





**Brighton & Hove  
City Council**

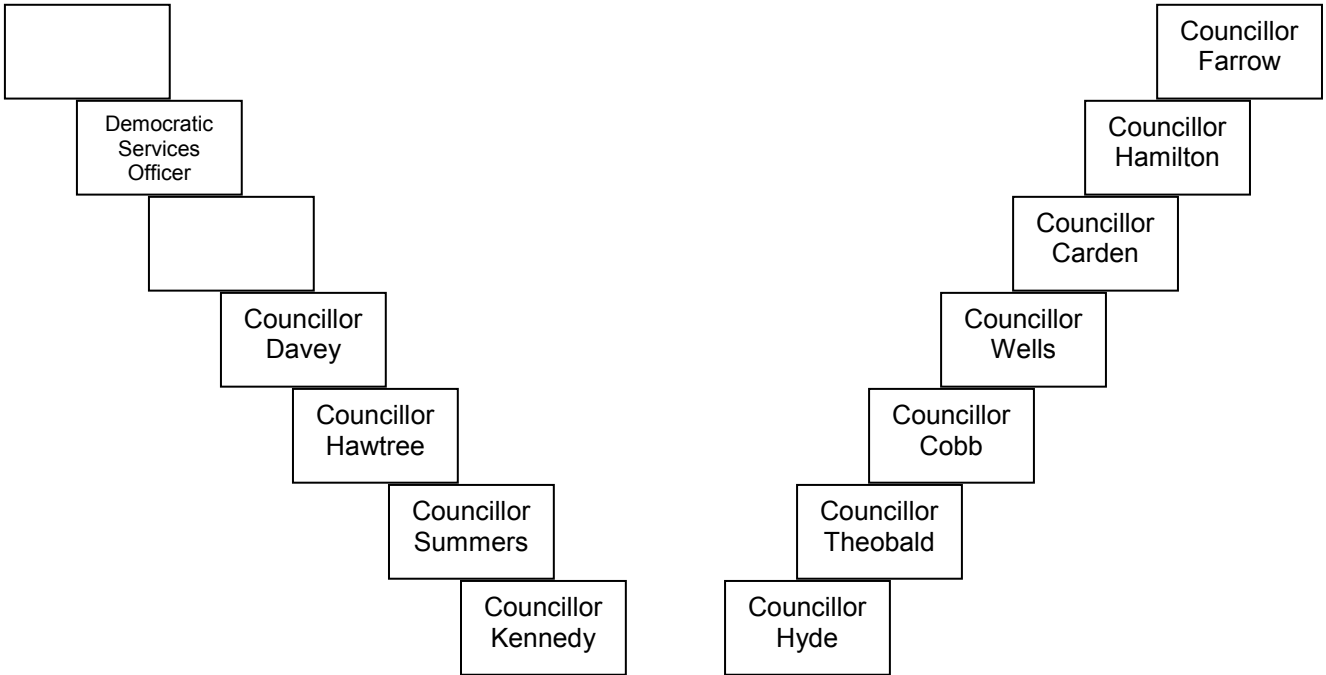
# Planning Committee

|          |  |
|----------|--|
| Title:   | <b>Planning Committee</b>  |
| Date:    | <b>4 April 2012</b>  |
| Time:    | <b>2.00pm</b>  |
| Venue    | <b>Council Chamber, Hove Town Hall</b>   |
| Members: | <p><b>Councillors:</b> MacCafferty (Chair), Hyde (Deputy Chair), Carden (Opposition Spokesperson), Cobb, Davey, Farrow, Hamilton, Hawtree, Kennedy, Summers, C Theobald and Wells</p> <p><b>Co-opted Members:</b> Mr Graham Towers (Conservation Advisory Group) and Mr Chris Kift (The FED Centre for Independent Living)</p> |
| Contact: | <p><b>Ross Keatley</b><br/>Democratic Services Officer<br/>01273 291064<br/>ross.keatley@brighton-hove.gov.uk</p>  |

|   |  |
|---|--|
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# Democratic Services: Meeting Layout

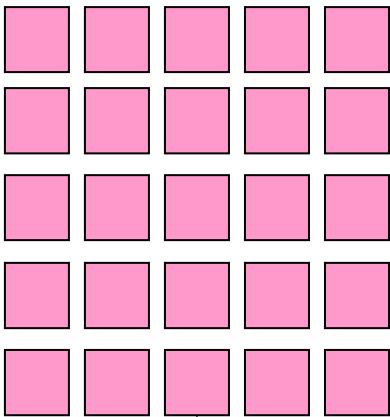
Senior Solicitor      Chairman      Head of Development Control



