of the occupiers of the adjacent dwelling at 97 Loder Road, in respect of sunlight,
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daylight and whether the extension would have an overbearing impact.

Reasons

3. The appeal concerns a dwelling located within a terrace characterised by the presence of two storey rear outriggers that span pairs of properties. The proposed extension would fill in the gap between the side of this projection and the boundary with no. 97 while also extending about 1.2m beyond the end and wrapping around it.
4. However, it would be of a relatively modest scale and height in relation to the larger existing projection. It would also appear as a distinct later addition, so that the characteristic form and extent of the original outrigger would remain fairly apparent. The noticeably more prominent roof and upper part of the rear projection would also be unchanged. As a subordinate infill addition the part to the side would reflect the former presence of the light well, with the noticeably larger two storey projection remaining the dominant feature at the rear. The proposal would not therefore detract from the repetitive nature of the rear of the terrace.
5. As a consequence of these factors, it is concluded that the character and appearance of the host dwelling and surrounding area would not be harmed. In consequence, there is compliance with the relevant aims of Brighton and Hove Local Plan 2005, Policy QD14. These include that the extension is well designed in relation to the property to be extended and the surrounding area.
6. The relatively modest single storey height of the extension, with the roof sloping down towards the boundary, would appreciably limit the effect of the proposal despite the depth of about 7m. In consequence, the extension would not have an overbearing impact and there would be no undue sense of enclosure, or unacceptable loss of sunlight or daylight at the neighbouring property. Because of the domestic use of the enlarged dwelling there would be no undue noise and disturbance.
7. Consequently, it is concluded that the living conditions of the occupiers of the adjacent property at 97 Loder Road would not be harmed. The proposal therefore accords with Local Plan Policies QD14 and QD27, which, among other things, seek to avoid such adverse effects.
8. Any need to access the adjacent property for maintenance purposes is a matter for the respective parties. No undue precedent would be set for additional development as the proposal is acceptable in any event and projects elsewhere would need to be considered in relation to their own individual circumstances. The roof extension the subject of a separate scheme has no significant bearing on the acceptability of the current proposal, which must be assessed on the basis of its own specific effect.
9. 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.
10. 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 protect the visual amenities of the area. In order to avoid undue overlooking of neighbouring properties it is necessary to prevent the insertion of additional windows in the sides of the addition under permitted development rights.

M Evans

INSPECTOR



Appeal Decision

Site visit made on 7 October 2011

by **C J Leigh** BSc(Hons) MPhil(Dist) MRTPI

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

Decision date: 26 October 2011

Appeal Ref: APP/Q1445/A/11/2156094
9 Hillbrow Road, Brighton, East Sussex, BN1 5JP

- 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 BH2010/03549, dated 21 October 2010, was refused by notice dated 7 January 2011.
 - The development proposed is the erection of two dwelling houses with new access drive and associated parking.
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Decision

1. The appeal is dismissed.

Main issues

2. The main issues in this appeal is the effect of the proposed development on, firstly, the living conditions of adjoining occupiers with particular reference to outlook and, secondly, the character and appearance of the surrounding area.

Reasons

Living conditions

3. The proposed development would see a new house erected at the southern end of the appeal site (termed 'plot 2'). This is currently open garden land that is very steeply sloped, with the sloping land continuing southwards to the gardens of Valley Drive houses. As a consequence the houses along Valley Drive are set notably lower than the appeal site. The siting of the proposed house would be close to the boundary with those houses, and would be over 6m high and have a rear elevation of around 15.5m alongside the mutual boundary.
 4. I acknowledge the Valley Gardens properties have garden lengths greater than 25m. Whilst this is greater than might be expected in many urban situations, what is unusual in this case is the great drop in levels between the appeal site and the Valley Drive houses. This means that, despite the length of gardens, the provision of a sizeable house in the position shown so close to the northern boundaries of the adjoining gardens would lead to a very appreciable sense of overbearing and intrusion upon the gardens to the neighbouring properties: I viewed the appeal site from a number of those gardens and I am in no doubt that the proposed house would appear dominant and imposing to users of the garden, due to the impression of a tall and extensive wall of development
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looming over the gardens at a raised level. The provision of planting between the proposed house and the boundary, or on the walls of the proposed house, would not mitigate this harm, nor would existing planting and tree cover be sufficient mitigation.

