



**Brighton & Hove
City Council**

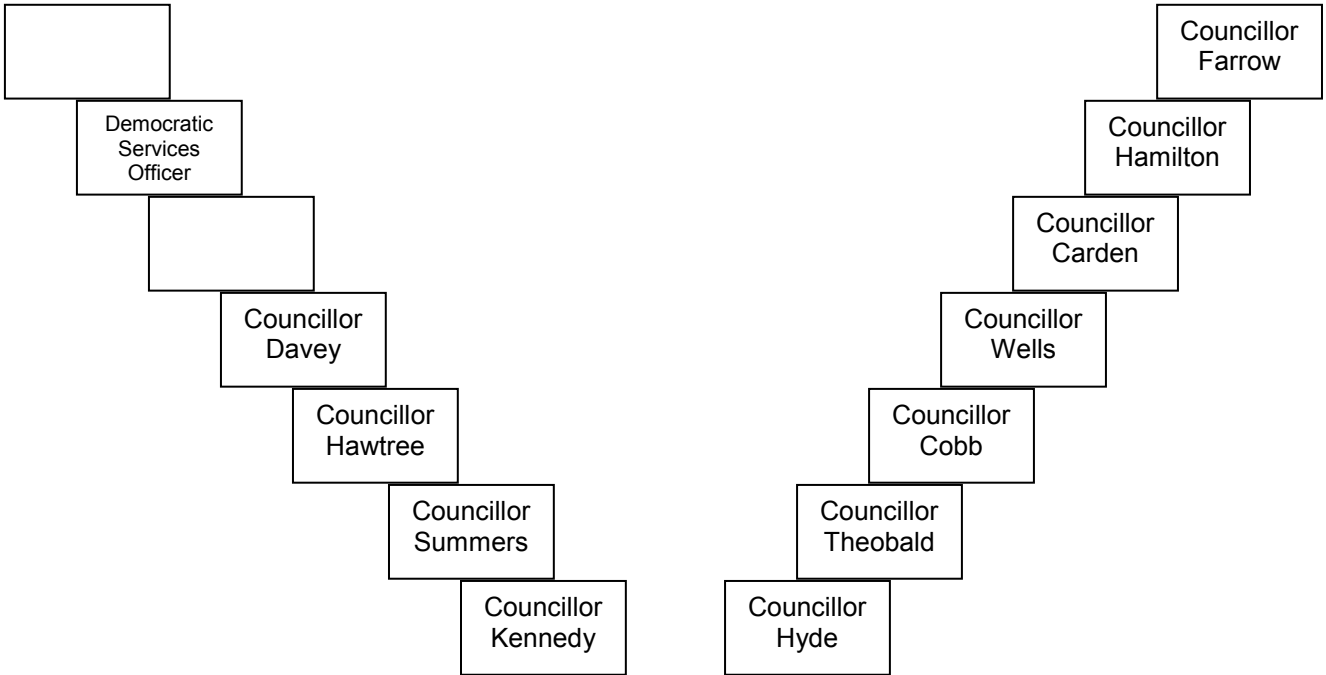
Planning Committee

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| Title: | Planning Committee |
| Date: | 11 January 2012 |
| 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 Graham Towers (Montepelier & Clifton Hill Society)</p> |
| Contact: | <p>Ross Keatley Democratic Services Officer 01273 291064 ross.keatley@brighton-hove.gov.uk</p> |

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Democratic Services: Meeting Layout

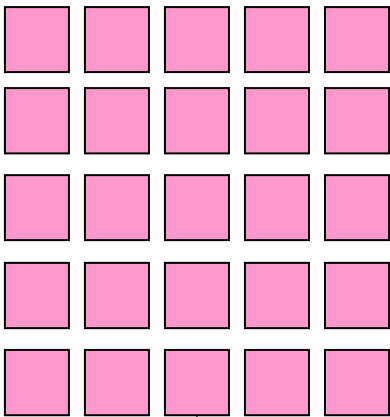
Senior Solicitor Chairman Head of Development Control



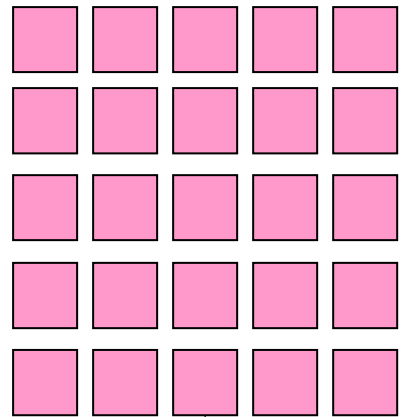
Chairman of CAG

Officers Officers

Press



Public Seating



Public Seating

AGENDA

113. 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.

114. MINUTES OF THE PREVIOUS MEETING

1 - 14

Minutes of the meeting held on 14 December (copy attached).

115. CHAIR'S COMMUNICATIONS

116. APPEAL DECISIONS

15 - 30

(copy attached).

117. LIST OF NEW APPEALS LODGED WITH THE PLANNING INSPECTORATE

31 - 32

(copy attached).

118. INFORMATION ON INFORMAL HEARINGS/PUBLIC INQUIRIES

(currently none to report).

119. INFORMATION ON PRE APPLICATION PRESENTATIONS AND REQUESTS

PLANNING COMMITTEE

(details attached as appropriate).

120. TO CONSIDER AND DETERMINE PLANNING APPLICATIONS ON THE PLANS LIST : 11 JANUARY 2012

(copy circulated separately).

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

122. 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

123. 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.

Agendas and minutes are published on the council's website www.brighton-hove.gov.uk. Agendas are available to view five working days prior to the meeting date.

Meeting papers can be provided, on request, in large print, in Braille, on audio tape or on disc, or translated into any other language as requested.

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PLANNING COMMITTEE

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For further details and general enquiries about this meeting contact Ross Keatley (01273 291064, email ross.keatley@brighton-hove.gov.uk) or email democratic.services@brighton-hove.gov.uk.

Date of Publication - Tuesday, 3 January 2012

BRIGHTON & HOVE CITY COUNCIL

PLANNING COMMITTEE

2.00pm 14 DECEMBER 2011

COUNCIL CHAMBER, HOVE TOWN HALL

MINUTES

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

Co-opted Members

Officers in attendance: Jeanette Walsh, Head of Development, Nicola Hurley, Area Planning Manager (West), Hamish Walke, Senior Team Planner (East), Kate Brooklebank, Senior Planning Officer, Hilary Woodward, Senior Lawyer and Ross Keatley, Democratic Services Officer.

PART ONE

102. PROCEDURAL BUSINESS

102a Declarations of substitutes

102.1 Councillor Robins was present in substitution for Councillor Hamilton. It was noted that apologies had been received from Councillor Kennedy.

102b Declarations of interests

102.2 There were none.

102c Exclusion of the press and public

102.3 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.

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

103. MINUTES OF THE PREVIOUS MEETING

103.1 **RESOLVED** – That the Chairman be authorised to sign the minutes of the meeting held on 23 November 2011 as a correct record.

104. CHAIR'S COMMUNICATIONS

104.1 The date for the special meeting to consider the regional hospital planning application, known as 3T's, had been arranged for Friday 27 January 2012 at 2 p.m.

104.2 It was noted that an e-petition had been received by the Council in relation to application BH2011/02417, 94 – 103 London Road, Brighton (The Former Co-op Department Store) requesting that the façade of the building be preserved.

105. APPEAL DECISIONS

105.1 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.