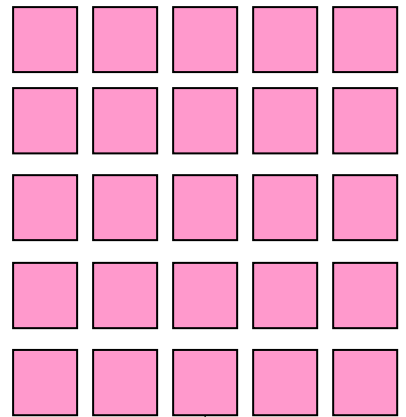
Chairman of CAG

Officers      Officers

Press



Public Seating



Public Seating

**AGENDA**

**160. PROCEDURAL BUSINESS**

- (a) Declaration of Substitutes - Where Councillors are unable to attend a meeting, a substitute Member from the same Political Group may attend, speak and vote in their place for that meeting.
- (b) Declarations of Interest by all Members present of any personal interests in matters on the agenda, the nature of any interest and whether the Members regard the interest as prejudicial under the terms of the Code of Conduct.
- (c) Exclusion of Press and Public - To consider whether, in view of the nature of the business to be transacted, or the nature of the proceedings, the press and public should be excluded from the meeting when any of the following items are under consideration.

*NOTE: Any item appearing in Part 2 of the Agenda states in its heading the category under which the information disclosed in the report is exempt from disclosure and therefore not available to the public.*

*A list and description of the exempt categories is available for public inspection at Brighton and Hove Town Halls.*

**161. MINUTES OF THE PREVIOUS MEETING 1 - 18**

Minutes of the meeting held on 14 March 2012 (copy attached).

**162. CHAIR'S COMMUNICATIONS**

**163. FORMER NURSES ACCOMMODATION, BRIGHTON GENERAL HOSPITAL, PANKHURST ROAD, BRIGHTON : REQUEST FOR A VARIATION OF S106 DATED 9 AUGUST 2010, SIGNED IN ASSOCIATION WITH BH2010/01054 19 - 24**

Report of the Strategic Director, Place (copy attached)

**164. APPEAL DECISIONS 25 - 44**

(copy attached).

**165. LIST OF NEW APPEALS LODGED WITH THE PLANNING INSPECTORATE 45 - 48**

(copy attached).

## PLANNING COMMITTEE

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

**49 - 50**

(copy attached).

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

None for this meeting.

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

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

(copy circulated separately).

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

### **171. 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.

Agendas and minutes are published on the council's website [www.brighton-hove.gov.uk](http://www.brighton-hove.gov.uk). Agendas are available to view five working days prior to the meeting date.

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

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## PLANNING COMMITTEE

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

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

Date of Publication - Tuesday, 27 March 2012



### BRIGHTON & HOVE CITY COUNCIL

#### PLANNING COMMITTEE

2.00pm 14 MARCH 2012

#### COUNCIL CHAMBER, HOVE TOWN HALL

#### MINUTES

**Present:** Councillors MacCafferty (Chair), Hyde (Deputy Chair), Carden (Opposition Spokesperson), Cobb, Farrow, Hamilton, Hawtree, Summers, C Theobald, Bowden, Rufus and Simson

**Co-opted Members:** Mr Chris Kift (the FED)

**Officers in attendance:** Jeanette Walsh, Head of Development Control; Paul Vidler, Deputy Development Control Manager; Nicola Hurley, Area Planning Manager (West), Guy Everest, Senior Planning Officer; Aidan Thatcher, Senior Planning Officer; Hilary Woodward, Senior Lawyer and Ross Keatley, Democratic Service Officer.

#### PART ONE

#### 149. PROCEDURAL BUSINESS

##### 149a Declarations of substitutes

149.1 Councillor Bowden was present in substitution for Councillor Davey; Councillor Rufus was present in substitution for Councillor Kennedy and Councillor Simson was present in substitution for Councillor Wells.

##### 149b Declarations of interests

149.2 Councillor Bowden explained that he had written a letter in relation to applications BH2010/03717 and BH2010/03696 6-8 St James's Street; however, he had not formed an opinion and would remain present to take part in the debate and vote.

##### 149c Exclusion of the press and public

149.3 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.

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

**150. MINUTES OF THE PREVIOUS MEETING**

150.1 **RESOLVED** – That the Chairman be authorised to sign the minutes of the meeting held on 22 February 2012 as a correct record.

**151. CHAIR'S COMMUNICATIONS**

151.1 The Chair welcomed Chris Kift from The Fed Centre for Independent Living, and highlighted that Mr Kift would be regularly attending Planning Committee as a co-opted member and would participate in debate only.

**152. APPEAL DECISIONS**

152.1 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.