5. It is from within the garden that this intrusive effect would arise: the distance once in the houses of Valley Drive themselves, and the limited views out of those houses towards the location of the proposed house, mean there would not be an undue impression of intrusion or overbearing within the houses.
6. The positioning of windows within the proposed house on plot 2 would not lead to any loss of privacy to adjoining occupiers.
7. The proposed house fronting Hillbrow Road ('plot 1') would continue the line of frontage development along the road. It would sit comfortably between two houses and adjoin a flank elevation of 11 Hillbrow Road that does not contain windows. The massing and relationship of the house to adjoining properties mean no overbearing impact upon residents would occur. The positioning of windows within the dwelling would not to any loss of privacy.
8. Certain aspects of the proposed development would not give rise to any harm to the living conditions of adjoining occupiers. However, the harm arising from the effect upon the outlook from the gardens to the Valley Drive properties represents a conflict in the scheme with the objectives of Policies QD1, QD2, QD3, QD27 and HO4 of the Brighton and Hove Local Plan 2005, insofar as they seek to provide for new development, including housing, that does not lead to harm to living conditions for existing residents.

Character and appearance

9. The site lies within the built up area boundary, as defined in the Local Plan, and development in such areas is considered by the Local Plan to be acceptable in principle, subject to compliance with relevant development plan policies. I have been referred to Policy QD3 of the Local Plan, which seek to make the more efficient and effective use of sites, and Policy HO4, which specifically seeks to make full and effective use of land for housing, and permits residential development at higher densities. It is clear from these policies and their supporting text that design and other development control issues are of principle importance in determining the acceptability of any proposals for higher density housing.
10. The proposed house on plot 1 would continue the pattern of frontage development along Hillbrow Road. The design would be subtle and modern, sitting comfortably next to the larger houses either side and responding well to the narrower plot width. There would be no harm to the character and appearance of the area arising from this proposed house.
11. The proposed house on plot 2 would be located in an area of garden between frontage development along Hillbrow Road and Valley Drive. This would represent a different pattern of development to that seen in the area. As a discrete piece of architecture, it is a well-designed modern building that would represent a clear later addition to the evolution of this part of Brighton. There would be limited views from public areas, and in those views the impression would be of an interesting contemporary addition, still set within considerable areas of garden space associated with the new houses on plots 2 and 1, the retained garden to 9 Hillbrow Road, and associated landscaping.

12. The higher density of development that would be achieved through the proposed development, and more effective use of the land for housing, would therefore exhibit high standards of design and architecture that would not harm the character and appearance of the area. Thus, the objectives of Policies QD1, QD2, QD3 and HO4 of the Local Plan would be satisfied, insofar as they relate to securing design of new development that is not harmful to the character and appearance of the surrounding area.

Conclusions

13. I have found in favour of the proposed development on the second main issue: the design, form and location of the two houses would be acceptable and not harm the character and appearance of the area. However, this does not lead to the automatic finding that there is not any harm to the living conditions of adjoining occupiers. For the reasons given on the first main issues I have found there is such harm. The resulting conflict with the relevant provisions of the cited policies of the Local Plan is sufficient to outweigh other findings in this appeal. The overall conclusion is therefore that planning permission should be withheld, and the appeal is dismissed.

C J Leigh

INSPECTOR



Appeal Decision

Site visit made on 1 November 2011

by Michael Evans BA MA MPhil DipTP MRTPI

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

Decision date: 2 November 2011

Appeal Ref: APP/Q1445/D/11/2160973
36 Halland Road, Brighton BN2 4PF

- 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 A Nassir-Pour against the decision of Brighton and Hove City Council.
 - The application Ref BH2011/02075, dated 8 July 2011, was refused by notice dated 9 September 2011.
 - The development proposed is a single storey rear extension.
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Decision

1. The appeal is allowed and planning permission is granted for a single storey rear extension, at 36 Halland Road, Brighton BN2 4PF, in accordance with the terms of the application Ref BH2011/02075, dated 8 July 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: 477/03 and 477/04.
 - 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) The roof area of the extension hereby permitted shall not be used as a balcony, roof garden or similar amenity area without the grant of further specific permission from the local planning authority.

