



**Brighton & Hove
City Council**

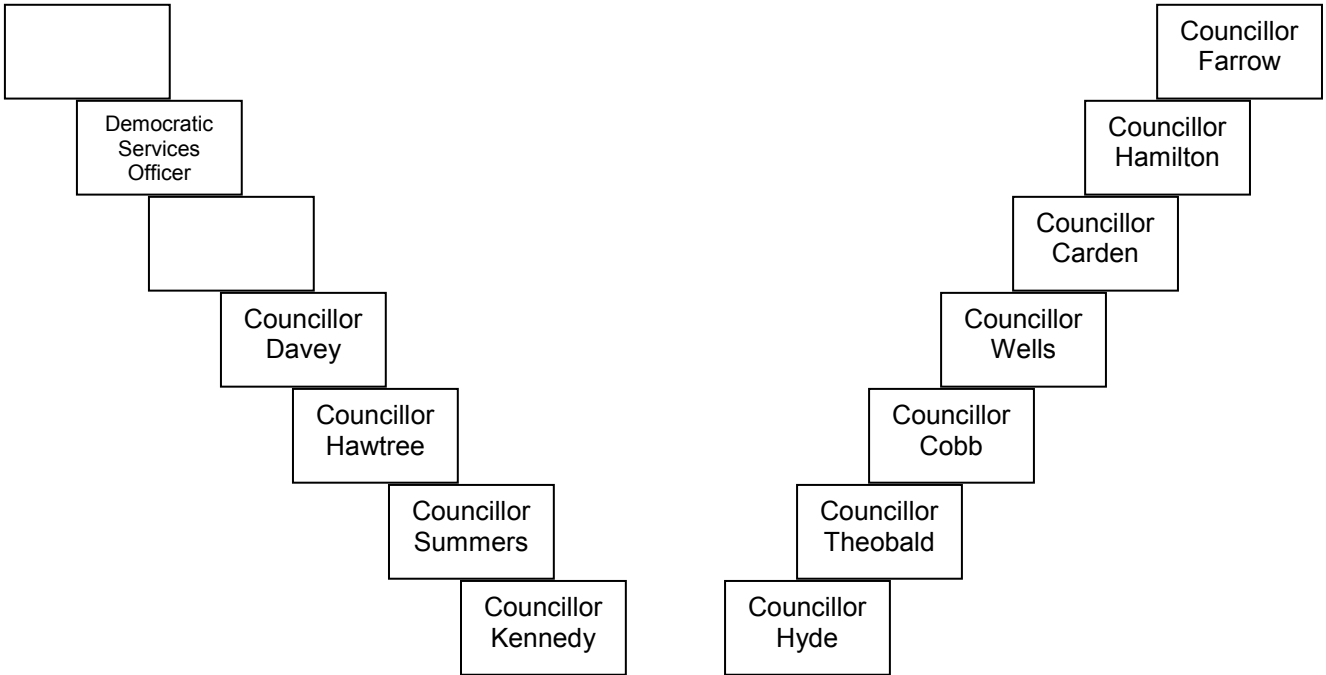
Planning Committee

Title:	Planning Committee
Date:	14 March 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 (Conservation Advisory Group)</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

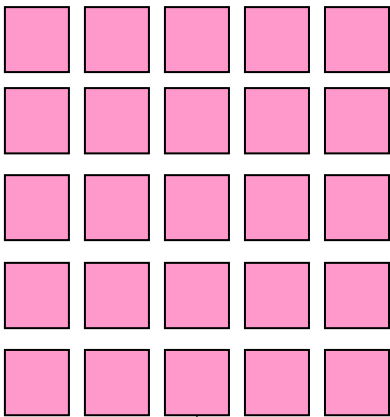
Senior Solicitor Chairman Head of Development Control



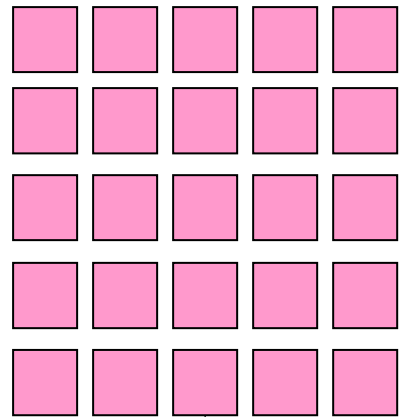
Chairman of CAG

Officers Officers

Press



Public Seating



Public Seating

AGENDA

149. 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.

150. MINUTES OF THE PREVIOUS MEETING

1 - 20

Minutes of the meeting held on 22 February 2012 (copy attached).

151. CHAIR'S COMMUNICATIONS

152. APPEAL DECISIONS

21 - 68

(copy attached).

153. LIST OF NEW APPEALS LODGED WITH THE PLANNING INSPECTORATE

69 - 72

(copy attached).

154. INFORMATION ON INFORMAL HEARINGS/PUBLIC INQUIRIES

(copy attached).

155. INFORMATION ON PRE APPLICATION PRESENTATIONS AND REQUESTS

PLANNING COMMITTEE

(copy attached).

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

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

(copy circulated separately).

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

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

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

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

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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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

area.

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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, 6 March 2012

BRIGHTON & HOVE CITY COUNCIL

PLANNING COMMITTEE

2.00pm 22 FEBRUARY 2012

COUNCIL CHAMBER, HOVE TOWN HALL

MINUTES

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

Officers in attendance: Jeanette Walsh, Head of Development Control; Paul Vidler, Deputy Development Control Manager; Claire Burnett, Area Planning Manager East, Guy Everest, Senior Planning Officer; Aidan Thatcher, Senior Planning Officer; Adrian Smith, Planning Officer; Hilary Woodward, Senior Lawyer and Ross Keatley, Democratic Service Officer.

PART ONE

138. PROCEDURAL BUSINESS

138a Declarations of substitutes

138.1 Councillor Bowden was present in substitution for Councillor Kennedy.

138b Declarations of interests

138.2 Councillor Hawtree declared a person but non-prejudicial interest in application BH2010/03739 as he had publically expressed his opinions on the site and proposals before being elected as a Councillor, and, as such, would withdraw from the meeting during the discussion and vote on this application.

138c Exclusion of the press and public

138.3 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.

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

139. MINUTES OF THE PREVIOUS MEETING

139a Minutes of the Special Meeting held on 27 January 2012

139.1 **RESOLVED** – That the Chair be authorised to sign the minutes of the special meeting held on 27 January 2012 as a correct record.

139b Minutes of the Meeting held on 1 February 2012

139.2 **RESOLVED** – That the Chair be authorised to sign the minutes of the meeting held on 1 February 2012 as a correct record.

140. CHAIR'S COMMUNICATIONS

140.1 It was highlighted that the Member Working Group had agreed to move the day of the Chair's briefing to coincide with the briefing for all Members of the Committee; a note would be circulated to this effect by Democratic Services.

141. APPEAL DECISIONS

141.1 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.

142. LIST OF NEW APPEALS LODGED WITH THE PLANNING INSPECTORATE

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

143. INFORMATION ON INFORMAL HEARINGS/PUBLIC INQUIRIES

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

144. INFORMATION ON PRE APPLICATION PRESENTATIONS AND REQUESTS

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

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

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

Application:	Requested by:
BH2011/03629 21 Dyke Road Avenue	Councillor Hyde
BH2011/02845 150 Ladies Miles Road	Councillor Carol Theobald

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

A. Application BH2010/03739, 9-16 Aldrington Basin/Land South of Kingsway, Basin Road, North Portslade – demolition of business unit to east of Magnet showroom. Erection of new five and a half storey building at Kingsway level and a further one and half storeys of car parking beneath Kingsway ground floor accessed via Basin Road North. Development comprises mixed use commercial premises with associated new access and car parking at Kingsway level and 67 residential units in 6 blocks interlinked by five sets of vertical helical wind turbines. Change of use of existing Magnet showroom at Basin Road North level to storage with associated service area.

- (1) Before consideration of the application Councillor Davey asked for clarification on the applicant's request for deferment following the submission of amendments to the scheme. The Senior Lawyer, Hilary Woodward, explained that it was the position of the Council that the applicant's proposed amendments were so fundamental that they would require a completely new application, and could not be considered as part of the current application.
- (2) It was noted that this application had formed the subject of a site visit prior to the meeting.
- (3) The Senior Planning Officer, Guy Everest, drew Members' attention to additional representations on the late list and gave a presentation detailing the scheme as set in the report by reference to plans, photographs and elevational drawings. The site currently contained a mixture of retail workshops and undeveloped land; the application sought consent for a mixed use redevelopment with 26 affordable housing units. The proposal was five storeys in height with wind turbines between the buildings; at the basin frontage there would be a warehouse and parking, and the level of parking on the site would prevent displacement onto nearby streets. At the Kingsway level office and retail units were proposed on the ground floor and residential accommodation with balconies on the upper floors.
- (4) There was concern in regards to the design relationship between the proposals and the residential properties to the north: there was a significant change in height and massing; the proposals lacked variation and transition and would be intrusive and overbearing. The proposals would exceed sustainability requirements through the provision of wind turbines, solar panels and biomass boilers; however, it had not been possible to establish the potential impact of noise nuisance from the turbines as there was a lack of technical information, and subsequently it was not possible to apply appropriate mitigation conditions. It was recommended that the application be refused for the reasons set out in the report.

Public Speakers

- (5) Councillor Peltzer-Dunn requested that an extension to speaking be granted to allow the two ward Councillors to give more detailed representations. In consultation with the Senior Lawyer the Chair ruled that no extension would be granted. Councillor Farrow asked that his objection to this ruling be formally recorded.
- (6) Ms Paynter spoke in objection to the application. She stated that the proposed development would block future height and design options for the rest of Aldrington Basin, and the environmental credentials of the site should not be a means to bypass appropriate planning considerations.
- (7) Mr Robinson spoke in objection to the application. He stated that he spoke on behalf of the owners of Mackleys Wharf, and highlighted that the relationship of the proposal to the Wharf had not been established, and he considered the proposal would leave the area on Basin Road North bleak.
- (8) Mrs Moffatt spoke in objection to the application. She stated that the application ignored the residential context, and the proposal would appear industrial. She also highlighted the loss of light that would be experienced by residents to the north, and that the proposal failed to meet planning policies.
- (9) Councillor Peltzer-Dunn spoke in his capacity as the local Ward Councillor setting out his concerns in relation to the scheme. He highlighted that many of the letters of support did not come from local residents, and the proposals had led to the formation of a local residents association to oppose the scheme. He felt that the environmental credentials of the scheme would come at the expense of the local area.
- (10) Councillor Pissaridou spoke in her capacity as the local Ward Councillor setting out her concerns in relation to the scheme. She noted the residential context was largely 1920's and 1930's buildings which would be overwhelmed by the proposals. She stated that the environmental credentials were not proven; expressed concern in relation to emissions from the biomass boilers, and said the proposed wind turbine technology was untried.
- (11) Mr Dunster, the applicant, spoke in support of the application. He stated that the proposal had clear spaces between buildings which would allow for daylight to reach residential properties to the north. The applicant had offered to amend the application to remove the wind turbines, but also stated that the turbines could be constructed and tested off site to satisfy the concerns raised by the Environmental Health Team. It was explained that the turbine speed could be controlled, and they would serve as a sculpture piece on the development. It was also noted that the proposals had developed over a period of four years, and the applicant had only recently been informed by the Council that the proposal was too bulky.

Questions, Debate and Decision Making Process

- (12) Councillor Farrow asked Councillor Pissaridou to explain her concerns in relation to the environmental credentials of the proposal. In response it was said that the effect of

burning wood pellets in the biomass boilers was unknown, and there was no on site storage for the wood pellets.

- (13) Councillor Carol Theobald asked Councillor Peltzer-Dunn what aspects of the consultation process he was not satisfied with, and it was explained that the exhibitions had related to different sites in the area, and different views had been expressed by residents.
- (14) Councillor Farrow asked the applicant how noisy the turbines were expected to be and if a study had been carried out. The applicant explained that the turbines speed could be set and restricted by the acoustic criteria; if they exceeding the limit they could be programmed to automatically slow down. It was expected the turbines would be 2dB above ambient. Councillor Farrow also asked further questions in relation to the emissions from the biomass boilers, and it was explained that a detailed report had been submitted to the Council, and Officers would have this technical information.
- (15) Councillor Bowden asked for more information on the turbines as the offer to remove them from the proposals suggested they were not integral to the scheme. In response it was explained that the amount of energy they could generate would depend on the amount of time they were able to run, but the applicant was confident they would be able to supply one third of the energy for the whole site. The scheme could be built without the turbines, but their inclusion would significantly reduce the 'carbon debt' of the development, and reduce the reliance on the biomass boilers.
- (16) Councillor Davey asked the applicant how the proposal could fit in with a master plan for Shoreham Port, and how it could potentially set a precedent for future applications. It was explained that the basin area was at risk from rising sea levels, and future proposals for the area between the development and the harbour could be low rise, similar development proposals were considered appropriate for the sites around the edge of the basin.
- (17) Councillor Carol Theobald asked if any tests had been undertaken on the proposed turbines given the close proximity to windows and balconies of the residential units, and it was explained that the turbines would be programmed to only spin at a constant speed. Councillor Carol Theobald went to ask about the parking arrangements on the site, and it was explained that there would be 85 spaces in total, with designated parking for residential and commercial use.
- (18) In response to a query from Councillor Davey the Senior Planning Officer highlighted the permission had been granted for the development of Britannia House which would be increased to four storeys in height, similar to the neighbouring pub.
- (19) Councillor Farrow followed up his earlier query and asked about the emissions from the biomass boilers, and Officers from Environmental Health explained that the levels of nitrogen oxide were not of concern; consequently, these levels confirmed that the boilers where not producing harmful emissions.
- (20) Councillor Summers made reference to the Shoreham Port master plan that stated mostly residential units were proposed on the site, and Officers were able to explain that the emerging planning policy framework had evolved the expectations for the site.