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

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

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

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

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

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

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

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

|   |   |
|---|---|
| Application:  | Requested by:                               |
| BH2012/0014, Park House, Old Shoreham Road, Hove                  | Jeanette Walsh; Head of Development Control |
| BH2011/03791, Land Adjoining, Unit 5, 274 Old Shoreham Road, Hove | Jeanette Walsh; Head of Development Control |



|  |                           |
|--|---------------------------|
| BH2010/03696 & BH2010/03717, 6-8 St. James's Street, Brighton. | Councillor Bowden         |
| BH2011/03705, 23 Lowther Road, Brighton                        | Councillor Hyde           |
| BH2011/03509, 7 Elm Close, Hove                                | Councillor Carol Theobald |

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

**(i) MAJOR APPLICATIONS**

**A. Application BH2011/03796, 18 Wellington Rd, Brighton** - Application to extend time limit for implementation of previous approval BH2008/03248 for part demolition and conversion of the existing building and construction of a new 3-storey block to provide a total of 26 self-contained units with 24 hour support for people with learning/physical disabilities and the provision of a drop-in learning disability centre for people with learning/physical disabilities.

- (1) It was noted that this application had formed to the subject of a site visit prior to the meeting.
- (2) The Senior Planning Officer, Aidan Thatcher, gave a presentation detailing the scheme as set out in the report by reference to plans, photographs and elevational drawings. The site was on the south side of Wellington Road, in a largely residential area; and contained a large detached Victorian villa. The application sought to extend the time limit for an extant consent BH2008/03248; the site had been subject to consultation, and the key issues were set out in the report. The height, scale, bulk and massing had been considered acceptable by the previous consent, and it was noted there had been some demolition on site but the Council had taken the view that this did not implement the consent. There had been no changes to material planning considerations, since the previous consent and, as such, the recommendation was that the Committee be minded to grant subject to a Section 106 Agreement and for the reasons set out in the report.

**Questions for Officers, Debate and Decision Making Process**

- (3) In response to a query from Councillor Simson it was confirmed that the proposed clause in the Section 106 Agreement *restricting the use of the development to provision of housing for those with learning and physical disabilities* had been included in the previous consent.
- (4) Councillor Hyde welcomed the development as it was in keeping with buildings in the wider area, and she would be voting with the Officer recommendation.
- (5) Councillor Carol Theobald welcomed the retention of the original Victorian villa, and she stated she would be voting with the Officer recommendation.

- (6) Councillor Hawtree noted that there was a mixture of buildings in the road and stated his broad support for the scheme.
- (7) A vote was taken and the 12 Members present voted unanimously that the extension to time limit for full planning be granted.

157.1 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation and the policies and guidance set out in the report and is **MINDED TO GRANT** planning permission subject to a Section 106 Agreement and the Conditions and Informatives set out in the report.

**B. Application BH2011/03887, Land east of 55 Highcroft Villas, Brighton** - Application to extend the time limit for implementation of previous approval BH2007/03843 for the erection of an apartment building containing 24 flats with parking access.

- (1) The Senior Planning Officer, Guy Everest, gave a presentation detailing the scheme as set out in the report by reference to plans, photographs and elevational drawings. The site had previously been used in connection with the railway line; Highcroft Villas was a residential street containing a mixture of different building styles. The application sought to extend the time limit for implementation of an extant permission, BH2007/03843 which had been granted at appeal. The site would contain 24 residential units, 10 of which would be affordable, and it varied in height due to the variation of the ground level. Vehicular access would be off Highcroft Villas, and the proposals had provision for 24 residential spaces and five for visitors. The proposed use of the site had been deemed appropriate by the previous consent, and, as such, the recommendation was that the Committee be minded to grant the application subject to a Section 106 Agreement and for the reasons set out in the report.

#### **Questions for Officers, Debate and Decision Making Process**

- (2) Councillor Hawtree noted that the previous application had been refused by the Committee, but granted on appeal. He felt there was little distinction to the proposals, but noted that the scheme had already been deemed appropriate by the previous consent, and the Senior Lawyer, Hilary Woodward, noted that the Committee needed to be mindful of this consent when making their decision.
- (3) Councillor Carden highlighted his objection to the previous scheme, and stated that his position had not changed.
- (4) Councillor Rufus asked a question in relation to ecology, and it was explained that slowworms were present on the site; however, the Section 106 Agreement had a clause to mitigate the loss of habitat.
- (5) In response to a query from Councillor Farrow it was confirmed that there was no evidence of badger sets on the site.
- (6) It was confirmed to Councillor Carol Theobald that the height had not changed from the scheme granted in the previous consent.

(7) On a vote of 6 to 2 with 4 abstentions the extension to time limit for full planning was granted.