106. LIST OF NEW APPEALS LODGED WITH THE PLANNING INSPECTORATE

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

107. INFORMATION ON INFORMAL HEARINGS/PUBLIC INQUIRIES

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

108. INFORMATION ON PRE APPLICATION PRESENTATIONS AND REQUESTS

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

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

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

| Application: | Requested by: |
|---|--------------------------------|
| BH2011/03093 Land rear of 25 Dyke Road Avenue | Councillor L Hyde |
| BH2011/03358 Maycroft and Parkside, London Road 2 – 8 Carden Avenue Brighton | Head of Development Control |
| BH2010/03739 | Head of Development |

| | |
|--|--------------------------------|
| 9-16 Aldrington Basin/Land south of Kingsway Basin Road North Portslade | Control |
| BH2011/03227 11B (Former Ice Rink) and 11 Queens Square Brighton | Head of Development Control |
| BH2011/02824 Portslade Aldridge Community Academy (PACA) Chalky Road Portslade | Head of Development Control |

110. TO CONSIDER AND DETERMINE PLANNING APPLICATIONS ON THE PLANS LIST :14 DECEMBER 2011

(i) MAJOR APPLICATIONS

A. Application BH2011/02417, 94 – 103 London Road (Former Co-op Department Store) – Demolition of existing building and erection of a new building ranging from 3 to 6 storeys providing 407 units of student accommodation (sui generis) and 4no. retail units (A1) at ground floor level with new service area vehicular access from Baker Street and landscaping works.

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

(2) The Senior Planning Officer, Kate Brooklebank, gave a presentation detailing the scheme by reference to plans and elevated drawings, and digital images showing the scheme in the context of the surrounding area. The applicant had addressed the provision for convenient cycle parking and reason for refusal number 6 of the report recommendation was amended to read remove the reference to policy TR14 on cycling.

(3) The proposals were considered to be over-development of the site, in poor relation to the surrounding area and would create increased loss of light and over-shadowing to surrounding properties. Furthermore the access to the service yard was inadequate and the applicant had failed to justify the loss of the existing building which, although not a protected building, was sought for retention as part of the London Road Central Master Plan, for these reasons refusal was recommended.

Public Speakers

- (4) Ms Ashdown spoke on behalf on local residents in objection to the scheme and she stated it would create a loss of sunlight for residents on Baker Street and Kingsbury Road. Concern was also expressed in relation to potential noise nuisance and it was felt that the addition of so many students would change the nature of the local area.
- (5) Councillor Deane spoke in her capacity as a Local Ward Councillor setting out her objections to the scheme. She highlighted that any proposed development should try to maintain the façade of the existing building and questioned the suitability of student accommodation to the London Road area, particularly in relation to the economic and potential nuisance impacts. She had not been able to clarify if any of the proposed 407 rooms could be of double occupancy.
- (6) Mr P Gillespie, the agent for the applicant, spoke in support of the application. It was highlighted that during the design and consultation process, over the last 12 months, the proposed development had reduced in size and scale. It had been considered that retention of the existing façade was not viable and the developers would seek to use the appropriate materials and pallet to complement the London Road area. Only residents in numbers 10-11 London Terrace would experience a loss of light but it was felt this would be unnoticeable.

Questions, Debate and Decision Making Process

- (7) Councillor Davey sought clarification on the main reason for objection from local residents, it was confirmed this related largely to the scale and bulk of the proposed development. It was also noted that when the building had previously been occupied deliveries had been made through London Terrace.
- (8) Councillor Hawtree asked for further explanation of how the development had been designed to echo buildings in the Brighton area. It was explained that the proposals had been designed with a sense of rhythm and proposed materials and colours already in use.
- (9) Councillor Mrs Theobald enquired regarding the privately contracted collection of refuse. It was explained that this was the normal practise in buildings managed by the applicants to prevent any accumulation of refuse. It was also confirmed that the students would be a mix of under-graduate, post-graduate and overseas.
- (10) Councillor Davey enquired regarding covering the service yard and the rationale used to justify access from Baker Street. It was explained that covering the yard had not previous been put to the developers but this could be considered. In relation to the access it was explained that the use of Baker Street, and the provision for delivery vehicles to turn in the service yard, had been agreed by Highways Officers.
- (11) Councillor Mrs Theobald relayed her concerns about the numbers of students moving into and out of the proposed development at the start and end of academic terms. It was explained that this was staggered to minimise disruption.

- (12) Councillor Davey asked officers to confirm the situation in relation to disabled parking and it was explained that a contribution would be expected from the developers and blue badge users would be able to park near to the site.
- (13) Councillor Mrs Theobald asked for clarification on the height of the proposals in comparison to existing building.
- (14) Councillor Summers asked if a police report had been submitted and Officers confirmed that this had not been done nor was it a requirement of the submission process.
- (15) Councillor Mrs Theobald highlighted that a preferred development should try to protect the façade of the existing building and encourage a large commercial use of the site. Councillors Mrs Theobald and Hyde were of the view that the height and bulk constituted overdeveloped of the site.
- (16) Councillor Wells noted his agreement with the Officers recommendations.
- (17) Councillors Hawtree, Summers and Davey all referenced the importance of the development to the London Road area and the importance of the building's façade.
- (18) A vote was taken and the 11 members present voted unanimously that planning permission be refused.

RESOLVED – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in this report, with an amendment to reason 6 to remove references to cycling, and resolves to **REFUSE** planning permission for the following reasons:

1. The proposal, by reason of its design, bulk, height and massing, would be an overdevelopment of the site that would relate poorly to development in the surrounding area, causing harm to the character of the surrounding street scenes and failing to emphasis and enhance the positive qualities of the neighbourhood. The development is substantially larger in scale than the predominant development which surrounds the site and would appear out of scale and overly dominant in the street scene and constitutes town cramming. Harm will also be caused to the framed views from Preston Circus and the New England Quarter where the proposal's substantial height, bulk and scale will obscure views of the predominant ridgelines. The proposal is therefore contrary to policies QD1, QD2, QD3, QD4, QD5 and HO4 Brighton & Hove Local Plan.

2. The development would have an awkward relationship with the neighbouring property No.93 London Road. The service entrance on Baker Street is out of scale, resulting in a large area of inactive frontage, whilst failing to provide passive surveillance. The main student entrance appears too functional and is considered to fail to provide the desired visual interest or strong sense of arrival to the building. Cumulatively, these elements are considered to result in a poor standard of design which would cause harm to the character of the street scene contrary to policies QD1, QD2, QD3, QD5 and QD7 of the Brighton & Hove Local Plan.

3. Insufficient information has been submitted to make a full assessment of the impact of the proposed development on neighbouring amenity and in particular impact on sunlight and daylight levels to neighbouring dwellings. The increased scale and bulk is considered to result in an unneighbourly form of development which in the absence of evidence to the contrary is considered likely to have an adverse effect on neighbouring amenity by way of loss of light/overshadowing and resulting in an overbearing impact contrary to policy QD27 of the Brighton & Hove Local Plan.
4. The proposed roof terraces will cause adverse overlooking to neighbouring dwellings and in the absence of information to the contrary could result in adverse noise disturbance to existing and proposed residents contrary to policy QD27 of the Brighton & Hove Local Plan.
5. The applicant has failed to demonstrate that the proposed open service yard will not have an adverse impact on neighbouring amenity through noise disturbance and impact on outlook contrary to policy QD27 of the Brighton & Hove Local Plan.
6. The applicant has failed to address the need for disabled parking contrary to policy TR18 of the Brighton & Hove Local Plan and SPGBH4 – Parking Standards.
7. The applicant has failed to present a scheme which in design and streetscape terms justifies the principle of the loss of the existing building, which is a non-designated heritage asset of special significance to the local community due to its architectural and historic interest. The proposed replacement building does not make a positive contribution to the character and local distinctiveness of the historic environment and the Urban Design Analysis and PPS5 Statement fails to adequately assess the significance of the existing building, contrary to policy HE7 of PPS5 and the London Road Central Master Plan SPD10.