- (21) Councillor Farrow said that he was concerned with the potential environmental problems of the proposals and supported the Officer's recommendation.
- (22) Councillor Carol Theobald said that, although she favoured the proposed design, she felt it was too high and too dense. She went on to highlight that the properties to the north would be overlooked; noted her concerns in relation to parking, and stated she supported the Officer's recommendation.
- (23) Councillor Hamilton noted the proposal had many good features, but was in the wrong place and the bulk exceeded what was appropriate for this section of the Kingsway. He highlighted that, on balance, he supported the Officer's recommendation.
- (24) Councillor Davey noted there was merit in the design, and praised the mixed use approach of the development; he suggested a revised application could address many of the concerns of residents. He went on to add that there was the potential to use Shoreham Harbour as an 'eco-business centre', but he would be voting with the Officer's recommendation.
- (25) Councillor Summers agreed with Councillor Davey's comments in relation to an 'eco-business centre', but felt the amenity impact of local residents was a vital consideration for the Committee.
- (26) Councillor Bowden felt that the height and bulk of the proposed development would affect residents to the north, and for these reasons he would be voting with the Officer's recommendation.
- (27) Councillor Carden felt this was a missed opportunity for homes and jobs in the city, and would be voting with the Officer's recommendation.
- (28) A vote was taken and the 11 Members present voted unanimously that permission be refused.

Note: Councillor Hawtree was not present during the consideration and vote on this application.

146.1 **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. The applicant has failed to demonstrate that the site is an appropriate location for a tall building within the context of existing development to the north and south of the site, and emerging plans for future development at Aldrington Basin. The proposal is therefore contrary to policies QD1 and QD2 of the Brighton & Hove Local Plan, and to the provisions of Supplementary Planning Guidance Note 15, Tall Buildings.
2. The development by reason of its constant and unvarying height and massing would create a sense of bulk that would appear excessively out of scale and create a visually overbearing relationship with adjoining development to the north. The proposal is

therefore contrary to policies QD1, QD2 and QD4 of the Brighton & Hove Local Plan, and to the provisions of Supplementary Planning Guidance Note 15, Tall Buildings.

3. The application is not accompanied by a robust background noise survey which identifies the appropriate nearest sensitive receptors or a comprehensive acoustic report outlining the noise impact on agreed receptors. The development, in the absence of this information and suitable mitigation measures, has significant potential to expose future residents of the proposed development and neighbouring properties to excessive and unreasonable levels of noise.

The proposal would therefore be detrimental to residential amenity and is contrary to advice contained within Planning Policy Guidance 24 (Planning and Noise), Planning Policy Statement 22 (Renewable Energy) and its Companion Guide (Planning for Renewable Energy), the principles outlined in ETSU-R 97, and policies SU10 and QD27 of the Brighton & Hove Local Plan.

4. The development, in the absence of sufficient justification for a development of this scale in this location, would result in a loss of light that would be both significant and harmful to living conditions for occupiers of neighbouring properties on Kingsway fronting the application site. The proposal is therefore contrary to policy QD27 of the Brighton & Hove Local Plan.

Informatives:

1. This decision is based on drawings and information received on 2nd December 2010, 15th December 2010, 31st December 2010, 11th April 2011, 12th April 2011, 14th April 2011, 18th April 2011, 20th May 2011, 26th May 2011, 7th June 2011, 2nd August 2011, 5th August 2011, 17th August 2011, 30th August 2011 and 16th September 2011.
2. The applicant's attention is drawn to issues with respect to conflicting information contained in this submission.

B. Application BH2011/03804, Land South of Sussex Police Building, Crowhurst Road, Brighton – Construction of new two storey building for offices (B1) and storage & distribution (B8) and provision of associated parking and turning area.

- (1) The Senior Planning Officer, Aidan Thatcher, drew Members' attention to amended plans detailed on the late list and gave a presentation detailing the scheme as set in the report by reference to plans, photographs and elevational drawings. The application was for the development of a vacant piece of land for offices and storage, and the site was located in an allocated employment area with surrounding commercial buildings. The applicant was a city based company, with various sites across the city, and the proposal would form a new headquarters; the scheme also included vehicular and cycle parking and landscaping.
- (2) The proposal was similar in scale and height to the surrounding buildings, and considered appropriate for the context. There would be 36 parking spaces on the site, six of which would be for disabled use, and an acceptable level of cycling parking. No adverse impact of the local highway network had been identified; conditions were recommended to ensure the proposal met BREEAM ratings and a condition had been proposed that 15% of the labour used during construction be local. The application

was minded for approval subject to the conditions set out in the report and the amended condition 2 on the late list.

Questions, Debate and Decision Making Process

- (3) Councillor Hyde commented that the application was positive as it proposed to develop an empty site and would allow a local business to invest in the city.
- (4) Councillor Carol Theobald welcomed the development of an unused site and the additional employment created.
- (5) A vote was taken and the 12 Members present voted unanimously that permission be granted on the grounds set out below.

146.2 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in paragraph 8 of the report and resolves that it is **MINDED TO GRANT** planning permission subject to the completion of a s106 Agreement and the Conditions and Informatives set out in the report.

C. Application BH2011/03762, Units 8-9 Centenary Industrial Estate, Hughes Road, Brighton – Change of use from storage and distribution (B8) to light industrial (B1).

- (1) The Deputy Development Control Manager, Paul Vidler, gave a presentation detailing the application as set out in the report by reference to photographs and plans. The application was for a change of use from B8 to B1; the applicant currently operated from the building opposite and was seeking to expand the business to allow for an extra 22 off site staff. The application was recommended for approval for the reasons set out in the report.

Questions, Debate and Decision Making Process

- (2) Councillor Bowden noted his support for the application as it was appropriate to the location and encouraged employment in the city.
- (3) A vote was taken and the 12 Members present voted unanimously that permission be granted.

146.3 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation 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.

D. Application BH2011/03421, Ovingdean Hall College, Greenways, Brighton - Demolition of existing art block, mower store and part of pool building and construction of new student accommodation buildings providing 78 en-suite bedrooms, incorporating the conversion of existing gymnasium. Associated minor internal and external alterations, associated landscaping proposals and minor alterations to listed garden wall.

- (1) It was noted that this application had formed the subject of a site visit prior to the meeting.
- (2) The Deputy Development Control Manager drew Members' attention to additional information in the late list and noted that the description of the listed building consent should reference demolition of part of the swimming pool. A presentation was given detailing the scheme as set out in the planning application (BH2011/03421) and listed building consent (BH2011/03422) reports by reference to photographs, plans, drawings and material samples. The applications were on a large site that included Ovingdean Hall, a grade 2 listed building that had been extended over a period of many years. The proposals involved the demolition of three areas, a series of landscaping work and the relocation of the main car park to improve the setting of the listed building.
- (3) The site was currently a language school, and the proposed extensions would provide 78 en-suite rooms for students, with four of these fitted for disabled use. At the western side of the site there was a listed flint wall and the proposals sought a small opening with appropriate detailing. The proposed extensions were set well away from the listed building, and a site management plan had been recommended. The applications for planning permission and listed building consent were recommended for approval subject to the conditions and informatives set out in the report.

Questions, Debate and Decision Making Process

- (4) Councillor Carden ask what provision would be made for the equipment that was currently stored in the mower store, and it was explained that there was adequate storage elsewhere on site.
- (5) Councillor Hawtree asked a question in relation to the 'investigation of solar panels' outlined in the report, and it was explained that Officers were satisfied the application met the BREEAM standard without the inclusion of solar panels.
- (6) Councillor Hyde noted that concern had been raised in relation to potential noise nuisance from the students on site, but went on to highlight that she welcomed the application as it ensured the listed building could continue to function as business. She noted her concerns in relation the materials used for the roof, and these comments were echoed by Councillor Hawtree.
- (7) A vote was taken and planning permission was granted on a vote of 11 to 1.

146.4 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation and the policies and guidance in section 7 of the report and resolved to **GRANT** planning permission subject to the Conditions and Informatives set out in the report.

E. Application BH2011/03422, Ovingdean Hall College, Greenways, Brighton – Minor internal and external alterations, and minor alterations to listed garden wall.

- (1) A vote was taken and listed building consent was granted on a vote of 11 to 1.

146.5 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation and the policies and guidance in section 7 of the report and resolves to **GRANT** listed building consent permission subject to the Conditions and Informatives set out in the report.

(ii) **MINOR APPLICATIONS**

F. **Application BH2011/03398, Flat 4, 4 Montpelier Terrace** – Creation of additional storey to first floor flat to rear.

- (1) It was noted that this application had formed the subject of a site visit prior to the meeting.
- (2) The Planning Officer, Adrian Smith, gave a presentation detailing the application for planning permission (BH2011/03398) and listed building consent (BH2011/03397) as set in the reports by reference to photographs, plans and drawings. The application sought to raise the roof of the existing first floor bedsit by 2 metres to create a one/two bedroom flat. In regards to the listed building consent the application was considered acceptable as it would not impact upon the conservation area; however, amenity was the primary concern of the planning application.
- (3) Both the Council and the applicant had undertaken daylight studies with similar results, but drawn different conclusions; the applicant had sought to address the amenity issues by removing the slope of a section of the roof, but Officers felt this would have an adverse impact on the listed building. Officers were also concerned about the sense of enclosure and bulk of the proposed extension. The application for planning permission was recommended for refusal, and the application for listed building consent was recommended for approval for the reasons set out in the report.

Public Speakers

- (4) Mr King, a local resident, spoke in objection to the application. He stated that a similar application had been withdrawn in 2010, and he opposed the application due to the loss of sunlight to his property and the negative impact on outlook and privacy. He acknowledged that the area at the rear of the property was already poorly lit, but went on to explain that residents had commissioned a physical light reading study to demonstrate the increased loss of light the extension would create.
- (5) Mr McKenney, the agent for the applicant, spoke in support of the application. He stated that the proposed development was generally acceptable, and the main objection was in relation to the amenity. The assessment of the potential impact had been carried out using approved methods, and the study had demonstrated that there was no significant impact as a minimal amount of light already reached the bottom of the light well, and the daylight to the basement was already below the British standard.

Questions, Debate and Decision Making Process

- (6) In response to a query from Councillor Carol Theobald it was explained that the effected window of Mr King's Property was a second bedroom/office.

- (7) Councillor Bowden asked the applicant's agent what the worst loss of sunlight was to the basement flat, and it was confirmed this was 14%. The applicant's agent went to confirm the standard method considered a 20% loss of light, or greater, unacceptable.
- (8) Councillor Davey asked if the applicant had undertaken a desktop study, and it was confirmed that this was the case.
- (9) In response to a query from Councillor Hyde it was confirmed that the loss of light to Mr King's window would be 9%.
- (10) The Planning Officer explained that although the lose of light was below 20% it was not considered acceptable as the levels of light were already very low to begin with; he also highlighted the sense of bulk and enclosure that would be created by the proposed extensions.
- (11) Councillor Bowden highlighted the low level of light noted by Members during the site visit.
- (12) Councillor Hyde stated her view that differences in light levels, if the application was granted, were unacceptable.
- (13) Councillor Davey commented that the report was clear on the reason for refusal of the planning application, and he would be voting with the Officer recommendation.
- (14) Councillor Wells stated his view that the basement courtyard already had sufficient light, and felt that as bedrooms were affected the impact was less significant. He went on to say that a one or two bedroom property was more desirable than a bedsit, and, as such, he would be voting against the Officer recommendation to refuse planning permission.
- (15) Councillor Carol Theobald said that the rear of the property was already north facing, and the impact would not be significant; for these reasons she would be voting against the Officer recommendation to refuse planning permission.
- (16) The Head of Development Control highlighted that the application for listed building consent related only to the character of the building.
- (17) On a vote of 9 to 2 with 1 abstention planning permission was refused.

146.6 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendations set out below and resolves to **REFUSE** planning permission for the following reason:

- 1. Policy QD27 of the Brighton & Hove Local Plan seeks to protect the residential amenity of neighbouring properties. Notwithstanding the improved standard of residential accommodation that would result from this proposal, the proposed additional storey would result in significant harm to the amenities of the residential properties to the rear of Nos 3 & 4 Montpelier Terrace by virtue of enclosing their outlook and further reducing their existing poor levels of natural daylight. The proposal is therefore contrary to policy QD27 of the Brighton & Hove Local Plan.

Informatives:

1. This decision is based on the site plan, block plan, daylight and sunlight assessment and drawing no. 02 received on the 4th November 2011; the design and access statement and heritage statement received on the 16th November 2011; and drawing no 04B received on the 11th January 2011, and drawing nos. 01C and 03A received on the 25th January 2012.

G. Application BH2011/03397, Flat 4, 4 Montpelier Terrace, Brighton – Creation of additional storey to first floor flat to rear.

- (1) On a vote of 11 to 1 listed building consent was granted.

146.7 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation and the policies and guidance in section 7 of the report and resolves to **GRANT** Listed Building Consent subject to the Conditions and Informatives set out in the report.

H. Application BH2011/02955, 8 Plainfields Avenue, Brighton – Erection of single storey rear extension and relocation of existing garage (retrospective).

- (1) The Deputy Development Control Manager gave a presentation detailing the scheme as set out in the report by reference to photographs, plans and drawings. Planning permission had been granted in 2011 for the relocation of the garage to abut the existing garage of the neighbouring property and a single storey extension to replace a glass conservatory. The extension had been built to the correct footprint but the height of the roof was 200mm higher than what had been granted. The application sought to regularise the arrangements, and the two raised roof lights shown in the photographs would be removed to give a flush finish to the extension. The application was recommended for approval for the reasons set out in the report.

Public Speakers

- (2) Ms Bradford spoke in objection to the application. She explained she was speaking on behalf of Ms Bristow who had lived at the adjoining property for 35 years; it was highlighted that the actual height of extension was higher than the eaves of the bungalow and impacted on the amenity of sunlight into Ms Bristow property. It was requested that the height of the extension be lowered to that of the original planning permission, the finish be rendered white and the roof lights be made flush.
- (3) Councillor Geoffrey Theobald spoke in his capacity as the local Ward Councillor setting out his objections to the application. He stated that if a mistake had been made in the building of the extension it could be rectified, and he highlighted that the report stated the extension was poorly detailed in terms of design, and he felt the extension should be completed in accordance with the original planning permission.
- (4) Mr Hernandez spoke in support of the application. He stated that he was speaking on behalf his father who was the applicant and owner of the property, and went on to say the extension offered neighbours more privacy than the glass conservatory that it had

replaced and the roof lights had been removed from the application. The extension was typical of others in the area, and other larger extensions had been approved. He noted his disappointment that the situation had not been resolved through discussion between both his parents and Ms Bristow.