157.2 **RESOLVED** - That the Committee has taken into consideration and agrees with the reasons for the recommendation and the policies and guidance set out in the report and is **MINDED TO GRANT** planning permission subject to a Section 106 Agreement and the Conditions and Informatives set out in the report.

(ii) **MINOR APPLICATIONS**

**C. Application BH2011/02845, 150 Ladies Mile Rd, Brighton** - Demolition of garage and out building in garden to north side of existing bungalow and erection of new two storey detached dwelling.

(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, Paul Vidler, drew Members attention to additional comments in support of the application in the Late List, and gave a presentation detailing the scheme by reference to plans and photographs. The application sought the division of the plot at no150 Ladies Miles Road to build an additional detached property. The building had been designed to echo other buildings further up the street, and it was highlighted that the first floor was set back one metre from the ground floor at the rear of the property to address neighbour concerns in relation to loss of amenity. The spaces between the proposed new building and the neighbouring properties would be 2 metres on either side, and this was similar to the plot configuration of the newer properties further up the street. The proposals would achieve code level 4 for sustainability; it was considered there would be adequate garden space on both the new property and the existing, and there was adequate provision of parking at the front of both properties. The application was recommended for approval for the reasons set out in the report.

**Public Speakers and Questions**

(3) Mr L. Rathbone, a local resident, spoke in objection to the application stating the recessed first floor at the rear of the property would not be sufficient to mitigate the loss of sunlight to his neighbouring property, and the use of his rear garden and patio would be compromised. It was felt the proposals were contrary to planning policy and constituted overdevelopment as the property had been turned sideways on to ensure it fitted the plot. There would also be other neighbours affected by the scheme; it was accepted that there been some compromise to the proposals, but it was considered that they did not go far enough to address concerns.

(4) Councillor Rufus asked if Mr Rathbone was opposed to development of the scheme in principle or simply the proposals that had been put forward. Mr Rathbone stated he had no objection to the development of the site, but that his objections related to the way development was proposed as part of this scheme.

(5) Councillor Pidgeon spoke in his capacity as the local Ward Councillor, and stated that he had received letters and phone calls from local residents expressing their concern

in relation to the proposals. The proposed location of the building on the plot would create a significant loss of privacy for the residents at no152 Ladies Miles Road and affect amenity. The proposal was also considered too large for the plot, and it was felt it would look out of place on the street.

- (6) Mr R Holness, the applicant, spoke in support of the application, and stated that although the main entrance door was on the side of the property the windows on this aspect would be obscured to prevent overlooking. The objections from residents had been considered and dealt with as part of the planning application process, and this was reflected by the Officer's recommendation that the application be granted. The proposals would allow the applicant additional space to accommodate elderly parents, and ensure the family could provide assistance by being close by, but still ensured that the family each had their own independent living spaces.
- (7) The Head of Development Control, Jeanette Walsh, highlighted that the Committee must consider the proposed scheme as set out in the report, and not give weight or consideration to any amended scheme.
- (8) In response to a query from Councillor Hyde the Senior Lawyer explained that the personal circumstances were capable of being material planning considerations; however, they should be considered in the context of all the material planning considerations relating to any particular scheme. The Head of Development Control also noted that personal circumstances had not formed part of the submission or application.
- (9) In response to queries from Councillor Cobb and Councillor Bowden it was confirmed that the application would lead to the creation of an additional property on a separate plot.
- (10) It was confirmed for Councillor Hyde that the distance between the existing bungalow and the proposed new property would be two metres.

#### **Questions for Officers, Debate and Decision Making Process**

- (11) Councillor Farrow stated that he accepted there was the necessity for infilling to provide additional housing in the city, and went on to ask how Officers interpreted whether a scheme was appropriate. The Deputy Development Control Manager explained that Officers considered the size of the plot, the impact of neighbouring properties, the street scene and other factors. Following further queries from Councillor Farrow it was explained much of the work undertaken by Officers in producing recommendations was subjective, and it was necessary to make a judgement on each application on its own merits.
- (12) In response to a query from Councillor Hawtree it was explained that a code level 4 for sustainability had been negotiated and was considered to be acceptable.
- (13) Councillor Simson asked a question about the windows on the north elevation of the property that would face no152. Officers explained that these were either stairs or toilets; they would all be obscured, and only could only be opened above eye level.

Following a further question it was also explained that the rear balcony was recessed and cut out of the roof space.