Informatives:

1. This decision is based on drawing nos. PL_000 Revision A, PL_001 Revision A, PL_002 Revision A, PL_003 Revision A, PL_004 Revision A, PL_005 Revision A, PL_006 Revision A, PL_007 Revision A, ST_001 Revision A, EL_001 Revision A, EL_002 Revision A, EL_003 Revision A, EL_004 Revision A, EL_005 Revision A, EL_007 Revision A, EP_001, EP_002, EP_003, EP_004, EP_005, EP_006, EL_006 received on 19 September 2011, EL_008, EL_009, EL_010, EL_011, EL_012 received 26 September 2011, 04 Revision B, 05 and 06 received 16 August 2011, 'Daylight Assessment August 2011.
2. The applicant is advised that the 'Sustainability Statement' and 'Energy Statement' have been assessed against a 2008 pre assessment version which has been superseded. Schemes which could have achieved an 'Excellent' rating under previous BREEAM scheme PLANS LIST – 14 DECEMBER 2011 assessments may now only achieve 'Very Good' against a more recent version.
3. In relation to fire safety, the applicant is advised that the plans do not show satisfactory access for firefighting vehicles and firefighting personnel to the proposed development, in particular the requirement for firefighting vehicles to approach to within 45 meters of any point within each proposed flat dwelling.

4. The applicant is advised that there are a number of inaccuracies in the plans submitted – drawing no. PL_002 revision A shows the majority of rooms with no windows and drawing no. PL_001 revision B shows a number of the en-suite bathrooms in incorrect locations. Drawing no. PL_001 revision B does not form part of the application as it would require public consultation and fails to address outstanding issues in relation the application.

Note: The Chair stated that he would be recommending to officers that the former Co-op Department Store building should be placed on the Council's list of buildings of local interest

(ii) **MINOR APPLICATIONS**

B. Application BH2011/00635, 12 Meeting House Lane - Application to extend time limit of previous approval BH2007/02518 for the conversion and extension of existing 1st, 2nd and 3rd floor residential unit to form 5no flats and 1no retail unit at ground floor levels.

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

(2) Nicola Hurley, the Area Planning Manager (West), gave an update detailing the scheme by reference to photographs and site plans. At the previous meeting concern had been expressed in relation to cycle parking and subsequently Condition 9 had been amended to provide cycle storage elsewhere on the site. The application was recommended for approval.

Questions, Debate and Decision Making Process

(3) Councillor Wells asked for clarification as to the exact location of the cycle storage on the site. Officers explained that this had not currently been agreed and, if granted, the proposed location would be agreed by delegated authority to the Head of Development Control in consultation with the Chair and Deputy-Chair.

(4) Councillor Mrs Theobald asked if the driveway to the side of building would be affected and Officers confirmed that it would be retained as the footprint of the site was unchanged.

(5) Eleven of the members of the committee were present and on a vote of 9 with 2 abstentions planning permission was granted on the grounds set out below.

110.1 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in Section 7 of the report and resolved that it was minded to grant planning permission subject to the conditions and informatives set out in the report.

C. Application BH2011/00652, 12 Meeting House Lane - Application to extend time limit of previous approval BH2007/02608 for the conversion and extension of existing 1st, 2nd and 3rd floor residential unit to form 5no flats and 1no retail unit at ground floor levels.

- (1) Eleven of the members of the committee were present and on a vote of 9 with 2 abstentions planning permission was granted on the grounds set out below.
- 110.2 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in Section 7 of the report and resolves to grant planning permission subject to the conditions and informatives set out in the report.

D. Application BH2011/02570, Land rear of Regency Court, London Road - Erection of 9no single garages.

- (1) Nicola Hurley, the Area Planning Manager West, gave a presentation detailing the scheme by reference to photographs and site plans. The construction of the garages would be of the same design and proportion of the existing ones and the application was recommended for approval.

Questions, Debate and Decision Making Process

- (2) Councillor Mrs Theobald enquired regarding a turning circle for vehicles on the site and it was confirmed that there was not one.
- (3) Councillor Hawtree suggested that more work should be undertaken to look at mitigating the environmental effects of garages.
- (4) Councillor Hyde enquired regarding who would have use of the garages and if residents of nearby blocks would be given first refusal. Officers confirmed that had no further information on this and highlighted that right of residents to use existing garages would be defined in their lease.
- (5) Councillor Hyde went on to note that although Officers in Sustainable Transport had highlighted there was adequate displacement parking for residents this was not sufficiently close and suggested an additional condition that the garages be offered to residents on a first refusal basis. Councillor Mrs Theobald agreed with Councillor Hyde and stated that it was her belief the Committee had agreed similar conditions in the past. Hilary Woodward, Senior Solicitor, advised the Committee that a condition to this effect would be neither necessary nor reasonable as there was adequate provision on the surrounding highway network and the committee had no information on the detail contained in residents leases in relation to the right to park on the site.
- (6) Councillors Cobb and Hawtree noted problems elsewhere in the where city garages were sold to commercial companies however Officers confirmed that the proposed conditions prevented any commercial use of the garages.
- (7) An additional condition was proposed by members that ‘the use of the garages should be solely in association with the residents of Regency Court and Park Manor’. A vote was taken and of the eleven members present the additional condition was rejected on a vote of 5 to 3 with 3 abstentions.

- (8) Eleven members of the Committee were present when the vote was taken on the Officers original recommendation set out in the report and on a vote of 8 to 3 listed building consent was granted on the grounds set out below.

110.3 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out therein and the policies and guidance in Section 7 of the report and resolves to grant planning permission subject to the conditions and informatives set out in the report.

Note: Councillors Mrs Theobald and Cobb voted that the application be refused.

E. Application BH2011/02138, 70-72 Church Road - Change of Use from licensed restaurant (A3) to mixed use restaurant and bar (A3/A4) with revised opening hours of Monday -Tuesday 10:00-00.30, Wednesday - Saturday 10:00-02:30 and Sunday 12:00-00:00 (Part-retrospective).

- (1) Nicola Hurley, Area Planning Manager West, gave a presentation detailing the scheme by reference to photographs and site plans. Permission was currently in place for mixed use as a restaurant and bar, the main concern expressed in objection to the application was potential noise and disturbance. The majority of the premises was run as a restaurant and a condition had been proposed to minimise vertical drinking. There was a terrace to the side of the premises that was in use from 0700 to 2300 and Officers in Environmental Health had raised no objections. For these reasons the application was recommendation for approval.

Public Speakers

- (2) Mrs Mulholland spoke in objection to the application. She stated she had lived in the area for 23 years and had not experienced any problems in relation to noise nuisance until the premises had recently been granted permission to operate until 0230. It was her belief that the premises was currently operating until 0230 without the appropriate planning permissions. A photograph of the outside of the premises was shown to the Committee, picturing customers outside of the premises and it was confirmed that it was taken at approximately 0000.
- (3) Ms Cattell, the agent for the applicant, spoke in favour of the application. She stated that the current permission allowed the premises to operate until 0230 in restricted areas and the application was to harmonise these arrangements across the whole premises without any extension to the current hours of operation. The nature of the business was aimed at fine dining and the owner operated other successful premises in the city.