Questions, Debate and Decision Making Process

- (5) In response to a query from Councillor Carol Theobald Ms Bristow explained that she believed that the original Planning Permission had conditioned that the roof lights be flush.
- (6) Councillor Summers asked if there was a reason why the extension was built higher than the original planning permission, and it was explained that the applicant was not aware of the deviation from the original planning permission until it was raised by the builders. The change had been necessary to ensure there was no change in floor level between the existing building and the new extension. In a response to a question from Councillor Hyde it was explained that the architect advised that it would be necessary to submit a new planning application.
- (7) Councillor Hawtree asked if there would still be step down from the extension into the garden, and it was confirmed that this would be the case.
- (8) The Head of Development Control and the Senior Lawyer highlighted the applicant was within their legal rights to submit a retrospective planning application, and the behaviour of the builder or architect was something the Committee could not give weight to when making a decision.
- (9) The Deputy Development Control Manager explained that the roof lights had formed part of the original planning application, but had been removed from this application.
- (10) Councillor Farrow asked about enforcement action in relation to the extension, and the Head of Development Control explained that the previous application had been a delegated decision, and a discussion had taken place with the Enforcement Team; however, the applicant was within their legal rights to submit a retrospective application.
- (11) Councillor Hyde asked if Officers would consider the scheme appropriate if this was a new application, and it was explained that this would be the case. The recommendation to grant would be consistent regardless of the retrospective nature of the application as there were limited views of the extension.
- (12) The Deputy Development Control Manager highlighted that both the original application and the new application included conditions that the finished extension should match the white rendered finish of the parent building.
- (13) Councillor Carol Theobald asked for clarity on the amount of glazing to the rear of the extension on the original application. She went on to state that the extension should be built in accordance with the original planning application.

- (14) Councillor Hawtree highlighted the lack of harmony between the extension and the existing building.
- (15) Councillor Summers noted that, although the Committee may not like how the extension looked, from reading the report it seemed there was no firm planning grounds that the application could be refused on. The Head of Development Control stated that interrogation of the design of the scheme would have to be at the decision of the Committee.
- (16) A vote was taken of the twelve Members present, and planning permission was granted on a vote of 6 to 6 on the Chair's casting vote.
- 146.8 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendations 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.
- I. Application BH2011/03629, 21 Dyke Road Avenue, Hove** – Erection of porch extension of front, single storey side and rear extension and balcony area above existing rear conservatory.
- 146.9 **RESOLVED** – That consideration of the above application be deferred pending a site visit.
- J. Application BH2011/02845, 150 Ladies Mile Road, Brighton** – demolition of garage and out building in garden to north side of existing bungalow and erection of new two storey detached dwelling.
- 146.10 **RESOLVED** – That consideration of the above application be deferred pending a site visit.
- K. Application, BH2011/02889, 145 Vale Avenue, Brighton** – Outline application for 9 no. residential units and approval of reserved matter for access only.
- (1) The Deputy Development Control Manager drew Members' attention to the late list, and gave a presentation detailing the scheme as set out in the report by reference to photographs, plans and drawings. The application was for outline planning permission for nine residential units; the site currently contained a single storey building and tarmac parking, and a previous planning application for this site had lapsed. The former Brethren's meeting room had relocated within 10 miles, as part of the Section 106 Agreement, and it was noted there were a number of tree preservation order (TPO) trees on site. The application was recommended for approval for the reasons set out in the report.
- (2) A vote was taken and the 12 Members present voted unanimously that permission be granted.
- 146.11 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation and the policies and guidance set out in section 7 of

the report and resolves to **GRANT** planning permission subject to the Conditions and Informatives in the report.

L. Application, BH2011/02687, 13-15 Old Steine, Brighton – Conversion of first and second floors from vacant office space to form 6 no. flats and formation of additional level to form penthouse flat incorporating roof terraces, revised access and associated works.

(1) The Deputy Development Control Manager gave a presentation detailing the scheme as set out in the report by reference to photographs, plans and drawings, and it was proposed that Condition 6 be removed from the recommendation as the cycle parking was shown on the drawings and covered by Condition 12. The application sought to convert the first and second floor offices to flats and create an additional floor set back from the parapet; the necessary marketing had taken place, and the property had been empty since 2005. The modern design was considered appropriate as the extension was set back, and the application was recommended for approval for the reasons set out in the report.

Questions, Debate and Decision Making Process

(2) Councillor Carol Theobald asked why the windows on the proposed extension did not mirror the design of those on the existing building, and it was explained that the design was acceptable as there was an appropriate degree of separation, and the window openings of the extension aligned with the existing building.

(3) In response to a query for Councillor Bowden in relation to soundproofing it was explained that condition 7 of the Officers recommendation addressed this issue and there had been extensive involvement from Officers in Environmental Health. The Head of Development Control suggested that the condition could be strengthened with an appropriate informative, and Councillor Bowden agreed that this was acceptable.

(4) Councillor Bowden also asked if the lift would be suitable for disabled access, and it was confirmed that this matter could be raised with the applicant.

(5) Councillor Cobb and Councillor Hyde had queries in relation to layout of the flats and the position of the extension, Officers clarified these using the plans and drawings.

(6) Councillor Hawtree asked what consideration had been made for the long view of the building across the Old Steine. It was explained that such considerations had been made and Officers felt the extension was appropriate in the context of the surrounding buildings.

(7) Officers confirmed there would be no requirement for Section 106 contributions as part of the application.

(8) Councillor Hawtree said that he did not feel the extension would be appropriate in the context of the surrounding buildings.

- (9) Councillor Bowden thanked Officers for the proposal of an informative in relation to the noise condition, and stated that the provision of additional residential units was welcome in the Ward.
- (10) Councillor Carol Theobald noted her objections in relation to the extension; stating it would be very visible.
- (11) Planning permission was granted on a vote of 9 to 3.

146.12 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation 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, and the additional informatives set out below

- 1. The applicant is advised that the scheme of soundproofing submitted in order to discharge Condition 6 shall include measures which address noise from street level and activities on the ground floor of the property
- 2. The applicant is advised that appropriate access, including size of lift, should be provided to the residential units on the upper floor for disabled persons

M. Application BH2011/03643, Land to rear of 64-65 Upper Gloucester Road, Brighton – Erection of 5no three storey, 3no bedroom houses.

- (1) The Senior Planning Officer, Aidan Thatcher, gave a presentation detailing the application for planning permission (BH2011/03643) and conservation area consent (BH2011/03644) as set in the reports by reference to plans and drawings. The site was in the West Hill conservation area; it was noted the site was currently vacant, and there was a difference between the ground floor levels at St. Nicholas Road and Centurion Road. The application sought minor improvements to a previous scheme and proposed an increase in the quality of the materials. The principles of the design, height, scale and massing had already been deemed acceptable.
- (2) The proposed buildings were 3 storeys and accessed by St. Nicholas Road, but would not appear as a terrace at the St Nicholas Road level. The site was in a CPZ, and each property would have adequate cycle parking, and objections from the Sustainable Transport Team had been satisfied by the widening of the St. Nicholas Road pavement. The application for conservation area consent sought the removal of the non-structural boundary wall, and it was considered the wall had no visual merit and would not harm the character of the street scene. The application was recommended for approval for the reasons set out in the report.

Questions, Debate and Decision Making Process

- (3) In response to a query from Councillor Carol Theobald it was confirmed that the entrance level at St. Nicholas Street contained a single bedroom/study with an ensuite.
- (4) The twelve Members present voted unanimously that planning permission be granted.

146.13 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation 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.

N. Application BH2011/03644, Land to the rear of 64-65 Upper Gloucester Road, Brighton – Demolition of boundary wall.

(1) The twelve Members present voted unanimously that conservation area consent be granted.

146.14 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation and the policies and guidance in section 7 of the report and resolves to **GRANT** conservation area subject to the Conditions and Informatives set out in the report.

O. Application BH2011/03323, 24 Wakefield Road, Brighton – Erection of detached two storey out building.

(1) The Deputy Development Control Manager drew Members' attention to items on the late list, and gave a presentation detailing the scheme as set out in the report by reference to photographs, plans and drawings. The site was in the Round Hill conservation area, and part of a property with an extensive rear garden. The application proposed a 2 storey outbuilding in the corner of the site close to the property at 14 Wakefield Road built as an 'earth ship' from recycled materials. Officers had concerns in relation to the amount of information and the quality of the plans provided by the applicant; the drawings did not show how the building was accessed from the garden and did not provide enough information on the solar panels. The footprint of the proposed building was also considered too large in the context of the conservation area, and it was considered that the building would have an adverse effect on the amenity of 14 Wakefield Road. The application was recommendation for refusal.

Questions, Debate and Decision Making Process

(2) Councillor Farrow asked Officers to reiterate the reasons for the recommendation to refuse, and commented that there should have been greater dialogue between the applicant and Officers to obtain the necessary information.

(3) Councillor Davey asked that the purpose of the building be clarified, and it was explained that the ground floor would be an office with a studio of the first floor. It was also confirmed that any change of use to the building would require a new planning application.

(4) In response to a query from Councillor Wells it was explained that the drain layout was not shown on the drawings.

(5) Councillor Farrow highlighted that he approved of the proposed building in the context of the large garden, and reiterated his earlier comments in relation to discussions between Officers and the applicant.

- (6) Councillor Hyde explained that the site had historically been an orchard, and noted her objections to buildings on such green sites stating that she would be voting in accordance with the Officer recommendation. Councillor Hawtree noted his agreement with these comments.
- (7) The Deputy Development Control Manager highlighted that an application for housing on a similar nearby plot was refused in 2006.
- (8) Planning permission was refused on a vote 10 to 2.

146.15 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out below and resolves to **REFUSE** planning permission for the following reasons.

1. The submitted plans fail to show exactly how the building would be accessed from the garden, the inclusion of solar panels as referred to in the submitted Design and Access Statement, the grading of the adjacent slope, the relationship of the proposal with the existing southern boundary wall and how materials and waste will be brought into/removed from the site. In addition there are discrepancies between the facilities stated to be provided on the proposed floor plans and those stated within the Design and Access Statement submitted. Such issues need to be clarified for the Local Planning Authority to fully assess the scheme. The submitted documentation fails to demonstrate a thorough understanding and assessment of the proposed scheme.
2. Notwithstanding reason for refusal 1, the proposed development, by virtue of its excessive footprint and scale, will erode the green and open character of the related green space, will have a harmful impact on the overall layout and design of the area, which includes the Round Hill Conservation Area and would have a harmful impact upon the distinctive layout and predominance of green space seen in longer views of the area. The proposal is therefore contrary to development plan policies QD1, QD2, QD3, QD4 and HE6 of the Brighton & Hove Local Plan.
3. The applicant has failed to demonstrate that the proposed development would not have significant adverse impacts upon the amenities of the occupiers of no. 14 Wakefield Road with regards to loss of light/sunlight, outlook or loss of privacy and overlooking. The proposal is therefore contrary to policy QD14 and QD27 of the Brighton & Hove Local Plan.

Informatives:

1. This decision is based on drawing nos. 343/1, 343/2, 343/3, 343/4, 43/5 and 343/6 received on the 31st October 2011.

P. Application BH2011/03784, Ketts Ridge, Ovingdean Road, Brighton – Alterations to existing dwelling house incorporating a redesigned first floor level and rebuilding of the roof.

- (1) The Deputy Development Control Manager gave a presentation detailing the scheme as set out in the report by reference to photographs, plans and drawings. The property was a detached dwelling on the north side of Ovingdean Road, and the application

sought amendments to planning permission granted in November 2010; these included minor changes to the positions of windows and doors. The application was recommended for approval for the reasons set out in the report.

Questions, Debate and Decision Making Process

(2) In relation to a query from Councillor Hawtree Officers confirmed the type and location of the proposed balconies. Councillor Hawtree also noted his opinion that the original design of the building sat more appropriately in the context of the surrounding hillside.

(3) Of the eleven Members present it was agreed unanimously that planning permission be granted.

146.16 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation 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: Councillor Bowden was not present for the consideration and vote on this application.

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

147.1 **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.]