- (14) Councillor Bowden asked questions in relation to the loss of amenity, and it was explained that it was not normal to conduct a sunlight study on a development of this size, but it was accepted there would be some reduction due to the alignment of the rear elevation of the building.
- (15) Councillor Hyde noted that the main room affected at no152 was the kitchen, and asked if it was considered a habitable room. It was confirmed that the affected window was secondary.
- (16) Councillor Farrow noted his concerns in relation the scheme; he accepted the need for infilling, but went on to state that he did not consider the proposals appropriate and would be voting against the Officer's recommendation.
- (17) Councillor Cobb stated she agreed with Councillor Farrow, and highlighted her concerns in relation to the impact of the street scene, the reduction in the plot size and the impact on amenity. She stated that she would also be voting against the Officer recommendation.
- (18) Councillor Hyde highlighted her concerns in relation to the loss of sunlight and daylight; the provision of a two-storey building next to a bungalow, and the potential impact this could cause. Although she sympathised with the personal circumstances of the applicant she would be voting against the Officer recommendation.
- (19) Councillor Carol Theobald raised concerns in relation to size of the balcony, and felt that the proposal was too bulky and would be overbearing.
- (20) Councillor Hawtree stated his view that the scheme should be reconsidered.
- (21) Councillor Rufus noted that he did not share some of the concerns of other Members in relation to the proximity to neighbouring properties; but on balance he felt that the proposals were too big for the plot, and he would be voting against the Officer recommendation.
- (22) Councillor Bowden said that the proposal was a good solution to the applicant's personal situation, but felt the application could be resubmitted with a better design. He would be voting against the Officer recommendation.
- (23) The Head of Development Control clarified that the impact on amenity of both neighbouring properties had been assessed.
- (24) A vote was taken and, of the 12 Members present, planning permission was refused on a vote of 9 to 3. Councillor Hyde proposed reasons that planning permission be refused, and this was seconded by Councillor Hawtree; a short recess was then held to allow the Chair, Councillor Hyde and Councillor Hawtree to agree the reasons for the refusal in full, in consultation with the Head of Development and the Senior Lawyer. A recorded vote was then taken and, of the 12 Members present, planning was refused on a vote of 9 to 3 for the reasons set out below.

- 157.3 **RESOLVED** - That the Committee has taken into consideration the recommendation but resolves to **REFUSE** planning permission for the reason set out below.

The proposed developments by reason of its size, arrangement, scale and massing would have an adverse and overbearing impact on the properties at 150 and 152 Ladies Mile Road. This would cause an unacceptable loss of sunlight and daylight to those properties contrary to policies QD1, QD2 and QD27 of the Brighton and Hove Local Plan 2005.

**Note 1:** A vote was taken and planning permission was refused on a vote of 9 to 3.

**Note 2:** Councillor Hyde proposed reasons for refusal of planning permission (set out above), these were seconded by Councillor Hawtree. A recorded vote was then taken. Councillors MacCafferty (Chair), Bowden, Cobb, Farrow, Hawtree, Hyde, Rufus, Summers and Carol Theobald voted that planning permission be refused. Councillors Carden, Hamilton and Simson voted that planning permission be granted. Therefore on a vote of 9 to 3 planning permission was refused.

- D. Application BH2011/03629, 21 Dyke Rd Ave, Hove** - Erection of porch extension of front, single storey side and rear extension and balcony area above existing rear conservatory.

- (1) It was noted that this application had formed the subject of a site visit prior to the meeting.
- (2) The Area Planning Manager (West), Nicola Hurley, gave a presentation detailing the scheme by reference to plans, photographs and elevational drawings. Planning permission was sought for a single side and rear extension to replace the existing garage with a workshop; the existing garage already adjoined the boundary of the property. The scheme also included the installation of a balcony at the rear of the property which would be conditioned to include screening to reduce the impact of overlooking, and the balcony would be over 5.5 metres away from boundary. The application was recommended for approval for the reasons set out in the report.

#### **Public Speakers and Questions**

- (3) Mrs Claire Grimes, a local resident, spoke in objection to the application and stated that she did not want the proposed extension to come up to the boundary fence she shared with the applicant's property; instead she felt it should be 1 metre away. There would be loss of light to the southern facing windows of her property, and there was concern that the footings of the proposal could cause damage to the piping to the swimming pool at her property.
- (4) In response to a query from Councillor Cobb it was confirmed that there was a wooden shed on Mrs Grimes property that adjoined the boundary of her property, but this had been in situ for many years.
- (5) Councillor Jayne Bennett spoke in her capacity as local Ward Councillor, and stated that she objected to building up to the boundary as the property had a large plot and it

was considered un-neighbourly. She also noted concern for the potential loss of a beech tree, and felt that the balcony would create a loss of privacy for neighbours.