Questions, Debate and Decision Making Process

- (4) Councillor Hawtree enquired regarding the withdrawal of the objection from Councillor Wealls. It was explained that he had been satisfied with the proposed condition that 75% of the restaurant would be for seated dining.

- (5) Councillors Hyde and Mrs Theobald both stated that local residents would be able to make complaints to Environmental Health if any noise issues arose as a result of the recent extension to the hours.
 - (6) Councillors Hawtree and Cobb both made references to the Licensing regime and the experience of the applicant as a licensee. Jeanette Walsh, Head of Development Control, reminded members that they should not rely upon the licensing regime to assist with making a decision and they should make a decision independently of that regime.
 - (7) Councillor Mrs Theobald asked what measures the premises were taking to prevent noise nuisance from customers smoking outside. It was explained that the exits were monitored by security staff and the number of people allowed to go outside to smoke at any one time was restricted.
 - (8) In clarification the Area Planning Manager West highlighted that the proposals would impose restrictions on the entirety of the premises and add a condition that 75% of the premises be used for seated dining. Councillor Hyde noted that this would impose conditions with control above what was already in place.
 - (9) Councillor Davey requested further information on the history of any noise complaints and Officers stated they did not have further details available to them.
 - (10) Councillor Hawtree noted there had been a gradual change in the commercial use of Church Road, with an increase in the number of restaurants and bars, some of which operated later hours.
 - (11) Councillor Hyde noted she was satisfied with the report and the Officers' recommendations but she would prefer to have the terrace closed at 2300 to reduce any noise nuisance.
 - (12) The Senior Solicitor suggested amending condition 4 so that the restricted times for which the balcony on Third Avenue could be used also apply to the frontage of the premises on Church Road. This would be subject to confirming that the frontage was in the ownership or control of the applicant. In response to a query from Councillor Cobb it was explained that this would not prevent customers smoking outside on the public highway.
 - (13) A vote was taken on the Officers' recommendations with the amended condition 4 and of the eleven members present planning permission was granted on a vote of 9 to 1 with 1 abstention.
- 110.4 **RESOLVED** – That the Committee resolved to delegate to the Head of Development Control authority to grant planning permission, in consultation with the Chair and Deputy Chair, subject to the conditions and informatives listed in the Report save that condition number 4 was to be amended to restrict use of the outside terrace areas at both the Third Avenue and Church Road frontages between the times stated in the condition. Insofar as the amended condition could only be imposed if both frontages were in the ownership or control of the applicant, should, on investigation by officers,

this not proved to be the case the application would return to the Committee for decision.

F. Application BH2011/03093, Land rear of 25 Dyke Road Avenue - Erection of new two storey four bedroom detached dwelling house with basement.

110.5 **RESOLVED** – That consideration of the above application be deferred pending a site visit.

G. Application BH2011/03058, 3 St James's Street - Application for variation of condition 2 of application BH2002/02810/FP (Change of use from A1 (shop) to A3 (restaurant) (resubmission following refusal BH2001/02411/FP) including restriction of opening hours to between 08.00 and 24.00 hours on any day) to allow opening hours between 07.00 and 05.00 the following day, Monday to Sunday.

(1) Hamish Walke, Senior Team Planner, gave a presentation detailing the scheme by reference to photographs and site plans. A letter had been included in the late list from Councillor Duncan in support of the application. The proposed extension of hours had been received objections by both Environmental Health Officers and the Police. The current operational hours gave a balance between the conflicting demands of the commercial and residential nature of the area, it was felt allowing the premises to open throughout the night could lead to increased levels of crime and disorder and subsequently the application was recommended for refusal.

Public Speakers

(2) Dr Thomas, representing the Kingscliffe Society and local objectors, spoke in objection to the application. She highlighted that the normal terminal hours for similar takeaway restaurants was 23.30 and expressed concern that if granted this could set a precedent for later applications for later hours of operation from other premises.

(3) Mrs Ahmed, the applicant, spoke in support of her application. She explained the applicant sought to mitigate nuisance by employing a member of security staff, they would also have CCTV covering both the inside and outside of the premises and ensure litter outside was collected. She had received more support than objection from local residents and also had support from all three of the local Ward Councillors. The premises was located on a busy thoroughfare and close to areas of tourist interest in the city and the premises would not serve hot food after 00.00.

Questions, Debate and Decision Making Process

(4) Councillor Hawtree enquired how this application differed from those that had been refused in the past. In response the applicant confirmed that they had sought measures to mitigate noise nuisance that had not been offered by previous applicants.

(5) Councillor Cobb stated that it would be difficult for the premises to ensure that customers did not cause nuisance and disturbances further away from the premises after they had left. In response the applicant explained that the road was already busy as there were other bars and pubs. The security staff would ensure that customers were moved on from the premises and not able to loiter causing nuisance.

- (4) Councillor Robbins highlighted that despite the applicant's claims the premises was located close to areas of tourist interest these would closed during the extension of hours being sought. In response the applicant explained that many visitors to the city stayed longer than just the day.
- (5) Councillor Hyde explained that she supported the Officer's recommendations and was surprised that Ward Councillors had supported the application.
- (6) Councillor Hawtree highlighted his view that the signage at the front of the premises was unauthorised and hoped this matter could be considered separately by Officers.
- (7) A vote was taken and the 11 members present voted unanimously that planning permission be refused.

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

1. This area experiences high levels of crime, disorder, noise nuisance and anti-social behaviour causing disturbance to residents in the locality. The significant extension to the opening hours proposed would result in additional disturbance and increase the fear of crime at a late hour when nearby residents would normally be sleeping, to the detriment of neighbouring amenity. The proposal is therefore contrary to policies SU9, SU10 and QD27 of the Brighton & Hove Local Plan.

Informatives:

1. This decision is based on the drawings and supporting documentation received on 24 October 2011, and the location plan received on 18 October 2011.

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

111.1 **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.]

112. 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

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

| Application: | Requested by: |
|---|-----------------------------|
| BH2011/03093 Land rear of 25 Dyke Road Avenue | Councillor L Hyde |
| BH2011/03358 Maycroft and Parkside, London Road 2 – 8 Carden Avenue Brighton | Head of Development Control |
| BH2010/03739 9-16 Aldrington Basin/Land south of Kingsway Basin Road North Portslade | Head of Development Control |
| BH2011/03227 11B (Former Ice Rink) and 11 Queens Square Brighton | Head of Development Control |
| BH2011/02824 Portslade Aldridge Community Academy (PACA) Chalky Road Portslade | Head of Development Control |

The meeting concluded at 4.45pm

Signed

Chair

Dated this

day of

APPEAL DECISIONS

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|--|-------------|
| A. WESTBOURNE | 17 |
| <p>Application Reference BH2010/0472,, Land at 1 Carlisle Road, Hove – Appeal against an enforcement notice issued by Brighton & Hove City Council in respect of placement without planning permission of a shipping container in the rear garden of the land. APPEAL DISMISSED and the enforcement notice upheld with correction.</p> | |
| B. CENTRAL HOVE | 21 |
| <p>ApplicationBH2011/00897, Land R/0 33 Sackville Road, Hove – Appeal against refusal to grant planning permission for demolition existing garages and erection of one, two bedroom dwelling adjoining 62 Stirling Place. APPEAL ALLOWED (delegated decision)</p> | |
| C. WITHDEAN | 25 |
| <p>Application BH2011/01380, 6 Glen Rise, Brighton – Appeal against refusal to grant planning permission for erection of a two storey rear extension to the gable and end roof, an extension to the single storey hipped roof, an enlarged garage with an added pitched roof and the addition of a front lobby. APPEAL ALLOWED (delegated decision)</p> | |
| D. PATCHAM | 27 |
| <p>Application BH2011/01915, 39 Solway Avenue, Brighton – Appeal against refusal to grant planning permission for erection of a two storey side extension with dormers to the rear and raised decking to the rear elevation. APPEAL DISMISSED (delegated decision)</p> | |
| E. EAST BRIGHTON | 29 |
| <p>Application BH2011/02045, 2a Great college Street, Brighton – Appeal against refusal to grant planning permission for proposed roof terrace on existing flat roof. APPEAL DISMISSED (delegated decision)</p> | |