148. 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

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

Application:	Requested by:
BH2011/03629 21 Dyke Road Avenue	Councillor Hyde

BH2011/02845 150 Ladies Miles Road	Councillor Carol Theobald
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The meeting concluded at 17.55

Signed

Chair

Dated this

day of

APPEAL DECISIONS

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<p>Application BH2011/03468, 52 Lark Hill, Hove – Appeal against the refusal for the demolition of the existing single garage to allow the erection of a single-storey side extension with pitched roof and the widening of the existing crossover and driveway entrance by 2000mm. APPEAL ALLOWED (delegated decision)</p>	
B. CENTRAL HOVE	25
<p>Application BH2011/02050, 29 St. Aubyns, Hove – Appeal against refusal to grant planning permission for the conversion of roof space to form 2no studio flats, including alterations to roof and 6no conservation style roof lights . APPEAL DISMISSED (delegated decision)</p>	
C. GOLDSMID	29
<p>Application BH2011/01082, 19 Osmond Gardens, Hove – Appeal against the refusal for alterations and extension to roof to form new rooms. APPEAL DISMISSED (delegated decision)</p>	
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D. PRESTON PARK	33
<p>Application BH2011/02409, 18 Sandgate Road, Brighton – Appeal against refusal for the erection of a single-storey rear extension and the installation of 3no roof lights to rear roof slope. APPEAL DISMISSED - (delegated decision)</p>	
E. PRESTON PARK	35
<p>Application BH2011/02560, 27 Florence Road, Brighton – Appeal against refusal for demolition of part of front garden wall and rebuilding in identical style. Existing wall and gatepost measurement approximately 5m 30cm long; following alteration 4m 42cm long (width of driveway before approx 2m 35cm, after alterations approx 3m 10cm). APPEAL ALLOWED – (delegated decision)</p>	

F. PRESTON PARK **41**

Application BH2011/02609, 31 Florence Road, Brighton – Appeal against refusal to widen existing gate space access to current hard standing by 40 inches. Work involves removing pillar, partial removal of brick wall which is less than 1m high. Reinstating pillar using the same bricks and making good the wall again using existing bricks. There is a pavement crossover already in place in front of the gate space. **APPEAL ALLOWED** – (delegated decision)

G. PRESTON PARK **47**

Application BH2011/0252, 33 Florence Road, Brighton – Appeal against refusal to move brick pier of front wall approximately 90cm to improve access to existing vehicle hard-standing area, widening of existing hard standing and relocation of brick pillar. **APPEAL ALLOWED** – (delegated decision)

H. HANOVER AND ELM GROVE **53**

Application BH2011/02312, 137D Elm Grove, Brighton – Appeal against refusal to grant change of use and alterations to form studio flat – resubmission of refused application ref. BH2011/00537. **APPEAL ALLOWED** – (delegated decision)

I. QUEENS PARK **57**

Application BH2011/02334, 24 St. James Street, Brighton – Appeal against refusal for the creation of fourth floor to form two bedroom flat. **APPEAL DISMISSED** (delegated decision)

J. ROTTINGDEAN COASTAL **61**

Application BH2011/02757, 54 Lenham Avenue, Saltdean – Appeal against the refusal for a two storey side extension. **APPEAL ALLOWED** (delegated decision)

K. ROTTINGDEAN COASTAL **65**

Application BH2011/02231, 15 Bishopstone Drive, Saltdean – Appeal against refusal for a single storey extension and roof alterations to form a chalet bungalow. **APPEAL ALLOWED** – (committee decision)



Appeal Decision

Site visit made on 6 February 2012

by David Harmston FRICS DipTP MRTPI

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

Decision date: 15 February 2012

Appeal Ref: APP/Q1445/D/12/2168424

52 Lark Hill, Hove, East Sussex BN3 8PH

- 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 C Holdstock against the decision of Brighton and Hove City Council.
 - The application (Ref BH2011/03468), dated 10 November 2011, was refused by notice dated 4 January 2012.
 - The development proposed is the demolition of the existing single garage to allow the erection of a single-storey side extension with pitched roof (set back from existing) and the widening of the existing crossover and driveway entrance by 2000mm.
-

Decision

1. The appeal is allowed and planning permission is granted for the demolition of the existing garage to allow the erection of a single-storey side extension (set back from existing) and the widening of the existing crossover and driveway entrance by 2000mm at 52 Lark Hill, Hove, East Sussex BN3 8PH in accordance with the terms of the application (Ref BH2011/03468), dated 10 November 2011, subject to the following conditions:
 - (1) The development hereby permitted shall be begun before the expiration of three years of the date of this permission.
 - (2) The development hereby permitted shall be carried out in accordance with the following approved drawing – No:- 11-20/PO2.
 - (3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.

Main Issue

2. The main issue in this appeal is the effect of the development on the character and appearance of the area.

Reasons

3. The appeal property is a semi-detached bungalow lying within a built-up neighbourhood of Hove. The proposal is to demolish the existing detached garage lying to the eastern side of the dwelling and to erect a pitched-roof side extension to provide accommodation for an additional bedroom with en-

- suite facilities together with a utility room and a hallway. In all key respects the extension would closely match the appearance of the existing building.
4. The front elevation of the extension would be consistent in frontage depth and alignment with that of the existing bungalow. A large proportion of the new structure would occupy the space currently taken up by the garage. With its pitched roof being set back from and lower than the existing roof, the extension would appear as being subservient to the existing building. Because the site is irregularly shaped, the gap between the eastern side of the extension on its frontage and the boundary with the adjoining dwelling to the south-east (No 28 Park Rise) diminishes to about 0.705m at the rear.
 5. The size of the extension, and particularly in its width of 4.04m, has been criticised by the Council as being excessive in that the larger frontage of the building thus created would be uncharacteristic of the area due to its scale and bulk and would lead to be a visual imbalance in the pair of semi-detached dwellings. Nevertheless, taking account of the existing garage, the increase in the total amount of built development present on the site would not be substantially increased. The extension would appear as a neat and well-designed enlargement of the bungalow. Whilst it would introduce a form of development into the streetscene that does not exist elsewhere to this scale, it would cause no material harm to the character or the appearance of the area.
 6. Further, there would be no material detriment arising from the development to the living conditions of the occupiers of the adjoining dwelling to the south-east. The windows in the side elevation of that property are obscure glass serving a bathroom and a WC. The extension would not protrude behind that building and would be sited an adequate distance away from the boundary to avoid any harm by reason of overshadowing. In all these circumstances the proposal represents an acceptable form of development in compliance with the terms of Saved Policies QD14 and QD27 of the Brighton and Hove Local Plan.
 7. Conditions are necessary concerning the time duration of the permission and to ensure that the external materials used in the development match those in the existing building, in the interests of visual amenity. For the avoidance of doubt, and in the interests of proper planning, the drawing to which this permission relates needs to be specified. I have taken into account everything of relevance to this proposal but nothing outweighs my conclusions above and the reasons for them.

David Harmston

Inspector



Appeal Decision

Site visit made on 10 January 2012

by **D G T Isaac LLB**

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

Decision date: 23 January 2012

Appeal Ref: APP/Q1445/A/11/2162967
29 St Aubyns, Hove, East Sussex BN3 2TH

- 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 Alfred Haagman against the decision of Brighton & Hove City Council.
 - The application Ref. BH2011/02050, dated 9 July 2011, was refused by notice dated 9 September 2011.
 - The development proposed is described as conversion of roof space to form 2 no studio flats including alterations to roof and 6 no conservation style rooflights.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are: (i) the effect of the proposed development on the character and appearance of the Old Hove Conservation Area; and (ii) whether the proposed development would provide satisfactory living conditions for future residents of the proposed studio flats.

Reasons

3. The proposal would involve the construction of an extension which would significantly alter the appearance of the roof of the appeal building by replacing the existing distinctive roof valley with a new section of roof over and above it in order to create additional space within the building.
4. The Council's Supplementary Planning Guidance Note 1 *Roof Alterations and Extensions* (SPG) advises that where the roof space is too small and the ridge too low to create usable space within it, requests are often received to enlarge the roof area by raising the ridge height or reshaping the roof structure. It adds that this is a significant change which will be resisted where the existing roof form is an important element of the building's character.
5. The Council's Supplementary Planning Document, SPD09 *Architectural Features* (SPD) further advises that alterations to the shape of the roof can have a serious effect on the appearance and character of historic areas. It adds that with regard to conservation areas where a roof is visible from the street, its form and shape must not be altered.
6. I accept that there are numerous examples of other roof extensions and alterations in the surrounding area. However, some of the unsympathetic

additions that I saw when I visited the site and the surrounding area only serve to illustrate how roof alterations can have a serious effect on the character and appearance of an historic area. Moreover, I do not know the circumstances of any of the other extensions in the surrounding area and each application has to be considered on its individual merits in relation to the current development plan and any other material considerations.

7. In this case, I accept that views of the roof of the appeal building and the adjoining semi-detached building are restricted from street level. I was however able to see parts of the roof covering the pair of buildings from some viewpoints at street level when I visited the site. It is also likely that the roof would be visible from the upper floor windows of some nearby properties. In any event, notwithstanding the limited views of the roof that are available from street level, I consider that the distinctive roof form of the building is still an important element of the character of the building.
8. The style of the roof of this pair of semi-detached buildings is not typical of the immediately surrounding area and they do not form part of a group of buildings of similar design. Nevertheless, viewed as a pair these large semi-detached buildings have a balanced appearance which makes a positive contribution to the character and appearance of the conservation area, and the existing roof form of the buildings helps to maintain the balanced appearance of the buildings.
9. When viewed alongside the roof of the adjoining semi-detached building, the altered roof of the appeal building would detract from the balanced appearance of the pair of semi-detached buildings in a significant respect. It would give the roof of the buildings an unbalanced appearance to the detriment of the character and appearance of the appeal building and the pair of semi-detached buildings. It would also not satisfy the requirements of policy QD14 of the Brighton and Hove Local Plan (LP) which seeks to ensure, amongst other things, that extensions are well designed, sited and detailed in relation to the property to be extended and adjoining properties.
10. By detracting from the balanced appearance of the existing roof of the pair of semi-detached buildings and the character of the appeal building, the proposed extension would also fail to preserve or enhance the character or appearance of the conservation area and in that respect it would conflict with LP policy HE6 which advises that proposals within a conservation area should preserve or enhance the character or appearance of the area.
11. On the first main issue therefore, I conclude that the proposed development would not preserve or enhance the character or appearance of the Old Hove Conservation Area and that it would conflict with LP policies QD14, HE6 and with the advice in the SPG and the SPD.
12. Turning to the second main issue, each of the proposed flats would have a similar internal layout with the kitchen, living and sleeping areas contained within a single room. Although the overall floor area of each flat would be more than 40m² much of the floor area at this level of the building would be constrained by sloping ceilings and it was acknowledged in the Design and Access Statement that the usable floor area of each of the flats (where the head height is 1.8m or above) would be only some 24m².

13. The Council does not have any published standards relating to the minimum floor areas of self contained flats. However, in my opinion, the overall layout of each of the proposed flats and the limited amount of usable floor space available would result in unduly cramped living conditions for future residents with insufficient circulation space between the kitchen and sleeping areas. In addition it has not been demonstrated that there would be enough space to accommodate the furniture that future residents of flats such as these would be likely to need. The limited height of the ceiling in the parts of each flat where the WC would be located would also serve to highlight the unduly cramped living conditions that future residents would have to endure.
14. The appellant has referred to previous appeals in other areas where Inspectors have cited the advice in Appendix A of Circular 22/80 which indicates that functional matters such as internal space standards are for the most part a matter for developers and their customers. Reference has also been made to an appeal which was allowed in this area and to other applications for loft conversions which have been approved by the Council. However, I have not been provided with details of the layout or size of the floor areas in any of the other cases to which the appellant has referred and I am not satisfied that it has been shown that any of these cases are directly comparable with the current proposal. Moreover, I do not know the full circumstances of the other cases to which the appellant has referred and each application has to be considered on its individual merits in relation to the current development plan and all other material considerations.
15. In this case, as well as providing future residents with unduly cramped living conditions, the flats would not have any conventional windows, and in each flat the main studio room would have only two small rooflights in the roof slope. This would provide future residents with an extremely limited outlook from the flats. Moreover, when taken together with the unduly cramped living conditions that future residents would have to endure, I consider that the limited outlook from each of the flats would result in an unacceptable sense of enclosure within each of the flats.
16. I recognise that it is intended that each of the proposed flats would be occupied by a single person and I have noted the view expressed by the Inspector in the previous appeal in this area to which the appellant has referred that different standards of accommodation may be appropriate for different end users. Nevertheless, because of the unduly cramped living conditions and unacceptable sense of enclosure that future residents of the flats would have to endure in this case, the flats would not provide future residents with satisfactory living conditions and the proposal would be contrary to the aims of LP policy QD27 which amongst other things, seeks to protect the amenity of future residents.
17. On the second main issue therefore, I conclude that the proposed development would not provide satisfactory living conditions for future residents of the proposed flats and that it would conflict with LP policy QD27.
18. I have also considered all of the other matters raised and I have taken into account all relevant government advice including the advice in Planning Policy Statement 5: *Planning for the Historic Environment* to which reference has been made. I have considered what the appellant has said about the housing shortage in this area, the number of people on the Council's housing waiting list and the sub standard nature of much of the existing accommodation in the

area. I accept that the site is located within easy reach of a wide range of services and facilities and that there would be scope for imposing a condition requiring details of cycle parking facilities to be submitted. I have also taken into account what the appellant has said about many of the criteria within Lifetime Homes Standards not being applicable and some having been incorporated in this case. However, none of these or any of the other matters raised are sufficient to outweigh my conclusions on the two main issues which together provide sufficiently compelling reasons to dismiss the appeal.

19. For the reasons given above and having regard to all other matters raised, I therefore conclude that the appeal should be dismissed.

D G T Isaac

INSPECTOR



Appeal Decisions

Site visit made on 15 February 2012

by **M T O'Rourke BA (Hons) DipTP MRTPI**

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

Decision date: 17 February 2012

Appeal A: APP/Q1445/A/11/2163668

19 Osmond Gardens, Osmond Road, Hove BN3 1TE

- 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 Messrs V S and B Sharma against the decision of Brighton & Hove City Council.
 - The application Ref BH2011/01082, dated 7 April 2011, was refused by notice dated 2 June 2011.
 - The development proposed is alterations and extension to roof to form new rooms.
-

Appeal B: APP/Q1445/A/11/2163659

19 Osmond Gardens, Osmond Road, Hove BN3 1TE

- 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 Messrs V S and B Sharma against the decision of Brighton & Hove City Council.
 - The application Ref BH2011/01983, dated 27 June 2011, was refused by notice dated 9 September 2011.
 - The development proposed is conservatory to rear of building – part retrospective.
-

Decisions

1. Appeal A is dismissed.
2. Appeal B is dismissed.

Main Issues

3. The main issue in Appeal A is the effect of the proposed development on the appearance of the original building and the main issue in Appeal B is the impact on those living in the adjoining property in terms of their outlook and privacy.

Reasons

4. No. 19 is at the end of a line of 3 pairs of similar semi detached houses on the east side of Osmond Gardens and is to the south of 18 Davigdor Road on the corner. The property is a registered house in multiple occupation (HMO). From the street it is two storeys in height with accommodation in the roof. At the rear there is an original two storey gable projection, matched on No. 17, with the same eaves height as the main house and the same roof pitch as the side slope of the main house roof. The gardens on this side of Osmond Gardens are lower than the ground floor level of the houses with steps down to the gardens from patios contained by the rear projections.