Main Issue

2. The main issue in the consideration of this appeal is the effect on the living conditions of the occupiers of the adjacent dwelling at 38 Halland Road, with regard to whether the extension would appear overbearing.

Reasons

3. The neighbouring dwelling at no. 38 has its rear elevation modestly tilted towards the appeal site and is set about a metre lower, with a low wire fence separating the properties. However, the nearest ground floor window is
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relatively small and set back from the appeal site. Other significantly larger openings, which provide a more important outlook to the adjacent occupiers, would be appreciably further from the proposed addition. In any case, the extension would be set a metre back from the boundary and have a height of only about 2.9m to the top of the flat roof, significantly limiting the perception of bulk from the adjacent dwelling. Despite the addition extending about 3.6m along the boundary, it would not therefore appear overbearing when seen from the ground floor windows of no. 38 Halland Road.

4. Consequently, it is concluded that the living conditions of the occupiers of the adjacent dwelling would not be harmed. The proposal therefore accords with Brighton and Hove Local Plan 2005 Policies QD14 and QD27, which, among other things, seek to avoid such adverse effects.
5. 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 a local resident have been considered.
6. 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. In order to avoid undue overlooking of neighbouring properties it is necessary to prevent the use of the roof of the addition as a roof garden or similar amenity area by imposing the model condition contained in Circular 11/95.

M Evans

INSPECTOR



Appeal Decision

Site visit made on 7 October 2011

by **C J Leigh** BSc(Hons) MPhil(Dist) MRTPI

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

Decision date: 2 November 2011

Appeal Ref: APP/Q1445/A/11/2153786

Land at the rear of 1-3 Clarendon Terrace, Brighton, East Sussex, BN2 1FD

- 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 R Rigg, against the decision of Brighton and Hove City Council.
 - The application Ref BH2010/02596, dated 16 July 2010, was refused by notice dated 24 November 2010.
 - The development proposed is the erection of a two storey dwelling, alterations to boundary walls fronting Chesham Place, and altering within garden including excavation and alterations to walls.
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Decision

1. The appeal is dismissed.

Main issue

2. The main issue in this appeal is the effect of the proposed development on the living conditions of adjoining occupiers in Clarendon Terrace, with particular reference to outlook.

Reasons

Living conditions

3. To the south of the appeal site, within Clarendon Terrace, are existing residential properties set at a lower level. These look out across a short rear garden towards a retaining wall and a boundary fence. There is also a notable single storey projection to the rear of 2&3 Clarendon Terrace. The tall height of the Clarendon Terrace properties – and the flank elevation of 21 Chesham Place to the north – combine with all these characteristics to create an existing sense of enclosure to the rear of the Clarendon Terrace properties and their gardens.
 4. The proposed new dwelling would be set notably down into the existing ground level due to a considerable degree of excavation to the site. What is termed the ground floor of the proposed property is shown in the submitted drawings to be provided along the northern boundary of the site – away from the southern boundary with the Clarendon Terrace properties – save for a projecting element that would adjoin the existing pitched roof addition to the rear of Nos. 2&3. These design features have evidently been incorporated to seek to lessen any overbearing effect upon the neighbouring residents to the south; the projecting element in particular would not be appreciable.
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5. However, I still have concerns regarding the outlook from adjoining properties to the predominant side elevation of the proposed house. I am informed by the Council that the current scheme is unchanged from a previously refused application (ref. BH2005/05030), apart from window amendments and the creation of an external lift, and that an appeal was subsequently dismissed in December 2006 on the grounds of harm to loss of outlook arising from the proximity of the new building to the Clarendon Terrace dwellings. The appellant does not dispute this similarity and, although I have not been provided with copies of the previous drawings, I have no reason to doubt that this is the same scheme insofar as it relates to the relationship with the neighbouring properties.
6. I understand that letters of support were submitted with the planning application, but I note also that there have been objection letters from residents of Clarendon Terrace. There is no change in the proposed development from the scheme dismissed by the previous Inspector appointed by the Secretary of State, and so I come to a similar finding that the proposed development as shown would cause a loss of outlook to the adjoining residents of Clarendon Terrace. There would consequently be a conflict with Policy QD27 of the Brighton and Hove Local Plan 2005.