- (6) In response to a query from Councillor Hawtree Councillor Bennett stated that effort should be made to preserve trees where possible, and the long term impact of the building works on the tree would not be known.
- (7) Councillor Bowden stated that the screening on the balcony would prevent overlooking, and in response Councillor Bennett said this would depend on the view. Councillor Bowden reiterated his view that the proposed screening would be sufficient.
- (8) Mr L. Cadell-Smith, the applicant, spoke in support of the application, and stated that the proposed extension would only be 0.5 metres higher than the existing fence, and the balcony would be screened and planted to prevent overlooking. It was confirmed that the beech tree was already in a poor state, and this had been confirmed by the Council, and he felt it was a reasonable relationship for both properties to build up to the boundary,
- (9) The Head of Development Control confirmed that the Party Wall Act was separate to planning policy, and would have to be considered through a separate process.

#### **Questions for Officers, Debate and Decision Making Process**

- (10) In response to a query from Councillor Simson it was explained that the garage currently had a pitched roof, and the proposed extension would also have the same.
- (11) Councillor Rufus stated that it was important to seriously consider the potential impact of amenity on neighbours; furthermore, he did not feel that the proposals would have an adverse impact on the design of the building, but he stated that the increase in height of 0.5 metres could still be of great significance to neighbours.
- (12) Councillor Cobb said that she did not agree with building up to the boundary, and would be voting against the Officer recommendation.
- (13) The Head of Development control highlighted that gaps and spaces were material planning considerations, but the Council did not currently have a policy on this; however, the Council was currently consulting on its draft SPD on householder extensions which, contained information on boundaries.
- (14) Councillor Carol Theobald noted her objection to building up to the boundary, and stated she was not in favour of the application.
- (15) Councillor Hawtree noted the 'random' nature of the existing building.
- (16) Councillor Farrow noted his concern that the Council did not have a policy in relation to building up to boundary walls, and stated that this made it more difficult for him to make a firm judgement on the application.

- (17) Councillor Bowden noted that was already an existing building on the boundary, and felt the proposals would be an improvement as the boundary fence was in need of repair.
- (18) Councillor Rufus explained that he was not concerned about building up the boundary, but rather the increased proximity of residents. Due to the proposed lengthening of the extension at the side he would be voting against the Officer recommendation.
- (19) Councillor Simson noted that as the garage was already in situ, and came up to the boundary wall, and she would be voting with the Officer recommendation.
- (20) A vote was taken and the 12 Members of the Committee present voted that planning permission be granted on a vote of 6 to 2 with 4 abstentions.
- 157.4 **RESOLVED** - That the Committee has taken into consideration and agrees with the reasons for the recommendation and the policies and guidance set out in the report and resolves to **GRANT** planning permission subject to the Conditions and Informatives set out in the report.
- E. Application BH2011/03705, 23 Lowther Rd, Brighton** - Erection of single storey side and rear extension.
- 157.5 **RESOLVED** - That consideration of the above application be deferred pending a site visit.
- F. Application BH2010/03696, 6-8 St James St, Brighton** - Installation of acoustic panelling to fixed freezer unit and waste storage area within service yard. Removal of Dawson's chiller unit and storage containers. Removal of existing palisade fencing and erection of new acoustic fencing and gates to service yard.
- 157.6 **RESOLVED** - That consideration of the above application be deferred pending a site visit.
- G. Application BH2010/03717, 6-8 St James St, Brighton** - Variation of condition 5 of permission BN84/0222/F (Erection of supermarket complex comprising of 1no floor of retail space with 1no level open car parking for 96 cars) for delivery hours to be extended to 0700 to 2030 on Monday to Saturday (including Bank Holidays) and 0900 to 1600 on Sunday.
- 157.7 **RESOLVED** - That consideration of the above application be deferred pending a site visit.
- H. Application BH2011/03901, 106 St James St, Brighton** - Change of use of basement from ancillary retail storage (A1) to tattoo studio (Sui Generis)
- (1) The Deputy Development Control Manager gave a presentation detailing the scheme by reference to plans. The application sought a change of use for the basement from ancillary storage (A1) to a tattoo studio. Currently there was a shop on the ground floor, and storage in the basement; the proposals sought to use the basement as a tattoo parlour with access through the shop above, and there would be no impact on



amenities. The application was recommendation for approval for the reasons set out in the report.

### **Questions for Officers, Debate and Decision Making Process**

- (2) Councillor Carol Theobald noted that many of the objections had not come from people who lived in, or near, to the city. The Head of Development control stated that the Council could not stop individuals making representations.
- (3) Councillor Hawtree noted that there were over 100 tattoo and piercing studios in the city, but he was satisfied with the application.
- (4) It was confirmed for Councillor Simson that the Council had no policy in relation to saturation of tattoo studios.
- (5) A vote was taken and the 12 Members present voted unanimously that planning permission be granted.

157.8 **RESOLVED** - That the Committee has taken into consideration and agrees with the reasons for the recommendation and the policies and guidance set out in the report and resolves to **GRANT** planning permission subject to the Conditions and Informatives set out in the report.