Appeal A

5. The proposal is to raise the ridge line of the rear projection by around 1.5m so as to increase the internal head room to provide two additional bedrooms and a bathroom. By introducing what is essentially a third floor, it would significantly change the external appearance of the backs of the pair of houses. The roof slope of the rear projection when extended would not longer run into that of the main house but would appear as a taller, rather top-heavy and uncomfortably proportioned addition.
6. I noted on my site visit that there are clear views of the rear elevations of the properties in Osmond Gardens from Davigdor Road looking across the garden of No. 18. Whilst the corner house is of a different design, the uniformity and symmetry of the matching rear projections is a particularly noticeable and attractive feature of the pairs of semi-detached houses at 9 to 19 Osmond Gardens. The increase in height of the rear projection of No. 19 would not be a sympathetic alteration to the property. It would unbalance the pair and detract from the appearance of the rear elevation of the Osmond Gardens properties.
7. Contrary to the appellant's suggestion, the Council is not making the case that semi-detached properties cannot be extended unless both owners agree on the same works. The concern here is with the uniform character of the rear elevation of this small group of semi-detached properties which can be seen from the public realm and where the alteration to increase the height of the rear projection to No.19 would stand out and spoil the group.
8. The Council has raised concerns as to whether the extension could be built without the ridge of the new roof projecting above that of the side dormer. The notes on drawing OG19PRO/07 refer to the contractor ensuring that the ridge would be obscured by the side dormer ridge even though the drawing appears to show the new ridge above the dormer. Whilst the appellant's agent has passed on assurances from the architect that the site measurements are correct I do not find that to be a particularly helpful or satisfactory response to the discrepancy.
9. I conclude that the proposed alterations and extension to the roof would harm the appearance of No. 19 and that of the surrounding area and therefore would not comply with the requirements and objectives of saved policy QD14 a. of the Brighton and Hove Local Plan (2005) or advice in the Council's Supplementary Planning Guidance on Roof Alterations and Extensions which seeks to ensure that these are carefully sited and well designed.

Appeal B

10. The proposal is for the construction of a rear conservatory essentially infilling between the common boundary with No. 17 and the side of the existing rear projection and measuring some 6.7m deep by 3.7m wide. As the conservatory would be at the same level as the ground floor of the house, a raised brick base with a plinth has already been constructed to a height of approximately 2.2m with new steps constructed beyond the rear wall of the house leading down to the garden.
11. Whilst the conservatory would be inset by some 200mm from the boundary, having regard to its rearward extent and height, it would appear as an imposing and large structure when viewed from the ground floor window of the adjoining property. There is a wall on the common boundary. However this

drops away by the original garden steps of No. 17 and at the bottom of the steps and from the garden of No. 17 the full height of the built up base and conservatory would be apparent. The side wall of the conservatory would be higher than the existing wall and it would contain the outlook from the ground floor room that is currently enjoyed and would give an increased sense of enclosure to the occupants.

12. As the side wall and roof of the conservatory would be obscure glazed, they would be less oppressive in appearance than a solid wall and roof and being on the northern side would not result in any loss of daylight or sunlight to No. 17. Nonetheless I consider that the development would still have an unacceptable overbearing impact on those living in the next door ground floor flat. However in that conditions could be imposed to require the retention of the obscure glazing and any windows to be non-opening the proposal would be unlikely to result in any additional overlooking than that might already be experienced having regard to the close relationship between the properties.
13. Local Plan policy QD14 b. requires that extensions should not result in loss of privacy, outlook, daylight/sunlight or amenity to neighbouring properties whilst save policy QD27 refers generally to the protection of amenity. Whilst there would be no harm in relation to daylight/sunlight, the proposed conservatory, by reason of its height, depth and position close to the boundary, would have an unacceptable and adverse impact on the amenities of those living in the ground floor flat at No. 17 in terms of giving an increased sense of enclosure, loss of outlook and having an overbearing impact. In that the proposal would cause a loss of amenity to the neighbouring residents, it conflicts with the objectives of Local Plan policies QD14 and QD27.

Conclusions

14. I have taken into account all other matters raised but none outweigh my conclusions, for these reasons given above, that both appeals should be dismissed.

Mary O'Rourke

Inspector



Appeal Decision

Site visit made on 6 February 2012

by David Harmston FRICS DipTP MRTPI

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

Decision date: 9 February 2012

Appeal Ref: APP/Q1445/D/12/2168283

18 Sandgate Road, Brighton, East Sussex BN2 6JQ

- 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 Steve Ross against the decision of Brighton and Hove City Council.
 - The application (Ref BH2011/02409), dated 15 August 2011, was refused by notice dated 20 October 2011.
 - The development proposed is the erection of a single-storey rear extension and the installation of 3no rooflights to rear roof slope.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue in this appeal is the effect of the development on the living conditions of the occupants of the adjoining dwelling - No 20 Sandgate Road.

Reasons

3. The appeal property is a late Victorian, two storey, terraced dwellinghouse lying within a densely developed area of Brighton. It is proposed to erect a single-storey extension to the rear of the property together with the insertion of three rooflights into the rear roof slope. The depth of the extension as a rearward projection would be 4.415m across the full width of the site.
4. The extension would replace an existing rear addition and would project as far into the rear amenity area as the single-storey extension present at the property to the west. No 20 Sandgate Road is the dwelling to the east and this property has a single-storey addition to its rear set in from the boundary with the appeal site. The proposed extension at the appeal site would project beyond that addition by about 0.35m.
5. The character and appearance of the area insofar as it is defined by views of the rear of the long terrace of houses forming the development situated on the south side of Sandgate Road has been modified over the years from its original form by many additions and alterations to the buildings undertaken in a piecemeal fashion. For this reason the development, including the installation of the rooflights, would have little or no material or negative visual impact on the area and its appearance and design is therefore acceptable.

6. On the main issue, and whilst noting that the extension has been designed with a mono-pitch, glazed roof sloping towards the site's eastern boundary to minimise the impact of the development on No 20 Sandgate Road, the extension would nevertheless have a significant and adverse effect on the living conditions of the occupants of that dwelling. Due to the slight east to west gradient of the land, the appeal site is at a slightly lower ground level than No 20. The side elevation of the extension at the boundary would be about 2.2m in height. With its rearward projection extending beyond the rear of the addition to No 20 Sandgate Road, the net result would be a tunnelling effect in terms of the juxtaposition of the two adjoining buildings.
7. Saved Policy QD27 of the Brighton and Hove Local Plan seeks to protect adjacent residents from development proposals which would cause a material loss of amenity to them. Saved Policy QD14 is specific to proposals for the erection of extensions and alterations to existing buildings and states, at criterion (b), that developments of this type should not result in a significant loss of outlook, daylight, sunlight or amenity to neighbouring properties. Further, at paragraph 3.57 of the Local Plan, it is stated that an important guideline when assessing proposals of this kind is to check whether the extension cuts a 45-degree line drawn from the centre of the nearest ground floor window of a kitchen or a habitable room on a neighbouring property. It adds that it is not the length or height of the extension that is critical but its effects on the adjoining properties and in its appearance.
8. The development would conflict with the provisions of Saved Policy QD14 of the Local Plan and the supporting text thereto in its relationship to the ground floor window at No 20 Sandgate Road. Outward views therefrom would be adversely affected by the presence of the proposed extension and a significant loss of sunlight and daylight would be caused. For all these reasons the proposals are in conflict with the provisions of the development plan and unacceptable for the reasons I have given.
9. I have taken into account everything that has been put forward in support of the development including the references to other developments in the Brighton area. Nevertheless, each case falls to be considered on its own planning merits. I have taken into account and afforded weight to the representations made by the occupants of No 20 Sandgate Road. I have also seen copies of the correspondence between the appellant's representative and the Council relating to possible revisions to the proposals. Nothing, however, is of sufficient weight for me to reach any other conclusions on this matter.

David Harmston

Inspector



Appeal Decision

Site visit made on 16 February 2012

by **M T O'Rourke BA (Hons) DipTP MRTPI**

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

Decision date: 22 February 2012

Appeal Ref: APP/Q1445/D/11/2167680

27 Florence Road, Brighton BN1 6DL

- 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 Wendy Twigger against the decision of Brighton & Hove City Council.
 - The application Ref BH2011/02560, dated 19 August 2011, was refused by notice dated 11 November 2011.
 - The development proposed is demolition of part of front garden wall and rebuilding in identical style. Existing wall and gatepost measurement approximately 5m 30cm long; following alteration 4m 42cm long (width of driveway before approx 2m 35cm, after alterations approx 3m 10cm).
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Procedural Matters

1. The description in the box above is taken from the application form. The Council has used a shorter and simpler description of the development as '*demolition of part of front boundary wall and gatepost and rebuilding to widen driveway. (Retrospective).*' I have determined the appeal on that basis.

Application for costs

2. An application for costs was made by the appellant against the Council. This application is the subject of a separate decision.

Decision

3. The appeal is allowed and planning permission is granted for demolition of part of front boundary wall and gatepost and rebuilding to widen driveway. (Retrospective) at 27 Florence Road, Brighton BN1 6DL in accordance with the terms of the application, Ref BH2011/02560, dated 19 August 2011.

Main Issue

4. Florence Road is within the Preston Park Conservation Area which has an Article 4 Direction removing permitted development in respect of single dwelling houses so that alteration to the boundary walls need planning permission. The main issue is therefore the effect of the development on the host property, on the townscape and on the character and appearance of the Conservation Area.

Reasons

5. No. 27 is an attractive semi detached house, one of a set of 3 similar pairs of houses set down the hill on the north side of Florence Road. The front entrance doors and paths to Nos. 27 and 29 are paired in the centre and each has a front garden with a wider opening giving access to the side.
6. Works were carried out last year to widen the side access by removing a section of the front boundary wall, relocating the gate pier and rebuilding the side retaining wall to the garden to provide a wider area in which to park a car.
7. Evidence from the appellant is that there had been a garage (now removed) in the rear garden, access to which was gained from this side driveway which was then used as an off-street parking space. Although not universal this is a common arrangement in the street and a number of the houses have side openings and driveways of varying widths and treatments, not just the larger properties at the lower end of Florence Road. Indeed No. 25, which is set down the hill, has a garage and driveway at the side.
8. Low front boundary walls separated by brick piers/pillars are a distinctive feature of many of the properties in Florence Road. However frontage widths and treatments vary and the piers and gateways are not all spaced at regular intervals. Rather it is the contrast between the taller piers and low walls, particularly when looking down the hill, which creates the street rhythm, forms an attractive part of the townscape and contributes to the character and appearance of the Conservation Area.
9. The Conservation Area Character Statement does not specifically mention the front walls and piers as being a key feature of Florence Road, but saved policies HE6 and HE8 of the Brighton and Hove Local Plan (LP) and the Council's Supplementary Planning Document (SPD 09) on Architectural Features generally resist the loss of such features in Conservation Areas. However the SPD advises that alterations to walls can be acceptable where original patterns, materials and details appropriate to the property are proposed.
10. In this case, the pier has been rebuilt in the original brick and to its original height and detailing, and the only issue is its new position. Although the pier no longer aligns with the side elevation of the house, I did not find this to be a particularly consistent or important feature in the townscape. The pier is still located to the outside of the bay and the Council's Conservation and Design Officer advised that *'the works retain a substantial and coherent front boundary treatment that relates to the front elevation of the house'* and *'have not unduly unbalanced the semi-detached pair'*. I agree. The rebuilt pier and associated low walling continue to provide the contrast that contributes to the townscape. The slight reduction in the front garden is not noticeable and the works do not harm the character or appearance of the Conservation Area.
11. Both parties referred to the 2010 appeal decision at 5 Florence Road which allowed works that involved significant changes to the front boundary including the loss of a length of wall, an additional pier and reinstatement of flower beds and a Victorian pedestrian path. In that No. 5 is a detached property with a wide frontage and the front garden was already used for parking, it does not set an example for the current development. However it is illustrative of the variety of boundary treatments that can be seen along Florence Road of which the changes at No. 27 make up a minor element.

12. The Council has concerns that if alterations similar to those at No. 27 were replicated in the street it could erode the special character of the townscape and set an undesirable precedent for further proposals in Florence Road. Similar works have taken place at No. 31 up the hill and permission has been refused for a hardstanding at No 33. These are the subject of separate appeals. The Council has also referred to the recent refusal at No. 21. That is a larger double fronted property and proposed the removal of nearly 5m of wall and a hardstanding in front of the bay and is quite different in scale and impact to this appeal proposal.
13. The Article 4 Direction allows the Council to consider each proposal on its own individual merits having regard to the current arrangements and the surrounding townscape. The Council's own Conservation and Design Team has adopted a pragmatic approach to these works. I take a similar view. As I have concluded that the works subject of the current appeal are acceptable, they would not set an undesirable precedent and the schemes at Nos. 27, 31 and 33 would not have an adverse cumulative effect on the townscape.
14. I conclude that the appeal works are not harmful to the character and appearance of the host property, the townscape or the Conservation Area, and thus accord with the objectives and requirements of policies HE6 and HE8 of the LP. There are no works to any trees or hedgerows and thus policy QD16 is not relevant.
15. As the works have been carried out no conditions have been suggested or are necessary. I have taken into account all other matters raised including the concern at the loss of on-street parking but as there was previously a hardstanding there has been no change. I find none to be of such weight as to override the considerations that have lead to my conclusion, for the reasons given above, that the appeal should be allowed.