Other considerations

7. The location of the windows in the proposed house, and the obscure glazing of certain windows, would ensure no unreasonable loss of privacy or overlooking to adjoining occupants. A planning condition could be attached to secure the permanent retention of windows as obscure glazed. Similarly, the design of the dwelling, and the use of conditions, would ensure amenity space is provided and the flat roofs could not be used as sitting out areas. Thus, no harm would occur to residents from these aspects of the proposed development.
8. The design of the proposed building is creative in addressing the street scene considerations of the site. It would be a positive enhancement to the character and appearance of the East Cliff Conservation Area due to the removal of the existing unsightly 'gap' appearance of the appeal site. The building would also sit comfortably adjoining the listed buildings of Chesham Place.

Conclusions

9. Despite having found that the proposed development would not be harmful in a number of respects, and that there would be a positive enhancement to the character and appearance of the area due to the design of the building, these findings must be weighed against the main issue in this appeal. There has been no change in circumstances since the date of the previous dismissed appeal for the same scheme, insofar as it relates to the relationship with the adjoining properties: there is the same Local Plan and the same circumstances pertaining to the appeal site. I therefore come to the same consistent decision as previously and find that the conflict with Policy QD27 on the main issue outweighs other matters, and so the appeal is dismissed.

C J Leigh

INSPECTOR



Appeal Decision

Site visit made on 24 October 2011

by Jessica Graham BA(Hons) PgDipL

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

Decision date: 26 October 2011

Appeal Ref: APP/Q1445/D/11/2160414

198 Warren Road, Woodingdean, East Sussex BN2 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 N Banks against the decision of Brighton & Hove City Council.
 - The application Ref BH2011/00814, dated 18 March 2011, was refused by notice dated 4 July 2011.
 - The development proposed is the installation of a front boundary wall, fencing and store.
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Decision

1. The appeal is dismissed.

Procedural matter

2. The proposed development has already been carried out. My determination of this appeal proceeds on the basis that planning permission for the development is now sought, in accordance with the details shown on the submitted plans.

Main issue

3. The main issue is the effect that the development would have upon the character and appearance of the area.

Reasons

4. The dwellings on this part of Warren Road are set at a higher level than the street, such that their front gardens slope down toward the road. The majority of them are separated from the public footway by a low retaining wall, so that the front gardens are visible to passers by, and form part of the streetscape. Together with the large open space on the opposite side of the street, this gives Warren Road an attractively spacious character.
5. At some 2.3m high, the boundary wall that is the subject of this appeal is much higher than those of most other nearby properties. The fence above brings the overall height of this new front boundary to 3m above the immediately adjacent footway, precluding any views of the front garden of No. 198. I appreciate that the wall it replaced was also (at least at its eastern end) considerably higher than others nearby, but the evidence of the appellant indicates that this former wall was in two parts, with the top section set back some 0.5m behind the lower, and screened by planting.

6. In my judgment, the boundary treatment for which permission is now sought constitutes a far more visually imposing structure than that which it replaced. It forms an incongruous and overly dominant element in the street scene, creating a sense of enclosure to the adjoining public footway and thereby detracting from the characteristic open character of the area. While I saw that a few other properties have already installed high front boundaries, the evidence of the Council is that none of these have recent planning permission. In any event, their existence cannot justify permitting what I consider would be a harmful form of development at the appeal site.
7. I find that the development conflicts with the objectives of Policies QD1, QD2 and QD14 of the Brighton and Hove Local Plan 2005, which seek to ensure that new development makes a positive contribution to the visual quality of the environment, and takes account of the character of the area.
8. I conclude that the appeal should be dismissed.

Jessica Graham

INSPECTOR

NEW APPEALS RECEIVED

WARD

APPLICATION NUMBER

ADDRESS

DEVELOPMENT DESCRIPTION

APPEAL STATUS

APPEAL RECEIVED DATE

APPLICATION DECISION LEVEL

PATCHAM

BH2011/01915

39 Solway Avenue, Brighton

Erection of two storey side extension to north, roof extension over ground floor to south, raised decking with steps to garden and dormers to rear, rooflights to front and rear and associated works.