### **I. Application BH2011/03432, Blocks E F Kingsmere, Brighton - Roof extension to Blocks E and F to provide 8no flats each with own private roof garden.**

- (1) The Area Planning Manager (West) gave a presentation detailing the scheme by reference to plans, elevational drawings and photographs. The application related to the eastern side of London Road and blocks E & F of Kingsmere. Planning permission had been granted in 2010 for an extension to the roof containing 4 units each with 3 bedrooms. This application sought consent for an additional storey of the same footprint, but instead for 8 units with a mixture of 1 & 2 bedrooms each with their own outside space. Members' attention was drawn to a letter of representation received from Councillor Ann Norman and Councillor Ken Norman in objection to the scheme. The application required a contribution to sustainable transport of £6,000. The application was recommended for approval for the reasons set out in the report.

### **Questions for Officers, Debate and Decision Making Process**

- (2) In response to a query from Councillor Carol Theobald it was explained that the units would not be of the same configuration as those on the floor below; measures in relation to sound proofing would fall under the remit of Building Control.
- (3) Mr Chris Kift asked questions in relation to Lifetime Homes and access and adaptability for people with disabilities and mobility problems. In response it was explained that the Life Time Homes standards had been considered by the applicant, but not all had been met; however the work could not commence until the applicant had taken account of all Life Time Homes standards.

- (4) In response to a query from Councillor Cobb it was explained that the provision of cycle parking was dealt with by condition 8 in the report.
- (5) The Area Planning Manager (West) confirmed the differences in layout between the previous consent, and the new proposals.
- (6) Councillor Carol Theobald stated that most of the objections were from residents of Kingsmere, and she raised concerns in relation to the potential noise impact, the increased numbers of units and the size. She stated that she would be voting against the Officer recommendation.
- (7) Councillor Rufus noted his objection to the size of the units, and felt that the living conditions would be reduced. He stated that he would be voting against the Officer recommendation.
- (8) The Area Planning Manager (West) stated the sizes of the proposed units, and went on to add that the Council had a minimum size of units for affordable homes, but not for private homes.
- (9) Councillor Simson noted her objections to the scheme; stating that she did consider it well thought out.
- (10) Councillor Farrow noted his concern that the Council did not have a policy in relation to a minimum size of units, and he did not feel the units would be sufficient for people with disabilities.
- (11) A vote was taken and, of the 12 Members present, planning permission was refused on a vote of 8 to 3 with 1 abstention. Councillor Carol Theobald proposed reasons that planning be refused, and this was seconded by Councillor Simson; a short recess was then held to allow the Chair, Councillor Carol Theobald and Councillor Simson to agree the reasons for refusal in full, in consultation with the Head of Development Control and the Senior Lawyer. A recorded vote was then taken and, of the 12 Members present, planning permission was refused on a vote of 8 to 3 with 1 abstention for the reasons set out below.

157.8 **RESOLVED** - That the Committee has taken into consideration the recommendation but resolves to **REFUSE** planning permission for the reasons set out below.

1. The proposed development by reason of its configuration and increase in the number of residential units would result in a scheme having an adverse impact on the amenities of the existing and future occupants by reason of noise and disturbance and the cramped nature of the new units, contrary to policies HO4 and QD27 of the Brighton and Hove Local Plan 2005
2. The proposed development fails to provide any car parking. This is likely to lead to an increase in parking pressure on the surrounding highway network contrary to policy TR1 of the Brighton and Hove Local Plan 2005

3. The proposed development provides insufficient usable private amenity space reflective of the scale and character of the development contrary to policy HO5 of the Brighton and Hove Local Plan 2005.

**Note 1:** A vote was taken and on a vote of 8 to 3 with 1 abstention planning permission was refused.

**Note 2:** Councillor Carol Theobald proposed reasons for refusal of planning permission (set out above) and these were seconded by Councillor Simson. A recorded vote was then taken. Councillors Cobb, Rufus and Farrow voted that planning permission be granted. Councillors, Bowden, Carden, Hamilton, Hawtree, MacCafferty Simson, Summers and Carol Theobald voted that planning permission be refused. Councillor Hyde abstained. Therefore on a vote of 8 to 3 with 1 abstention planning permission was refused.

**J. Application BH2012/00047, 227-233 Preston Rd, Brighton - Display of internally illuminated fascia (letters only) and projecting signs, and non-illuminated ATM surround and totem sign.**

- (1) The Area Planning Manager (West) gave a presentation detailing the proposals by reference to pictures and drawings. The application was for advertisement, and only the letters of the fascia would be illuminated. An error in the report was highlighted, and it was explained that the totem would not be internally illuminated. Members' attention was drawn to late representation from CAG and the letters of representation in the report. The application site was in a conservation area, and, as such, complied with the relevant policies; the application was considered appropriate for the scale of the building. The application was recommended for approval for the reasons set out in the report.