Mary O'Rourke

Inspector



Costs Decision

Site visit made on 16 February 2012

by M T O'Rourke BA (Hons) DipTP MRTPI

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

Decision date: 22 February 2012

Costs application in relation to Appeal Ref: APP/Q1445/D/11/2167680 27 Florence Road, Brighton BN1 6DL

- 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 Ms Wendy Trigger for a full award of costs against Brighton & Hove City Council.
 - The appeal was against the refusal of the Council to grant planning permission for demolition of part of front boundary wall and gatepost and rebuilding to widen driveway (Retrospective).
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Decision

1. The application for an award of costs is refused.

Reasons

2. Circular 03/2009 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.
3. An award of costs does not necessarily follow the appeal process. Whilst I have found against the Council in my decision and allowed the appeal, I am satisfied that the Council produced evidence at the appeal stage to support its reason for refusal which had regard to the development plan and all other material considerations. The decision rested on matters of judgement concerning the character and appearance of Florence Road and of the Conservation Area. Circular paragraph B18 advises that 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 development.
4. Although the Council's Conservation and Design Team considered the alterations to the wall and pier to be acceptable, it was as an exception to guidance in the Council's adopted SPD. Having noted that consultation response, the planning officer was entitled to take a different view, so long as full justification was provided for that different view. I am satisfied that the officer's report dealt in sufficient detail with the impact of the appeal development in terms of the character and appearance of the houses and the contribution of the walls and piers to the streetscene. Also the Conservation and Design Team did not consider the question of precedent and it was appropriate for the officer to address that in his report and sufficient reasoning was given to justify the view that it represented a risk.

5. The appeal decision at 5 Florence Road was also considered in the report and the differences with the appeal development drawn out. The Council provided more than '*vague, generalised or inaccurate assertions*' about the proposal's impact (paragraph B18). It also relied upon its adopted supplementary planning guidance on architectural features, and in such cases paragraph B19 advises that an award of costs is unlikely to be made. Although I have come to a different view on the development, the Council did produce sufficient evidence to substantiate its reason for refusal.
6. I therefore find that unreasonable behaviour resulting in unnecessary expense, as described in Circular 03/2009, has not been demonstrated.

Mary O'Rourke

Inspector



Appeal Decision

Site visit made on 16 February 2012

by M T O'Rourke BA (Hons) DipTP MRTPI

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

Decision date: 21 February 2012

Appeal Ref: APP/Q1445/D/11/2167681
31 Florence Road, Brighton BN1 6DL

- 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 Maddalena against the decision of Brighton & Hove City Council.
 - The application Ref BH2011/02609, dated 2 September 2011, was refused by notice dated 25 November 2011.
 - The development proposed is to widen existing gate space access to current hard standing by 40 inches. Work involves removing pillar, partial removal of brick wall which is less than 1m high. Reinstating pillar using the same bricks and making good the wall again using existing bricks. There is a pavement crossover already in place in front of the gate space.
-

Procedural Matters

1. The description in the box above is taken from the application form. The Council has used a shorter and simpler description of the development as '*widening existing pillared entrance to boundary wall (Retrospective)*.' I have determined the appeal on that basis.

Decision

2. The appeal is allowed and planning permission is granted for widening existing pillared entrance to boundary wall (Retrospective) at 31 Florence Road, Brighton BN1 6DL in accordance with the terms of the application, Ref BH2011/02609, dated 2 September 2011 subject to the following condition:
 - 1) Within 3 months of the date of this decision details of an iron gate to the widened pillared entrance hereby permitted, including a timetable for its installation, shall be submitted for the written approval of the local planning authority. The approved details shall be carried out in accordance with the approved timetable.

Application for costs

3. An application for costs was made by the appellant against the Council. This application is the subject of a separate decision.

Main Issue

4. Florence Road is within the Preston Park Conservation Area which has an Article 4 Direction removing permitted development in respect of single dwelling houses so that alteration to the boundary walls need planning

permission. The main issue is therefore the effect of the development on the host property, on the townscape and on the character and appearance of the Conservation Area.

Reasons

5. No. 31 is an attractive semi detached house, one of the middle of a set of 3 similar pairs of houses set down the hill on the north side of Florence Road. The front entrance doors and paths to Nos. 31 and 33 are paired in the centre and each has a front garden with a wider opening giving access to the side.
6. Works were carried out last year to widen the side access by removing a section of the front boundary wall, relocating the gate pier and rebuilding the side retaining wall to the garden to widen the hardstanding for car parking.
7. Although not universal this is a common arrangement in the street and a number of the houses have side openings and driveways of varying widths and treatments, not just the larger properties at the lower end of Florence Road. Low front boundary walls separated by brick piers/pillars are a distinctive feature of many of the properties in Florence Road. Frontage widths and treatments vary and the piers and gateways are not all spaced at regular intervals. Rather it is the contrast between the taller piers and low walls, particularly when looking down the hill, which creates the street rhythm, forms an attractive part of the townscape and contributes to the character and appearance of this part of the Conservation Area.
8. The Conservation Area Character Statement does not specifically mention the front walls and piers as being a key feature of Florence Road, but saved policies HE6 and HE8 of the Brighton and Hove Local Plan (LP) and the Council's Supplementary Planning Document (SPD 09) on Architectural Features generally resist the loss of such features in Conservation Areas. However the SPD advises that alterations to walls can be acceptable where original patterns, materials and details appropriate to the property are proposed.
9. In this case, the pier has been rebuilt in the original brick and to its original height and detailing, and the only issue is its new position and the hardstanding. Although the pier no longer aligns with the side elevation of the house, I did not find this to be a particularly consistent or important feature in the townscape. The hardstanding is to the side of the house; the bay is not obstructed and a reasonable sized front garden is retained. The Council's Conservation and Design Team advised that *'the street rhythm and coherence of the front boundary treatment would be largely retained'*.
10. The inclusion of a suitable but simple iron gate, recommended by the Conservation Officer to help to retain a hard boundary and reduce the visual impact of the car parking, could be the subject to a condition. The rebuilt pier and associated low walling continue to provide the contrast that contributes to the townscape. The slight reduction in the front garden is not noticeable. There is a mature tree in the street but no objection was made by Council's Arboricultural Section that the works have or would adversely affect it.
11. Both parties referred to the 2010 appeal decision at 5 Florence Road which allowed works that involved significant changes to the front boundary including the loss of a length of wall, an additional pier and reinstatement of flower beds and a Victorian pedestrian path. In that No. 5 is a detached property with a wide frontage and the front garden was already used for parking, it does not

- set an example for the current development. However it is illustrative of the variety of boundary treatments that can be seen along Florence Road of which the changes at No. 31 make up a minor element.
12. The Council has concerns that if alterations similar to those at No. 31 were replicated it could erode the special character of the townscape and set an undesirable precedent for further proposals in Florence Road. Similar works have taken place at No. 27 down the hill and permission has been refused for a hardstanding at No 33. These are the subject of separate appeals. The Council has also referred to a recent refusal at No. 21. That is a larger double fronted property and proposed the removal of nearly 5m of wall and a hardstanding in front of the bay and is quite different in scale and impact to this appeal proposal.
 13. The Article 4 Direction allows the Council to consider each proposal on its own individual merits having regard to the current arrangements and the surrounding townscape. The Council's own Conservation and Design Team has adopted a pragmatic approach to these works. I take a similar view. As I have found the works subject of the current appeal to be acceptable, they would not set an undesirable precedent and the schemes at Nos. 27, 31 and 33 would not be an adverse cumulative effect on the townscape.
 14. I conclude that the appeal works are not harmful to the character and appearance of the host property, the townscape or the Conservation Area, and thus accord with the objectives and requirements of policies HE6, HE8 and QD16 of the LP.
 15. Other than requiring a gate to be provided across the vehicular access, for the reasons set out in paragraph 10, no other conditions are necessary. I have taken into account all other matters raised including the concern at the loss of on-street parking but as there was previously a hardstanding there has been no change. I find none to be of such weight as to override the considerations that have lead to my conclusion, for the reasons given above, that the appeal should be allowed.

Mary O'Rourke

Inspector



Costs Decision

Site visit made on 16 February 2012

by **M T O'Rourke BA (Hons) DipTP MRTPI**

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

Decision date: 21 February 2012

Costs application in relation to Appeal Ref: APP/Q1445/D/11/2167681 31 Florence Road, Brighton BN1 6DL

- 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 Peter Maddalena for a full award of costs against Brighton & Hove City Council.
 - The appeal was against the refusal of the Council to grant planning permission for widening existing pillared entrance to boundary wall (Retrospective).
-

Decision

1. The application for an award of costs is refused.

Reasons

2. Circular 03/2009 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.
3. An award of costs does not necessarily follow the appeal process. Whilst I have found against the Council in my decision and allowed the appeal, I am satisfied that the Council produced evidence at the appeal stage to support its reason for refusal which had regard to the development plan and all other material considerations. The decision rested on matters of judgement concerning the character and appearance of Florence Road and of the Conservation Area. Circular paragraph B18 advises that 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 development.
4. Although the Council's Conservation and Design Team considered the alterations to the wall and pier to be acceptable, it was as an exception to guidance in the Council's adopted SPD. Having noted that consultation response, the planning officer was entitled to take a different view, so long as full justification was provided for that different view. I am satisfied that the officer's report dealt in sufficient detail with the impact of the appeal development in terms of the character and appearance of the houses and the contribution of the walls and piers to the streetscene. Also the Conservation and Design Team did not consider the question of precedent and it was appropriate for the officer to address that in his report and sufficient reasoning was given to justify the view that it represented a risk.

5. The appeal decision at 5 Florence Road was also considered in the report and the differences with the appeal development drawn out. The Council provided more than '*vague, generalised or inaccurate assertions*' about the proposal's impact (paragraph B18). It also relied upon its adopted supplementary planning guidance on architectural features, and in such cases paragraph B19 advises that an award of costs is unlikely to be made. Although I have come to a different view on the development, the Council did produce sufficient evidence to substantiate its reason for refusal.
6. I therefore find that unreasonable behaviour resulting in unnecessary expense, as described in Circular 03/2009, has not been demonstrated.

Mary O'Rourke

Inspector



Appeal Decision

Site visit made on 16 February 2012

by **M T O'Rourke BA (Hons) DipTP MRTPI**

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

Decision date: 21 February 2012

Appeal Ref: APP/Q1445/D/11/2167682
33 Florence Road, Brighton BN1 6DL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant [outline] planning permission.
 - The appeal is made by Mr Robert Gibbins against the decision of Brighton & Hove City Council.
 - The application Ref BH2011/0252, dated 21 August 2011, was refused by notice dated 16 November 2011.
 - The development proposed is to move brick pier of front wall approximately 90cm to improve access to existing vehicle hard-standing area, widening of existing hardstanding and relocation of brick pillar.
-

Procedural matters

1. The description in the box above is taken from the application form. The Council describes the development as '*widening of existing hardstanding and relocation of brick pillar*'. I have determined the appeal on that basis.

Decision

2. The appeal is allowed and planning permission is granted for widening of existing hardstanding and relocation of brick pillar at 33 Florence Road, Brighton BN1 6DL in accordance with the terms of the application, Ref BH2011/02521, dated 21 August 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 brick built pier hereby permitted shall match in material, colour, style, design, scale and proportion those of the existing brick built pier.
 - 3) Notwithstanding condition 5, no development shall take place until details of the iron gates have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
 - 4) Development shall not begin until details of the crossover between the proposed hardstanding and the highway have been submitted to and approved in writing by the local planning authority; and the new hardstanding shall not be used until the crossover has been constructed in accordance with the approved details.
 - 5) The development hereby permitted shall be carried out in accordance with the following approved plans: site plan, computer generated image, before and after plans (A3), and block plan (at A4 and marked Appendix

1) all stamped BH2011/02521; and an unnumbered plan with before and after elevations stamped 18 October 2011.

Application for costs

3. An application for costs was made by the appellant against the Council. This application is the subject of a separate decision.

Main Issue

4. Florence Road is within the Preston Park Conservation Area which has an Article 4 Direction removing permitted development in respect of single dwelling houses so that alteration to the boundary walls need planning permission. The main issue is therefore the effect of the development on the host property, on the townscape and on the character and appearance of the Conservation Area.

Reasons

5. No. 33 is an attractive semi detached house, one of the middle of a set of 3 similar pairs of houses set down the hill on the north side of Florence Road. The front entrance doors and paths to Nos. 31 and 33 are paired in the centre and each has a front garden with a wider opening giving access to the side. There is an existing timber shed at the side of the house, the subject of a 2008 planning permission.
6. The proposal seeks to widen the existing secondary opening to the side of the house to allow for the formation of a wider hardstanding for car parking. A short section of the front wall would be removed and the existing brick pier relocated and rebuilt. It would mirror the arrangement at No. 33, its pair, and at No. 35, to the east. However unlike those properties, which are level from the pavement, there is a step-up at the front of the site and no crossover. The Sustainable Transport Team questioned when it was last used as a vehicular hardstanding and recommended refusal because cars would need to partially bump up the kerb and ride over untreated footway to avoid hitting the lamp column. However it was also made clear that this recommendation could be overcome by the provision of a crossover that meets the Council's requirements. This could be made the subject of a condition and is not therefore a matter that weighs against the proposal. Nor was there any concern about the loss of on-street parking as a consequence of the works.
7. The Council's concern, and that of the Preston and Old Patcham Society and the Brighton Society, relate to the visual impact of the demolition and relocation of the pier on the townscape. However the Article 4 Direction does not prohibit such works; it merely requires that they are the subject of a full planning application so that they can be properly assessed. In that regard, there are a number of houses in Florence Road, including those to either side of No. 33, that have side openings and driveways of varying widths and treatments, not just the larger properties at the lower end of Florence Road. Although not universal, it is a common arrangement in the street.
8. The low front boundary walls separated by brick piers/pillars are a distinctive feature of many of the properties in Florence Road. Frontage widths and treatments vary and the piers and gateways are not all spaced at regular intervals. Rather it is the contrast between the taller piers and low walls, particularly when looking down the hill, which creates the street rhythm, forms

an attractive part of the townscape and contributes to the character and appearance of this part of the Conservation Area.