APPEAL LODGED

19/10/2011

Delegated

WARD

APPLICATION NUMBER

ADDRESS

DEVELOPMENT DESCRIPTION

APPEAL STATUS

APPEAL RECEIVED DATE

APPLICATION DECISION LEVEL

WITHDEAN

BH2011/01380

6 Glen Rise, Brighton

Construction of part single storey, part two storey rear extension. Single storey extension to front. Enlargement of garage incorporating new pitched roof over. Roof remodelling involving raising of ridge height, front and rear dormers, side rooflights and associated external alterations.

APPEAL LODGED

18/10/2011

Delegated

WARD

APPLICATION NUMBER

ADDRESS

DEVELOPMENT DESCRIPTION

APPEAL STATUS

APPEAL RECEIVED DATE

APPLICATION DECISION LEVEL

HANOVER & ELM GROVE

BH2011/02312

137D Elm Grove, Brighton

Change of use from vacant office (B1) to studio flat (C3) with associated alterations.

APPEAL LODGED

24/10/2011

Delegated

WARD

APPLICATION NUMBER

ADDRESS

DEVELOPMENT DESCRIPTION

APPEAL STATUS

CENTRAL HOVE

BH2011/02050

29 St Aubyns, Hove

Loft conversion to form 2no self contained flats incorporating installation of 6no rooflights and associated roof alterations.

APPEAL LODGED

APPEAL RECEIVED DATE 27/10/2011
APPLICATION DECISION LEVEL Delegated

WARD

APPLICATION NUMBER
ADDRESS
DEVELOPMENT DESCRIPTION

APPEAL STATUS
APPEAL RECEIVED DATE
APPLICATION DECISION LEVEL

WISH

BH2011/01649
51 Marine Avenue, Hove
Creation of roof terrace and erection of balustrade.

APPEAL LODGED
31/10/2011
Delegated

WARD

APPLICATION NUMBER
ADDRESS
DEVELOPMENT DESCRIPTION

APPEAL STATUS
APPEAL RECEIVED DATE
APPLICATION DECISION LEVEL

HOLLINGDEAN & STANMER

BH2011/02276
3 Barrow Hill, Brighton
Demolition of existing house and garage and erection of 4no two storey dwellings with dormers.

APPEAL LODGED
28/10/2011
Delegated

WARD

APPLICATION NUMBER
ADDRESS
DEVELOPMENT DESCRIPTION

APPEAL STATUS
APPEAL RECEIVED DATE
APPLICATION DECISION LEVEL

REGENCY

BH2011/01808
45 - 46 North Street, Brighton
Extension at roof level of No. 46 to form new one bedroom flat across No's 45 and 46 North Street.

APPEAL LODGED
01/11/2011
Delegated

WARD

APPLICATION NUMBER
ADDRESS
DEVELOPMENT DESCRIPTION

APPEAL STATUS
APPEAL RECEIVED DATE
APPLICATION DECISION LEVEL

EAST BRIGHTON

BH2011/02045
2A Great College Street, Brighton
Installation of balustrading and new rooflight to form roof terrace.

APPEAL LODGED
31/10/2011
Delegated

**INFORMATION ON HEARINGS / PUBLIC INQUIRIES
23rd November 2011**

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

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

Information on Pre-application Presentations and Requests

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

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

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

Date	Address	Ward	Proposal
05 April 2011	N/A	N/A	N/A
26 April 2011	N/A	N/A	N/A
17 May 2011	N/A	N/A	N/A
07 June 2011	N/A	N/A	N/A
28 June 2011	N/A	N/A	N/A
15 July 2011	3Ts	East Brighton	3T's (teaching, tertiary & trauma). Comprehensive redevelopment of southern half of RSCH on Eastern Road to provide replacement modern clinical facilities over three phases and erection of a helipad on top of the Thomas Kemp Tower.
09 August 2011	N/A	N/A	N/A
30 August 2011	N/A	N/A	N/A
20 September 2011	Ice Rink & No.11 Queens Square	St Peter's & North Laine	Demolition of former ice rink and no.11 Queens Square and erection of 5-6 storey building to provide ApartHotel (58 serviced apartments) with associated restaurant/café and alterations to public realm.
11 October 2011	N/A	N/A	N/A
1 November 2011	N/A	N/A	N/A
22 November 2011	Park House	Hove Park	Demolition of former residential language school buildings and the residential redevelopment of the site by way of flats in buildings of between 4 and 5 storeys.