Appeal Decision

Site visit made on 9 November 2011

by K Nield BSc(Econ) DipTP CDipAF MRTPI

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

Decision date: 6 December 2011

Appeal Ref: APP/Q1445/C/11/2154476

Land at 1 Carlisle Road, Hove, Sussex, BN3 4FP

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mrs Iman El-Rayes against an enforcement notice issued by Brighton & Hove City Council.
- The Council's reference is 2010/0472.
- The notice was issued on 9 May 2011.
- The breach of planning control as alleged in the notice is without planning permission the placing of a shipping container ("the Shipping Container") in the rear garden of the Land.
- The requirements of the notice are to remove the Shipping Container from the Land.
- The period for compliance with the requirements is one calendar month after the notice takes effect.
- The appeal is proceeding on the grounds set out in section 174(2)(a) and (c) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal is dismissed and the enforcement notice upheld with correction.

Preliminary matters

1. There is no dispute that a storage unit has been placed in the rear garden of the above property. However, the appellant contends that the use of the term "shipping container" in the notice and any implied commercial use thereof is incorrect. She describes the storage unit as "a reused white plastisol finished portable secure storage unit with end access". I agree that that provides a full description of the storage unit. It is clear from the submissions from both parties that the Council's description has caused no confusion as to the alleged breach that is attacked by the notice and the appellant understands the purpose of the notice. I can correct the notice without injustice and I shall do so. For descriptive purposes in this decision and in the corrections required to the notice I shall refer to it as a "secure storage unit".
2. The appellant points out that the notice does not state whether the Council considers the alleged breach is operational development or a material change of use of the Land. However, the notice states at paragraph 4.1 that it appears to the Council that the alleged breach "has occurred within the last four years". On that basis it is clear to me that the Council regards the secure storage unit as operational development to which the "four year" time limit applies. The appellant has provided submissions which in part deal with the secure storage unit on the basis that it may be considered as operational development and I shall also consider the alleged breach on that basis.

3. A further matter raised by the appellant in respect of the notice concerns the stated reasons for issuing the notice. The appellant states that the notice gives no precise indication as to how harm arises from the Council's reason (for issuing the notice) that the alleged development is contrary to LP¹ policy QD27 (Protection of Amenity). However, the appeal was submitted by a professional town planning consultant who quotes the policy in the appellant's written statement. The Council's reasons for issuing the notice and its case were explained in more detail in its statement which was sent to the agent on 1 August 2011 requesting any comments on the points raised by 17 August 2011. No further comments were received by that date. Taking all the above matters into consideration I do not consider that the appellant has suffered injustice through the Council not providing further explanation of its reasons for issuing the enforcement notice.

The appeal on ground (c)

4. To be successful on a ground (c) appeal the appellant must show that, on the balance of probabilities, the placing of the secure storage unit on the Land does not constitute a breach of planning control.
5. The appellant contends that the secure storage unit is a chattel placed on the land and does not constitute development because it is neither a building nor a structure nor has it resulted in a material change in the use of the Land. To support that contention the appellant argues that the unit is sufficiently small that it has been brought onto the site ready made, that it could be removed without pulling it down or taking it to pieces and it is not physically attached to the ground and therefore is not permanent. The Council, in response, refers to a number of appeal decisions which it claims support its view that the placing of the secure storage unit on the Land is development.
6. The use of secure storage units and containers as portable buildings is generally regarded as a building operation however this is dependent on a fact and degree assessment in each case. I noted at my visit that the secure storage unit by virtue of its size had a degree of permanence and was likely to require special lifting apparatus to be moved from its site. Although there was no indication that it was affixed to the ground its weight alone would provide a reasonable degree of physical attachment. Taking these matters into consideration I am satisfied that the secure storage unit, as a matter of fact and degree, should be regarded as a building, within the definition provided in the Act², to which a four-year rule should apply.
7. In an alternative argument the appellant states that if the secure storage unit is regarded as a building it should be considered as permitted development under Class E of Part 1 of Schedule 2 of the GPDO³ which permits specified types of development within the curtilage of a dwellinghouse. However, a "dwellinghouse" as defined in the GPDO⁴ "*does not include a building containing one or more flats, or a flat contained within such a building*". As the host building is divided into a number of flats it does not benefit from permitted development rights under Class E. Consequently I do not accept the appellant's contentions in this regard.

¹ Brighton and Hove Local Plan 2005 (LP)

² S336 of the Town and Country Planning Act 1990

³ Town and Country Planning (General Permitted Development) Order 1995 (GPDO), as amended by the Town and Country Planning (General Permitted Development) (Amendment) (No. 2) (England) Order 2008

⁴ GPDO: Citation, commencement and interpretation: Paragraph 1

8. Taking all the above matters into consideration I conclude on the balance of probabilities the placing of the secure storage unit on the Land does constitute a breach of planning control. The appeal on ground (c) fails.

The appeal on ground (a)

Main issues

9. The main issues in the appeal are, firstly, the effect of the retention of the secure storage unit on the character and appearance of the locality and, secondly, the effect on the living conditions of occupants of the host property and No 3 Carlisle Road through potential enclosure and loss of outlook and on the provision of private amenity space.

Character and appearance

10. The locality of the appeal site is characterised by substantial blocks of flats and substantial semi-detached dwellings along both sides of Carlisle Road, some of which have been divided into flats, as is the case with the host property.
11. The secure storage unit has been positioned in the rear amenity area of the flats. It is sizeable both in height and bulk and is partly visible from the public domain of Carlisle Road although the lower part is screened by a boundary wall to the plot. Intervening buildings screen views of the secure storage unit from the public domain of Walsingham Road to the east. Nevertheless, due to its size and appearance the secure storage unit is out of context with the design and appearance of the host building and it diminishes the overall character of the residential area in conflict with the aims of LP policy QD27 (Protection of Amenity) and the design aims of PPS3⁵.

Living conditions

12. The secure storage unit is positioned a short distance away from a window to a ground floor flat. It reduces the outlook from that window and would contribute to a feeling of enclosure of that room. Whilst the harm would be limited there is nevertheless conflict with the aims of LP policy QD27. I do not consider that it would be harmful to the living conditions of occupants of other flats within 1 Carlisle Road or to occupants of dwellings in Walsingham Road which have windows that overlook the appeal site.
13. The secure storage unit reduces the amenity space available for use by occupants of the flats although I noted at my visit that the rear area was only accessible from a ground floor flat. I have no doubt that occupants of the flats have varying requirements for outdoor amenity space and as a reasonable outdoor area is retained I do not consider that the reduction in amenity space that has occurred would in itself be materially harmful to the living conditions of occupants of the flats.
14. Notwithstanding the effect on the amenity space I conclude on this issue that the appeal scheme causes limited harm to the living conditions of the occupants of a ground floor flat at 1 Carlisle Road through enclosure and loss of outlook in conflict with LP policy QD27.