9. The Conservation Area Character Statement does not specifically mention the front walls and piers as being a key feature of Florence Road, but saved policies HE6 and HE8 of the Brighton and Hove Local Plan (LP) and the Council's Supplementary Planning Document (SPD 09) on Architectural Features generally resist the loss of such features in Conservation Areas. However the SPD advises that alterations to walls can be acceptable where original patterns, materials and details appropriate to the property are proposed.
10. In this case, the pier is proposed to be rebuilt in the original brick and to the original height and detailing, and the only change would be to its new position, the reduced length of front wall and the hardstanding. Although the new pier would no longer align with the side elevation of the house, this is not a particularly consistent or important feature in the road. The new pier would be level with the side of the bay; the hardstanding would be to the side of the house; and a reasonable sized front garden would be retained. I agree with the Council's Conservation and Design Team which advised that *'the street rhythm and coherence of the front boundary treatment would be largely retained'* and that an exception to policy could be justified in this case.
11. The provision of a suitable but simple iron gate, as recommended by the Conservation Officer, would help to retain a hard boundary and reduce the visual impact of the car parking and could be made the subject of a condition. The rebuilt pier and reduced length of low walling would continue to provide the contrast that is part of the streetscene. The slight reduction in the front garden would not be noticeable and the pair of houses would be matched.
12. Both parties referred to the 2010 appeal decision at 5 Florence Road which allowed works that involved significant changes to the front boundary including the loss of a length of wall, an additional pier and reinstatement of flower beds and a Victorian pedestrian path. In that No. 5 is a detached property with a wide frontage and the front garden was already used for parking, it does not set an example for the current development. However it is illustrative of the variety of boundary treatments that can be seen along Florence Road of which the changes at No. 33 would make up a minor element.
13. The Council has concerns that if alterations similar to those proposed at No. 33 where replicated it could erode the special character of the townscape and set an undesirable precedent for further proposals in Florence Road. Similar works have already taken place at No. 27 and No. 31 which are the subject of separate appeals. The Council also referred to a recent refusal at No. 21. That is a larger double fronted property and proposed the removal of nearly 5m of wall and a hardstanding in front of the bay and would have been quite different in scale and impact to the proposal at No. 33.
14. The Article 4 Direction allows the Council to consider each proposal on its own individual merits having regard to the current arrangements and the surrounding townscape. The Council's own Conservation and Design Team has adopted a pragmatic approach to these works. I take a similar view. As I have found that the works subject of the current appeal would be acceptable, they would not set an undesirable precedent and this proposal, together with the works that have already taken place at Nos. 27 and 31, would not have an adverse cumulative effect on the townscape.

15. I conclude that the appeal proposals would not be harmful to the character and appearance of the host property, the townscape or the Conservation Area, and thus accord with the objectives and requirements of policies HE6, HE8 and QD16 of the LP.
16. Conditions are needed to ensure that the detail of the new pier matches the original; that a gate is provided, for the reasons set out in paragraph 10; that a crossover is constructed to the Council's standards; and to list the plans, for the avoidance of doubt and in the interests of good planning.
17. I have taken into account all other matters raised including the concern at the loss of on-street parking but as there was previously a hardstanding there has been no change. I find none to be of such weight as to override the considerations that have led to my conclusion, for the reasons given above, that the appeal should be allowed.

Mary O'Rourke

Inspector



Costs Decision

Site visit made on 16 February 2012

by **M T O'Rourke BA (Hons) DipTP MRTPI**

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

Decision date: 21 February 2012

Costs application in relation to Appeal Ref: APP/Q1445/D/11/2167682 33 Florence Road, Brighton BN1 6DL

- 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 Robert Gibbins for a full award of costs against Brighton & Hove City Council.
 - The appeal was against the refusal of the Council to grant planning permission for widening of existing hardstanding and relocation of brick pillar.
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Decision

1. The application for an award of costs is refused.

Reasons

2. Circular 03/2009 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.
3. An award of costs does not necessarily follow the appeal process. Whilst I have found against the Council in my decision and allowed the appeal, I am satisfied that the Council produced evidence at the appeal stage to support its reason for refusal which had regard to the development plan and all other material considerations. The decision rested on matters of judgement concerning the character and appearance of Florence Road and of the Conservation Area. Circular paragraph B18 advises that 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 development.
4. Although the Council's Conservation and Design Team considered the alterations to the wall and pier to be acceptable, it was as an exception to guidance in the Council's adopted SPD. Having noted that consultation response, the planning officer was entitled to take a different view, so long as full justification was provided for that different view. I am satisfied that the officer's report dealt in sufficient detail with the perceived impact of the appeal proposal in terms of the character and appearance of the houses and the contribution of the walls and piers to the streetscene. Also the Conservation and Design Team did not consider the question of precedent and it was appropriate for the officer to address that in his report and sufficient reasoning was given to justify his view that it represented a risk.

5. The appeal decision at 5 Florence Road was also considered in the report and the differences with the current appeal proposal drawn out. The Council provided more than '*vague, generalised or inaccurate assertions*' about the proposal's impact (paragraph B18). It also relied upon its adopted supplementary planning guidance on architectural features, and in such cases paragraph B19 advises that an award of costs is unlikely to be made. Although I have come to a different view on the merits of the proposal, the Council did produce sufficient evidence to substantiate its reason for refusal.
6. I therefore find that unreasonable behaviour resulting in unnecessary expense, as described in Circular 03/2009, has not been demonstrated.

Mary O'Rourke

Inspector



Appeal Decision

Site visit made on 26 January 2012

by **Ray Wright** BA(Hons) DipTP MRTPI

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

Decision date: 23 February 2012

Appeal Ref: APP/Q1445/A/11/2162769
137D Elm Grove, Brighton BN2 3ES

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by SBS Building Services Ltd against Brighton and Hove City Council.
 - The application Ref BH2011/02312, is dated 1 August 2011.
 - The development proposed is described as 'change of use and alterations to form studio flat – resubmission of refused application ref. BH2011/00537.'
-

Decision

1. The appeal is allowed and planning permission is granted for change of use and alterations to form a studio flat at 137D Elm Grove, Brighton BN2 3ES in accordance with the terms of the application, Ref BH2011/02312, dated 1 August 2011, subject to the conditions set out in Schedule A.

Procedural Matters

2. The appeal was lodged on the basis of the Council's failure to determine the submitted planning application. I note that on the same date that the appeal was submitted the Council issued a decision notice setting out its objections to the proposals. I have however determined this appeal on the basis of the Council's failure to give notice of its decision in the prescribed period.
3. The reference in the description of development to the proposal being a 'resubmission' is superfluous and so should not be recorded in my formal decision.

Main Issue

4. The main issue in this case is whether the proposal would provide satisfactory living conditions for prospective occupiers of the flat.

Reasons

5. The appeal building is located to the rear of 137 Elm Grove which is a two storey plus basement property which has been converted into residential flats. It consists of a single storey, vacant workshop building with its frontage and pedestrian access onto the primarily residential Bonchurch Road.
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6. The proposal is for conversion of this former commercial unit into a studio flat, with an open living area with kitchen and offset bedroom space, together with a separate shower room.
7. The Council is concerned regarding the 'small cramped layout' of the studio flat and whether it would provide a suitable unit of accommodation. The Council however do not have any minimum space standards for residential units in its policy or guidance and therefore I have considered this proposal solely on its individual merits. The appellants have indicated how furniture and other essentials of modern living could be arranged within the unit. This to me illustrates that internally the flat could function adequately at least as a single person unit of accommodation.
8. The existing unit has a shop style window and entrance door to the Bonchurch Road frontage. Access to the proposed studio flat would be via steps which lead down from the pavement. As proposed a new window would be added to the bedroom area with the introduction of two rooflight windows, over the kitchen and shower areas respectively. The Council accept that suitable lighting and ventilation to the unit would be achieved but raise concerns regarding the poor quality of outlook and lack of usable outdoor amenity space.
9. In terms of outlook the floor level of the flat would be below that of the adjoining pavement, but only by a metre or so. This combined with the intended reduction in height of the boundary wall on the back of the pavement and replacement with railings would enable, what I consider would be acceptable and appropriate, west facing views across the road.
10. The only outside area associated with the studio flat would be the narrow stair access to the entrance door. There are a number of 'basement' flats in close proximity to the appeal site with similar arrangements, albeit that their front light wells are generally wider. The appellants have indicated the possible provision of an outside seat and bin storage area and I have some sympathy with the argument put forward that this would compare with a small balcony that may be associated with an upper floor modern flat.
11. Both the appellant and the Council have referred me to other sites where flats of different sizes and layouts have been assessed. While some of these may have similarities none are identical to this particular case which, as set out above, I have considered on its individual merits.
12. Overall I consider, in this particular case, that the proposed studio unit would provide a suitable and acceptable unit of accommodation and therefore the proposal does not conflict with Policy QD27 of the Brighton and Hove Local Plan nor does it conflict with the design aims of Planning Policy Statement 1: 'Delivering Sustainable Development' or Planning Policy Statement 3: 'Housing'.

Conditions

13. The Council in their appeal documentation put forward two conditions should the appeal be allowed. I have considered whether these and any other conditions would be required against the advice in Circular 11/95 and for clarity. The standard commencement condition would be required as, in the interests of proper planning, would one referring to the permitted plans. The Council have suggested a condition on provision of cycle storage and the appellants have

indicated that this is acceptable to them and I see no reason to disagree. I consider a further condition requiring additional details to be submitted before the development commences is necessary to ensure the proposals do not harm the appearance of the area.

Conclusion

14. For the reasons given above and taking into account all other matters, I conclude the appeal should be allowed.

Ray Wright

INSPECTOR

Schedule A - Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) Subject to the provision of Condition 3 below, the development hereby permitted shall be carried out in accordance with the following approved plans: PL01, PL02, and PL03C.
- 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) design, form and proposed materials of the two roof lights;
 - (ii) details of size, form of opening and proposed materials of the new window to the bedroom area and the replacement window to the studio area;
 - (iii) the design, height and colour of the proposed railings to be installed on the west boundary wall.

The development shall be carried out in accordance with the approved details.

- 4) No development shall take place until details of secure cycle parking facilities for the occupiers of, and visitors to, the development hereby permitted have been submitted to and approved in writing by the local planning authority. These facilities shall be fully implemented as agreed and made available for use prior to occupation of the studio flat and shall thereafter be retained.



Appeal Decision

Site visit made on 3 February 2012

by Elizabeth Fieldhouse DipTP DipUD MRTPI

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

Decision date: 16 February 2012

Appeal Ref: APP/Q1445/A/11/2163201
24 St James's Street, Brighton, BN2 1RF

- 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 J C S Enterprises Limited against the decision of Brighton & Hove City Council.
 - The application Ref BH2011/02334, dated 3 August 2011, was refused by notice dated 7 October 2011.
 - The development proposed is creation of fourth floor to form two bedroom flat.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are whether the proposed development would preserve or enhance the character or appearance of the East Cliff Conservation Area; and whether adequate provision would be made to offset the demand for travel created by the development.

Reasons

Conservation area

3. The appeal property is a recently developed four storey flat roofed building at the corner of St James's Street and Dorset Gardens that comprises retail premises on the ground floor with three floors of flats above. The flat roof is surrounded by a fairly low parapet. The proposal would accommodate a two bedroom flat in a block on the existing roof set in from the south, east and north elevations with planting outside railings around the terrace at the southern end. In terms of materials and form the proposed structure would reflect the design of the existing building.
4. The East Cliff Conservation Area was largely developed in the 18th and 19th centuries and is characterised by straight intersecting terraces. St James's Street is a principal shopping street that rises up from Old Steine with regular junctions with the narrower north south streets. The appeal property adjoins older three storey properties that step up the hill under their pitch roof and often accommodate a floor within the roof lit by dormer windows evident behind the eaves or parapet. The parapet around the roof of the appeal building steps up from that adjoining but the ridge of the neighbouring property is higher than the existing building at no.24.

5. The proposed additional floor would be set back from the road frontage but, rather than being recessive in form like the attached pitch roof, it would be a similar design to the building. Therefore the proposal would appear as a long box shape on the roof and, due to its form and flat roof, would be more dominant and obtrusive than the pitched roofs on the attached terrace. This, added to the width of the appeal site compared to neighbouring attached terrace on the St James's Street frontage, would result in a building that would dominate views, create an alien and imposing skyline and have an overbearing impact on the attached terrace. Thereby harming the visual amenities.
6. The existing building forms a focus at, but does not dominate the corner of Dorset Gardens and St James's Street or neighbouring buildings. Nevertheless, from Dorset Gardens, the proposed additional floor set in about 1m from the side elevation would result in a building that would not only dominate the attached Dorset House but views down Dorset Gardens of the neighbouring Methodist Chapel. Apart from the tower, the Chapel would appear lower than the proposed extended building as the higher part of the Chapel is set well back from the frontage and not 'read' with the corner building.
7. The appeal building is prominent and partially closes the views north from Madeira Place that lies to the south. At present, the partially 'glazed' tower on the Methodist Chapel is visible over the appeal building from some viewpoints. However, it does not dominate the vista nor do views of the tower justify the withholding of planning permission. Planting and railings at rooftop level behind a parapet are not unusual in more recent developments. Nevertheless, due to the fairly low parapet, the planting and railings would be clearly visible and prominent in views of the building from the south. The planting and railings would draw attention to the additional floor and its incongruous relationship to the attached traditional terrace.
8. Overall, by reason of its scale and form, the proposed development would unacceptably compromise the character and visual amenities of this part of the conservation area. It would visually diminish the value of the terrace to which it would be attached and dominate nearby buildings fronting Dorset Gardens. For the reasons given the additional floor on the existing building would fail to preserve or enhance the character or appearance of the conservation area. It would be contrary to Brighton & Hove Local Plan (LP) policies QD1, QD14a and HE6
9. The original building on the site was higher than that proposed but appears to have been demolished in the 1950s. Planning permission was granted in 2004 (ref. BH2003/01805/FP) for redevelopment of the appeal site and 30 Dorset Gardens. Later amendments were also approved. Although 30 Dorset Gardens was built, there were inaccuracies in the submitted drawings which misrepresented the relationship between that proposed and existing buildings. The erected building was subject to a later retrospective planning permission. The overall height of the building including the appeal proposal may only be 500mm greater than the scheme approved in 2004/2005. Nevertheless, that permission was based on inaccurate drawings and does not justify the additional floor that would be visually dominating and overbearing.
10. On the opposite corner of St James's Street and Dorset Gardens, planning permission has been granted for a flat roof building with development at roof level set back behind the parapet. That site adjoins different buildings, is on higher land and, from drawing P3, would appear not to project to the same

extent, if at all, above the attached pitched roof building. It does not justify the appeal proposal.

Travel demand

11. LP policy TR1 requires development proposals to provide for the demand for travel they create. A section 106 Unilateral Undertaking dated 24 November 2011 was submitted that provides for a contribution towards the cost of the provision and/or improvement of sustainable transport infrastructure within the vicinity of the property and the associated Council costs. Although the Undertaking was signed, no plan was attached, therefore it is incomplete. In any event, from all that has been submitted, it is not possible to assess why the specific level of contribution is necessary or the precise purposes for which the contribution would be used. Therefore all the tests in Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 would not be met. In the light of the information provided, the requirement for a contribution has not been justified or met.

Overall conclusion

12. Regard has been paid to all material considerations. Nevertheless, by reason of its height, form and position, no justification has been found for the proposal which would dominate and detract unacceptably from the roof form/skyline of the terrace to which it would be attached and neighbouring buildings in Dorset Gardens. Thereby the immediate street scenes would be harmed to the detriment of the conservation area. For the reasons given the appeal should be dismissed.

Elizabeth Fieldhouse

INSPECTOR



Appeal Decision

Site visit made on 6 February 2012

by **James Croucher** MTP MRTPI

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

Decision date: 20 February 2012

Appeal Ref: APP/Q1445/D/11/2167638
54 Lenham Avenue, Saltdean BN2 8AG

- 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 Kevin Long against the decision of Brighton & Hove City Council.
 - The application Ref. BH2011/02757, dated 8 September 2011, was refused by notice dated 31 October 2011.
 - The development proposed is a 2 storey side extension.
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Decision

1. The appeal is allowed and planning permission is granted for a 2 storey side extension at 54 Lenham Avenue, Saltdean BN2 8AG in accordance with the terms of the application, Ref. BH2011/02757, dated 8 September 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:
 - i. 1:1250 Site location plan (unnumbered)
 - ii. 1:500 Site layout plan (unnumbered)
 - iii. Proposed details drawing (unnumbered, dated August 11)
 - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.

Main Issue

3. The main issue in this case is the effect of the proposed extension on the living conditions of adjacent occupiers, with regard to overlooking, overshadowing and overbearing impact.

Reasons

4. 54 Lenham Avenue is a two-storey detached property at the corner of Lenham Avenue and Founthill Avenue. Local topography falls sharply away to the east,
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meaning that the adjacent property at 18 Founthill Avenue sits at a lower level than the appeal property. The character of both streets is defined by the particularly open aspect to the east, giving expansive views of the valley parkland across to the seascape beyond.

Effect on 56 Lenham Avenue

5. Properties in the area appear to have been designed to take advantage of the views to the east. At 56 Lenham Avenue there is a first floor terrace to the rear, served by large windows which provide the main aspect to the room closest to the appeal site. In comparison, the windows in the property's side elevation (facing the appeal site) are smaller and secondary in nature. Whilst the proposed extension would come closer to those windows, the open rear aspect enjoyed by number 56 would not be affected. There would be no significant overbearing impact, and any additional overshadowing would be restricted solely to the secondary windows in the side elevation.
6. The proposed extension would move the kitchen window some 2 metres closer to number 56. However, overlooking is already available from that position, from the first floor external landing outside the kitchen door. Accordingly, the extent of overlooking would be no worse than is currently the case.
7. Mindful of the size, height, massing and siting of the proposed extension, there would be no significant effect on the living conditions of occupiers at 56 Lenham Avenue.

Effect on 18 Fountwell Avenue

8. Given its lower slab level, particularly careful consideration should be given to the potential effect of the scheme on living conditions at 18 Fountwell Avenue. The front door of this detached property is on its side elevation facing the appeal site, and is already subject to some overshadowing and overbearing impact as a result. The modest additional bulk and massing of the proposed extension would not increase that impact to any significant extent.
9. As with others nearby, number 18 appears to have been orientated to maximise its views to the east. Accordingly, in the rear elevation the closest rooms to the appeal site are served only by high-level obscurely-glazed windows, which I understand to be a bathroom and WC. Therefore despite the lower ground level, there would be no significant loss of light or additional overbearing impact within the property.
10. Number 18's rear garden is already overlooked by the rear garden of the appeal site, and to a lesser extent its side-facing windows. The proposed extension would not significantly increase that overlooking, and indeed would provide a level of visual shielding which would increase the privacy of the patio area to the immediate rear of number 18.
11. Having regard then to the size, height, massing and siting of the proposed extension, there would be no significant effect on the living conditions of occupiers at 18 Fountwell Avenue.

Conditions

12. The Council has suggested a number of planning conditions, should I be minded to allow the appeal and grant planning permission. I have considered those conditions in light of the advice in Circular 11/95, and impose the usual time limit condition in the interests of good planning.
13. In terms of specifying the approved works, it is necessary to impose a condition requiring development to be carried out in accordance with the submitted plans, for the avoidance of doubt. A condition requiring approval of external materials is necessary to ensure a satisfactory visual appearance.
14. The Council has suggested a condition requiring the window facing 56 Lenham Avenue to be fitted with obscured glazing. However, as described above, there would be no significant new overlooking in that direction compared to that which already exists. Accordingly, the condition suggested by the Council is unnecessary.

Conclusion

15. There would be no significant harm to the living conditions of adjacent occupiers, and accordingly the proposal would comply with Policies QD14 and QD27 of the Brighton and Hove Local Plan. As such, the appeal should be allowed.

James Croucher

INSPECTOR



Appeal Decision

Site visit made on 6 February 2012

by **James Croucher** MTP MRTPI

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

Decision date: 27 February 2012

Appeal Ref: APP/Q1445/D/12/2168721
15 Bishopstone Drive, Saltdean, Brighton BN2 8FF

- 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 Frankie Yallop against the decision of Brighton and Hove City Council.
 - The application Ref. BH2011/02231, dated 27 July 2011, was refused by notice dated 3 November 2011.
 - The development proposed is a single storey extension and roof alterations to form a chalet bungalow.
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Decision

1. The appeal is allowed and planning permission is granted for a single storey extension and roof alterations to form a chalet bungalow at 15 Bishopstone Drive, Saltdean, Brighton BN2 8FF in accordance with the terms of the application, Ref. BH2011/02231, dated 27 July 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 samples of the materials to be used in the construction of the external surfaces of the works 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.
 - 3) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - (i) 2567/1 (OS and block plans)
 - (ii) 2567/2 (existing plan and elevations)
 - (iii) 2567/6/B (proposed plan and elevations)

Main Issue

2. The main issue in this case is the effect of the proposal on the character and appearance of the host building and the wider streetscene.
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Reasons

3. The appeal property is a modest bungalow, simple in form with a hipped roof. An increase in ridge height and roof form is proposed, as well as a revised half-hipped roof design, to facilitate the provision of habitable rooms to the first floor. To the rear a centrally-positioned box dormer window is proposed, along with a flat-roof single storey extension and raised patio. Brighton & Hove Local Plan Policy QD14 gives assessment criteria for such extensions, whilst Adopted Supplementary Guidance "Roof Alterations and Extensions" (the "SPD") provides additional design guidance.
4. The Bishopstone Drive streetscene features a wide variety of property designs, including a multitude of differing dormer window designs and sizes. The roofscape consists of a broad mix of gabled, hipped and half-hipped roofs. Such variety is characteristic of this pleasant suburban street, with its mix of modest and more substantial homes, many of which have been altered or extended. The elevated nature of the street in the wider landscape and its natural gradients add to the visual variety of the streetscene and its roofscape.
5. In this context, the proposed alterations to the existing bungalow would be neither incongruous nor overly prominent. The half-hipped roof design would not appear overly bulky or top-heavy, and an appropriate architectural composition would result. Subject to the use of appropriate materials, there would be no harm to the host dwelling or the wider Bishopstone Drive streetscene.
6. There are restricted views of the rear elevation from public vantage points. The nearest properties are some distance away and are separated from the appeal site by existing evergreen vegetation and a private tennis court. Local topography and adjacent buildings further limit visibility of the rear elevation, particularly from Lustrells Crescent.
7. Accordingly, neither the rear view of the enlarged roof nor the proposed rear dormer would be dominant or prominent, given the very limited public visibility of the site and the backdrop of existing built form on higher ground levels against which it would be seen. In any event, a dormer of the scale, form and design proposed would not be an uncommon or alien feature in the area. In this instance the central positioning of a dormer window on the rear roof slope would respect the character of the building, and the areas of cladding would be neither out of keeping nor incongruous. In addition, although the window cill would not sit above the roofslope, a visually coherent visual composition would nonetheless result.
8. In light of the above, the proposal would not harm the character and appearance of the host building or the wider streetscene. Accordingly, the scheme complies with Local Plan Policies QD1, QD2 and QD14, and the Council's SPD.

Other matters

9. Concerns have been raised in respect of overlooking. The insertion of a new rooflight in the western elevation would result in a modest level of additional overlooking of the adjacent rear garden at 17 Bishopstone Drive. However, this overlooking would not be significant in extent given the small size of the

proposed rooflight, existing boundary planting, and the obscure angles of view involved. The Council did not consider that planning permission ought to be refused on grounds of loss of privacy, an assessment with which I agree.

10. The proposed alterations would not cast any significant new shadow over adjacent properties, given their siting, size and design. In particular, the modest single storey rear extension would not result in any significant overshadowing of the adjacent property. Accordingly, there would be no significant harm on the living conditions of occupiers of 17 Bishopstone Drive. Similarly, there would be no significant effect on the living conditions of any other nearby property.

Conditions

11. The Council has suggested two conditions in the event that the appeal is allowed. In considering these I have had regard to the advice in Circular 11/95: *The Use of Conditions in Planning Permissions*. I shall impose the usual time limit condition for the commencement of development and in the interests of good planning a condition is necessary to require development to be carried out in accordance with the submitted plans. In addition a condition requiring the submission and approval of external materials is necessary to ensure a satisfactory appearance.

Conclusion

12. In light of the above, the appeal should succeed.

James Croucher

INSPECTOR

NEW APPEALS RECEIVED

WARD

APPLICATION NUMBER

ADDRESS

DEVELOPMENT DESCRIPTION

APPEAL STATUS

APPEAL RECEIVED DATE

APPLICATION DECISION LEVEL

PATCHAM

BH2011/02708

115 Carden Hill, Brighton

Certificate of lawfulness for an existing street level off-road parking area and crossover to front.

APPEAL LODGED

02/02/2012

Delegated

WARD

APPLICATION NUMBER

ADDRESS

DEVELOPMENT DESCRIPTION

APPEAL STATUS

APPEAL RECEIVED DATE

APPLICATION DECISION LEVEL

HOVE PARK

BH2011/03480

20 Benett Drive, Hove

Certificate of lawfulness for a roof extension to form barn hips to both sides property, incorporating 4no rooflights.

APPEAL LODGED

03/02/2012

Delegated

WARD

APPLICATION NUMBER

ADDRESS

DEVELOPMENT DESCRIPTION

APPEAL STATUS

APPEAL RECEIVED DATE

APPLICATION DECISION LEVEL

ST. PETER'S & NORTH LAINE

BH2011/02247

24 North Gardens, Brighton

Installation of new timber window within existing recess at first floor and rendering of walls at front of property (Part retrospective)

APPEAL LODGED

03/02/2012

Delegated

WARD

APPLICATION NUMBER

ADDRESS

DEVELOPMENT DESCRIPTION

APPEAL STATUS

APPEAL RECEIVED DATE

APPLICATION DECISION LEVEL

CENTRAL HOVE

BH2011/02982

The Giggling Squid, 129 Church Road, Hove

Erection of a single storey rear extension.

APPEAL LODGED

07/02/2012

Delegated

WARD

APPLICATION NUMBER

ADDRESS

DEVELOPMENT DESCRIPTION

ROTTINGDEAN COASTAL

BH2011/03337

11 Dean Court, Road Rottingdean, Brighton

Erection of single storey rear extension, alterations to roof including a hip to gable roof extension with juliet balcony to rear, 6no

NEW APPEALS RECEIVED

APPEAL STATUS
APPEAL RECEIVED DATE
APPLICATION DECISION LEVEL

dormers and rooflight to side roofslopes and alterations to fenestration.
APPEAL LODGED
07/02/2012
Delegated

WARD
APPLICATION NUMBER
ADDRESS

DEVELOPMENT DESCRIPTION

APPEAL STATUS
APPEAL RECEIVED DATE
APPLICATION DECISION LEVEL

PATCHAM
BH2011/03121
Site Between Bonheur & Rocklands, Braypool Lane, Brighton
Erection of 2no three bed semi-detached houses with cycle/bin stores and parking areas.
APPEAL LODGED
10/02/2012
Delegated

WARD
APPLICATION NUMBER
ADDRESS
DEVELOPMENT DESCRIPTION

APPEAL STATUS
APPEAL RECEIVED DATE
APPLICATION DECISION LEVEL

SOUTH PORTSLADE
BH2011/02850
50 Benfield Way, Portslade
Erection of side extension at first floor level. Installation of rooflight to side elevation. Erection of single storey side extension.
APPEAL LODGED
16/02/2012
Delegated

WARD
APPLICATION NUMBER
ADDRESS

DEVELOPMENT DESCRIPTION

APPEAL STATUS
APPEAL RECEIVED DATE
APPLICATION DECISION LEVEL

WOODINGDEAN
BH2011/02676
Land at Rear of 107, 109 & 111 Cowley Drive, Woodingdean
Erection of two bedroom detached residential dwelling with access from Pinfold Close.
APPEAL LODGED
14/02/2012
Delegated

WARD
APPLICATION NUMBER
ADDRESS
DEVELOPMENT DESCRIPTION

HANOVER & ELM GROVE
BH2011/03039
124 Lewes Road, Brighton
Change of use from retail (A1) to mixed use retail (A1), professional services (A2) or offices (B1) at basement and ground floors and student accommodation (Sui Generis) at first and second floors. Extension of second floor and

NEW APPEALS RECEIVED

<u>APPEAL STATUS</u>	addition of third floor to create four storey building.
<u>APPEAL RECEIVED DATE</u>	APPEAL LODGED
<u>APPLICATION DECISION LEVEL</u>	16/02/2012
	Delegated