⁵ Planning Policy Statement 3: Housing (PPS3)

Conclusion on the ground (a) appeal

15. I have found that the retention of the disputed secure storage unit would have a harmful effect on the character and appearance of the locality and, to a limited degree, the living conditions of the occupants of a ground floor flat at 1 Carlisle Road. Taken together these provide compelling reasons that the appeal should not succeed.
16. For the reasons given above and having regard to all other matters raised, I conclude that the appeal on ground (a) should fail.

Formal decision

17. I direct that the enforcement notice be corrected by the following:
- (i) the deletion from paragraph 3 of the words "shipping container" and the substitution therefor of the words "secure storage unit",
 - (ii) the deletion from paragraph 4 of the words "shipping container" and the substitution therefor of the words "secure storage unit", and
 - (iii) the deletion from paragraph 5 of the words "a shipping container" and the substitution therefor of the words "secure storage unit".
18. Subject to the above corrections I dismiss the appeal and uphold the notice.

Kevin Nield

INSPECTOR



Appeal Decision

Site visit made on 28 November 2011

by P W Clark MA MRTPI MCMi

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

Decision date: 7 December 2011

Appeal Ref: APP/Q1445/A/11/2160370

Land to the rear of 33 Sackville Road, Hove, East Sussex BN3 3WA

- 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 & Mrs Colasurdo against the decision of Brighton & Hove City Council.
 - The application Ref BH2011/00897, dated 24 March 2011, was refused by notice dated 16 June 2011.
 - The development proposed is demolition of existing garages and erection of 1N^o 2 bedroom dwelling adjoining 62 Stirling Place.
-

Decision

1. The appeal is allowed and planning permission is granted for demolition of existing garages and erection of 1N^o 2 bedroom dwelling adjoining 62 Stirling Place on land to the rear of 33 Sackville Road, Hove, East Sussex BN3 3WA in accordance with the terms of the application, Ref BH2011/00897, dated 24 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) The development hereby permitted shall be carried out in accordance with the following approved plans: EX01A, PL01F.
 - 3) No development shall take place until details of a scheme of investigation of potential land contamination and, if needed, its remediation, has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details. The dwelling shall not be occupied until a competent person has verified that any necessary scheme of remediation has been completed.
 - 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 have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
 - 5) No cables, wires, aerials, pipework, meter boxes or flues shall be fixed to the elevation facing the highway.
 - 6) The dwelling shall achieve Level 3 of the Code for Sustainable Homes. The dwelling shall not be occupied until a final Code Certificate has been issued for it certifying that Code Level 3 has been achieved.

- 7) The dwelling shall not be occupied until facilities have been provided within the site in accordance with drawing No PL01F for bicycles to be parked and for refuse and recycling material to be stored. The facilities so provided shall thereafter be retained for their intended purpose.
- 8) The dwelling shall not be occupied until planting of a silver birch tree has been carried out in accordance with the approved plans. If within a period of two years from the date of its planting that tree, or any tree planted in replacement for it, is removed, uprooted or destroyed or dies, another tree of the same species and size as that originally planted shall be planted at the same place.
- 9) 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 outbuilding (other than those expressly authorised by this permission), extension, enlargement or other alteration to the dwelling shall be constructed.

Main Issues

2. There are three. One is the effect of the proposal on the character and appearance of the neighbourhood which is part of the Old Hove Conservation Area. The second is its effect on the living conditions of numbers 31 and 33 Sackville Road. The third is whether it would be adaptable to suit the needs of people with disabilities.

Reasons

Character and appearance

3. The Old Hove Conservation Area does not have a consistent character. Rather, as the Council's Character Statement points out, the area conveniently divides into four, each with its own character. That which contains the site is described as very mixed. The character assessment focuses on the architecture of the buildings and the views along streets. There is no mention of the spaces to their rear.
4. The council's appeal statement suggests that this part of the Conservation Area is characterised by substantial dwellings fronting Sackville Road with a substantial gap separating them from the terraced housing to their rear. Such a gap certainly exists to the rear of 33 Sackville Road; less to the rear of numbers 29 and 31 because they project further back but there is no such gap at the rear of 63 Sackville Road on the next corner to the north, or at the rear of 27 Sackville Road, the next corner to the south, or, south again, at the junction with Church Road. In Stirling Place, opposite the site, the gap to the rear of 35 Sackville Road has long been reduced by the existence of numbers 19-23 Stirling Place, a nineteenth century former parade of shops now converted to housing.
5. The width of the proposed dwelling would be less than that of the existing garages on site so at ground floor level it would increase the length of the gap behind number 33 by about 0.5m but that would be imperceptible as views at ground level are obstructed by boundary walls. At first floor it would reduce the space from about 15m to about 9.5m. That would be comparable with the existing dimensions of the space at the rear of 29/31 Sackville Road. So the

proposal would not eliminate the gap to the rear of number 33 but would reduce it to a size similar to that of its neighbours.

6. Other aspects of character and appearance are not at issue. They can be secured by conditions including requirements for samples to be submitted of the materials to be used; compliance with the approved plans (which show details of windows and door openings and the replacement of a tree) and the location of cables and pipework.
7. I conclude that the proposal would not so reduce the space to the rear of number 33 Sackville Road as to be inconsistent with the character and appearance of the Old Hove Conservation Area, which it would thereby preserve. It would be consistent with Brighton and Hove Local Plan policies QD1, QD2, QD3, HO4 and HE6. Amongst other things, these require consideration of the scale, height, visual interest, bulk, design and layout of development, an efficient and effective use of a site with an intensity appropriate to the locality, retaining and protecting trees and spaces between buildings in Conservation Areas.

Living conditions

8. The existing rear garden of number 33 is allocated to the ground floor flat alone. As noted in appeal decision APP/Q1445/A/09/2099838 which allowed the conversion of that property to flats, the ground floor unit is a two bedroomed flat which would be more likely to accommodate a family. The proposal would divide that garden area into two, shared between that flat and the current appeal proposal, which is also a two bedroomed unit, capable of accommodating a family. Each portion would be about 4m by about 8.5m. Local Plan policy HO5 requires suitable external amenity space. The Council's officer report advises that each fragment would be an acceptable size for a family dwelling. There is no information to cause that advice to be rejected.
9. The outlook from the garden flat at number 33 would be on to the new garden wall at a distance of about 3.5-4.5m and beyond that to the two storey flank of the new building at a distance of about 7.5-8.5 m. There are no standards for outlook. These dimensions are a little less than is common in many authorities but it is often the case that if a development provides sufficient daylight to an existing property, then it is likely also to provide an adequate outlook. The appellant's sunlight and daylight report, commissioned from Schroeders Begg LLP demonstrates that the impact on daylight to the ground floor flat at number 33 would be acceptable, indeed, hardly noticeable. However, that might not be the case were permitted development rights to be taken up and so a condition is necessary to require a specific consent for any alteration or extension.
10. Upper floors at number 33 are set slightly back, so their outlook would be better than that of the ground floor flat. The existing outlook from number 31 is to the flank of number 62 Stirling Place at a distance of about 10m. For the last 5.5m of that distance the proposal would add a sidelong enclosure of similar height. It would be to the north of number 31 and so would cause little or no loss of light. To have an outlook partly enclosed on two sides in this fashion is not uncommon and so would be acceptable.

11. I conclude that the effect of the proposal on the living conditions of neighbouring properties would be acceptable. It would not be contrary to Local Plan policy QD27 which seeks to protect residents' amenities.

People with disabilities

12. Local Plan policy HO13 requires new dwellings to be built to a lifetime homes standard whereby they can be adapted to meet the needs of people with disabilities without major structural alterations. As submitted, the layout shown on application drawing PL01F would not be suitable for a wheelchair user without adaptation. The appellant has produced drawing PL01J, not in substitution for the application drawing but as an additional drawing to show how adaptation would be possible without major structural alterations. There is also evidence to show that the adaptation illustrated would meet technical specifications for wheelchair users in a dwelling of this size.
13. It might be preferable to construct the dwelling so as to be usable in a wheelchair from the start. The Council has suggested that this be required by condition but there is no evidence to demonstrate that this would be necessary for the development to be acceptable or to comply with policy. I conclude that the appeal proposal would be adaptable without major structural alterations. The proposal would therefore comply with Local Plan policy HO13.

Conditions

14. The Council has suggested a number of conditions in the event that the appeal is allowed. I have considered these by reference to the advice contained in Government Circular 11/95, *the Use of Conditions in Planning Permissions*, preferring the use of the model conditions contained therein where appropriate. Conditions requiring submission of details of window and door openings and of landscaping are not imposed as there is sufficient detail shown on the drawings. It would be sufficient to require that these be followed. Likewise conditions are necessary to require that the details of refuse and recycling storage and bicycle parking shown on the drawings are provided.
15. There is evidence of potentially contaminating uses in the vicinity. The garages to be demolished may themselves be a source of land contamination. The proposal is for a use sensitive to land contamination. Applying the precautionary approach recommended in the Government's Planning Policy Statement 23 *Planning and Pollution Control*, a scheme of investigation and, if required, remediation is called for. Achievement of level 3 of the Code for Sustainable Homes is a requirement of Local Plan policy SU2 and so a condition is necessary.

P. W. Clark

Inspector



Appeal Decision

Site visit made on 28 November 2011

by P W Clark MA MRTPI MCI

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

Decision date: 6 December 2011

Appeal Ref: APP/Q1445/D/11/2162674
6 Glen Rise, Brighton, East Sussex BN1 5LP

- 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 Marcus Stephanou against the decision of Brighton & Hove City Council.
 - The application Ref BH2011/01380, dated 1 May 2011, was refused by notice dated 4 August 2011.
 - The development proposed is a two storey rear extension to the gable end roof, an extension to the single storey hipped roof, an enlarged garage with an added pitched roof and the addition of a front lobby.
-

Decision

1. The appeal is allowed and planning permission is granted for a two storey rear extension to the gable end roof, an extension to the single storey hipped roof, an enlarged garage with an added pitched roof and the addition of a front lobby at 6 Glen Rise, Brighton, East Sussex BN1 5LP in accordance with the terms of the application, Ref BH2011/01380, dated 1 May 2011, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: GR61210/1B and unnumbered roof plan amended June 2011.
 - 3) The materials to be used in the construction of the external surfaces of the extensions hereby permitted shall match those used in the existing building.

Reasons

2. The appeal premises originated as a dwelling with an L-shaped plan. The longer arm of the L extends back from the street, parallel and close to the side boundary with number 8. It has a very steeply pitched roof rising from ground floor eaves level, containing a first floor with windows in front and rear gables and rooflights in the slope facing number 8. The shorter arm of the L is set back. It has a lower, shallow pitched, hipped roof.
3. At some time in the past a substantial flat roofed extension has been placed on the roof of the lower wing, straddling its ridge and hips. The proposal is to remove this extension, to increase the pitch and height of the hipped roof

- slopes to accommodate dormer windows, to extend the hipped wing forward and to extend both the hipped wing and the gabled wing towards the rear.
4. The materials to be used in the extension can be required by condition to match the original house. With this condition in place, the sole main issue is the effect which the rear extension of the gabled roof would have on the living conditions of residents at number 8 Glen Rise by way of outlook.
 5. The proposal was amended during its consideration by the Council, so a condition makes it clear which drawings are being approved. The gabled wing would be extended by 4m at ground floor level but by only 3m at first floor level. Because the houses in Glen Rise are sited in echelon along the road, the flank of number 8 presently extends about 1.4m beyond the rear elevation of number 6, so the net effect would be that the extended pitched roof of the appeal would project about 1.6m deeper than the rear wall of number 8.
 6. As already noted, the upper floor of the gabled wing is set within the roof slope which rises from eaves at ground floor level, so recedes from number 8 as its height increases. This effect is enhanced by differences in level between the two properties, which place number 8 on more elevated ground. As a further result the garden fence between the two properties would largely obscure the deeper ground floor part of the proposal from view.
 7. There is a window in the flank of number 8 which would look out directly onto the roof slope of the proposed extension but it appears to be a secondary window to a room which has its principal outlook to the rear. Because the rear extension to number 6 would be so shallow in relation to number 8, it would be seen from the principal rear facing upper floor window at such an acute angle that it would cause no unacceptable harm to that outlook.
 8. At the far side of number 8 there is a two storey addition which protrudes about 2.8 m into the garden. In the corner between that extension and the main rear wall of number 8 is a single storey conservatory. It has two faces; one towards its garden, the other towards number 6. Its façade facing number 6 is about 4m from the boundary. This distance, combined with the greater elevation of number 8 in relation to number 6 and the shallow projection of the first floor part of the proposed extension, would mean that any effect on outlook from the conservatory would not be so significant as to require this appeal to be dismissed.
 9. I conclude that the proposal would have an acceptable effect on the living conditions of the residents of number 8 Glen Rise. It would comply with policy QD27 of the Brighton and Hove Local Plan 2005 which seeks to protect the living conditions of neighbours to a development.

P. W. Clark

Inspector



Appeal Decision

Site visit made on 28 November 2011

by P W Clark MA MRTPI MCI

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

Decision date: 6 December 2011

Appeal Ref: APP/Q1445/D/11/2162641
39 Solway Avenue, Brighton BN1 8UJ

- 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 Matt Woodhart against the decision of Brighton & Hove City Council.
 - The application Ref BH2011/01915, dated 29 June 2011, was refused by notice dated 5 September 2011.
 - The development proposed is a two storey side extension with dormers to the rear and a raised decking area to the rear elevation.
-

Decision

1. The appeal is dismissed.

Reasons

2. The main issue is the effect of the proposal on the character and appearance of the street scene. The property is sited on the inside of an acutely angled junction between Solway Avenue and Braeside Avenue. This, together with its position at the top of a hill, means that its rear elevation is prominent in the ascent of Braeside Avenue.
3. Most of the properties in Solway Avenue and in the part of Braeside Avenue adjacent are semi-detached bungalows. They have a common form in which the main body of accommodation is under a hipped roof aligned parallel to the road. A lower, gable fronted wing projects forward at either end of the pair. Many of the gables in Solway Avenue, but not in Braeside, have a bonnet, or half hip.
4. The dwellings in Braeside Avenue and the end properties in Solway Avenue, including the appeal site, are chalet bungalows. That is to say that they are two storey properties but the upper floor has a reduced area contained entirely within the roofspace, lit by flat topped dormers, two or three casements wide.
5. Exceptionally, the appeal property is detached. Where there would be a party wall on others in the area, it has a gable end, topped with a bonnet or half hip. Additionally, perhaps to mark its significant position in the angle between the two streets, its lower wing projects further forward than others and is given an elaborate half-timbered treatment, jettied over a ground floor bay window.
6. As the appellant's appeal statement points out, the combination of the truncated main body of the dwelling and the enlarged and elaborated front projection does make the existing property appear somewhat unbalanced.

However, as these features all derive from a common form shared with others in the area, it is an exaggeration to say that it is out of keeping with its neighbours.

7. The proposal would extend the main body of the house towards Braeside Avenue, replicating its bonneted gable end about 1m away from the side boundary. It would convert the opposite, fully hipped, end into a bonneted gable. It would add a second wing projecting towards Solway Avenue, matching the original and forming a valley gutter between the two. All this, which copies or derives from features of the existing building, gives rise to no objection.
8. However, in the rear roof slope, which is prominently visible from Braeside Avenue, the existing flat topped two light dormer which matches others in the area would be replaced by a wider, three light window under a hipped roof. It would project slightly further forward than the existing so that its sill would no longer sit comfortably on the roof slope but would be raised slightly above it. The combination of greater width, greater projection and pitched roof would make it bulky and out of proportion with the rest of the house.
9. A second dormer would be added in the extension. This would house a Juliet balcony so that, instead of sitting back in the roof slope, it would project well forward, in line with the wall of the rear elevation of the ground floor. In consequence, its flanks would be large. It would be wider than the French windows it would house, so would have tile hanging to its front face, adding unnecessarily to its bulk. It too would have a pitched, hipped roof. Its combination of unnecessary width, greater projection and pitched roof would make it bulky and out of proportion with the rest of the house.
10. Furthermore, it would be positioned on the axis of the internal dimensions of the room so that it would be uncomfortably close to the flank wall of the extended property, neither aligned with the windows of the room below nor symmetrical with the first dormer. This would give it an awkward appearance.
11. It is proposed to demolish a garage on the boundary with number 37. This would open up the garden of that property to overlooking from the decking proposed as part of the appeal. This issue could be resolved by a condition to require screening along the boundary to the same height as the wall of the garage, so is not a reason to dismiss the appeal. The appeal is dismissed because of the effects of the two dormers on the street scene, in which they would be prominent.
12. I conclude that the two dormers proposed as part of this appeal would harm the character and appearance of the street scene. They would be contrary to policy QD14 of the Brighton and Hove Local Plan which, amongst other things, requires alterations to be well designed and sited in relation to their surroundings.

P. W. Clark

Inspector



Appeal Decision

Site visit made on 6 December 2011

by Jane Miles BA (Hons) DipTP MRTPI

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

Decision date: 15 December 2011

Appeal Ref: APP/Q1445/D/11/2163572
2A Great College Street, Brighton BN2 1HL

- 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 Ian Turner against the decision of Brighton & Hove City Council.
 - The application ref: BH2011/02045, dated 9 August 2011, was refused by notice dated 4 October 2011.
 - The development proposed is roof terrace on existing flat roof.
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Decision

1. The appeal is dismissed.

Reasons

2. Creating the proposed roof terrace would involve erecting a tubular metal balustrade around three sides of the roof and also replacing an existing raised skylight with a flush 'walk-on' alternative. The **main issue** in this appeal is the effect of the balustrade on the character and appearance of the host building and of the surrounding street scenes in the East Cliff Conservation Area.
3. The appeal site, close to the junction of Great College Street and College Place, is in a part of the Conservation Area characterised mainly by long two-storey terraces, many of which have parapet features to their front elevations. No. 2A fronts onto Great College Street, but forms part of a terrace building block set at right angles to the long terraces on each side of Great College Street and fronting mainly onto College Place. Not only is there a gap between no. 2A and the neighbouring terrace to the east, but no. 2A's front wall projects forwards of that adjacent terrace. Thus the proposed balustrade would be visible from various viewpoints on both streets, even though it would be set back around 600mm from the existing parapet.
4. A high level feature such as this will not necessarily be harmful simply because it is visible. However the submitted details indicate that the proposed tubular balustrade would be of a very basic and utilitarian nature, at odds with the host building's style, materials and detailing. Due to its design and materials I find that it would be an unsympathetic addition to the host building, contrary to the intentions of Policies QD14 and HE6 of the Brighton and Hove Local Plan 2005 (LP). It would not amount to the high quality design or detailing that Policy HE6 expects in conservation areas. Therefore, although I see no objection in principle to some form of enclosure on the flat roof, I find that the particular balustrade proposed in this case would appear as an incongruous feature, to

the detriment of the surrounding street scenes' established character. Thus the proposal would neither preserve nor enhance the East Cliff Conservation Area's character or appearance.

5. I have borne in mind the examples of other means of enclosure above street level, submitted by the appellant, but I do not know the full circumstances relating to these, including whether or not they have the benefit of planning permission. In any event, none appear directly comparable with the appeal proposal and, apart perhaps from the railings at Danny Sheldon House, none appear any more appropriate in their respective street scenes than would the proposed balustrade.
6. It may be that an alternative means of enclosing the roof terrace could be found, which would accord with the criteria in LP Policies QD14 and HE6. However, as this could potentially mean a materially different proposal, requiring a fresh application, it is not a matter which could appropriately be addressed by a planning condition.
7. I have had regard to all other matters raised but have found nothing sufficient to alter or outweigh my conclusion that the proposal would have a harmful effect on the character and appearance of the host building and the surrounding street scenes in the East Cliff Conservation Area. It follows therefore that the appeal must fail.

Jane Miles

INSPECTOR

NEW APPEALS RECEIVED

WARD

APPLICATION NUMBER

ADDRESS

DEVELOPMENT DESCRIPTION

APPEAL STATUS

APPEAL RECEIVED DATE

APPLICATION DECISION LEVEL

QUEEN'S PARK

BH2011/00126

First Floor Flat, 74 Marine Parade, Brighton

External and internal alterations including alterations to layout of flat and insertion of new timber sash window to East elevation.

APPEAL LODGED

24/11/2011

Delegated

WARD

APPLICATION NUMBER

ADDRESS

DEVELOPMENT DESCRIPTION

APPEAL STATUS

APPEAL RECEIVED DATE

APPLICATION DECISION LEVEL

QUEEN'S PARK

BH2011/00127

First Floor Flat, 74 Marine Parade, Brighton

External and internal alterations including alterations to layout of flat and insertion of new timber sash window to East elevation.

APPEAL LODGED

24/11/2011

Delegated

WARD

APPLICATION NUMBER

ADDRESS

DEVELOPMENT DESCRIPTION

APPEAL STATUS

APPEAL RECEIVED DATE

APPLICATION DECISION LEVEL

WESTBOURNE

BH2011/02656

14 Princes Square, Hove

Erection of a single storey rear extension.

APPEAL LODGED

07/12/2011

Delegated

WARD

APPLICATION NUMBER

ADDRESS

DEVELOPMENT DESCRIPTION

APPEAL STATUS

APPEAL RECEIVED DATE

APPLICATION DECISION LEVEL

QUEEN'S PARK

BH2011/01852

Cavendish House, Dorset Place, Brighton

Change of use from offices (B1) to non residential education/training centre (D1).

APPEAL LODGED

08/12/2011

Planning Committee

WARD

APPLICATION NUMBER

ADDRESS

DEVELOPMENT DESCRIPTION

APPEAL STATUS

QUEEN'S PARK

BH2011/02704

15 Crescent Place, Brighton

Demolition of part of boundary wall to front.

APPEAL LODGED

NEW APPEALS RECEIVED

APPEAL RECEIVED DATE 13/12/2011
APPLICATION DECISION LEVEL Delegated

WARD **QUEEN'S PARK**
APPLICATION NUMBER BH2011/02705
ADDRESS 15 Crescent Place, Brighton
DEVELOPMENT DESCRIPTION Installation of double gates to front boundary wall and formation of vehicle parking area.
APPEAL STATUS APPEAL LODGED
APPEAL RECEIVED DATE 13/12/2011
APPLICATION DECISION LEVEL Delegated