**Questions for Officers, Debate and Decision Making Process**

- (2) In response to a query from Councillor Hawtree it was confirmed that there was space on the totem for an additional advertisement.
- (3) A vote was taken of the 11 Members present, and it was agreed that advertisement consent be granted on a vote of 9 to 1 with 1 abstention.

157.9 **RESOLVED** - That the Committee has taken into consideration and agrees with the reasons for the recommendation and the policies and guidance set out in 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 during the consideration and vote of this application.

**K. Application BH2011/03509, 7 Elm Close, Hove - Erection of 1no five bedroom house (part retrospective).**

157.10 **RESOLVED** - That consideration of the above application be deferred pending a site visit.

**L. Application BH2011/03803, 83 Upper North St, Brighton - Installation of French doors to replace existing ground floor rear window**

- (1) The Area Planning Manager (West) gave a presentation detailing the scheme by reference to photographs and drawings. The building was a terrace house on Upper North Street, and the application was for listed building consent for the removal of the window to replace with French doors, and letters of representation had received in support of the application. Members were asked to consider if the application would negatively affect the listed building and its setting; granting the application would necessitate the demolition of masonry contrary to policy which stated it should be retained. The application was recommended for refusal for the reasons set out in the report.

**Public Speakers and Questions**

- (2) Mr J. Baines, the agent for the applicant, spoke in support of the application stating that the doors would reflect the detail of the existing windows and improve the sunlight and access to the rear garden. Similar work had been undertaken on other properties on the street, and pre-application advice had suggested that the application could be recommended for approval.
- (3) In response to a question from Councillor Rufus Mr Baines was not able to confirm if the window in question was original; however in response to further queries from Councillor Hyde and Councillor Simson it was confirmed that the windows on the first and second floors at the rear of the property were of the wrong style and not original.
- (4) Councillor Hawtree asked why the additional access to the rear was necessary when there was already access through the kitchen. In response Mr Baines explained that the access through an amenity room was preferable and more practical.

**Questions for Officers, Debate and Decision Making Process**

- (5) Councillor Hawtree asked for more information on the rationale behind the lean to which had been granted permission in 1997/8. Officers did not have this information, but highlighted that the Council was operating under new policies and a new SPD.
- (6) Councillor Rufus stated that the impact would be minimal if granted, and the rear of the building was already compromised.
- (7) Councillor Farrow expressed concern that policy was not being applied fairly and consistently as similar works had been allowed on nearby properties. Officers stated that such works could have been granted permission before the adoption of the local plan.
- (8) Councillor Hawtree stated that the rear of the building was in good condition, and he would be voting with the Officer recommendation.
- (9) Councillor Bowden suggested that policy had been applied too rigidly in consideration of the recommendation, and he stated that the installation of French doors would not

harm the listed building. Councillor Hawtree noted his disagreement with these comments.

- (10) Councillor Hyde stated that the rear of the building was already compromised, and felt that the application would improve the living conditions for the residents.
- (11) Councillor Farrow reiterated his earlier views, and stated that he would vote against the Officer recommendation.
- (12) Councillor Rufus explained that it was still important to consider the conditions for residents who lived in listed buildings, and, as such, would be voting against the Office recommendation.
- (13) Councillor Simson asked that, if granted, an informative be added that the window be recycled rather than destroyed.
- (14) Councillor Carol Theobald stated that she thought the proposals were acceptable as they were at the rear of the property.
- (15) The Area Planning Manager (West) highlighted as this was an application for listed building consent that Members should only consider the impact on the listed building. The Head of Development Control also stated that approximately 1% of buildings nationally were listed as they were considered to be of important historic value.
- (16) A vote was taken of the 12 Members present, and listed building consent was granted on a vote of 6 to 6 on the Chair's casting vote.

157.11 **RESOLVED** - That the Committee has taken into consideration and agrees with the reasons for the recommendation and the policies and guidance set out in the report and resolves to **REFUSE** listed building consent for the following reason:

- 1. Policy HE1 states proposals involving the alteration of a Listed Building will only be permitted where the proposal would not have an adverse effect on the architectural and historic character of the building. The proposal to remove the original window, which is a historic feature of the property, and to demolish part of the property's historic fabric is contrary to the above mentioned policy and the guidance contained in SPD09 Architectural Features, and is considered to cause harm to this Grade II Listed Building.

Informatives:

- 1. This decision is based on drawing nos.UNS03A and UNS04 received on 09-Jan-2012.

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

158.1 **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.]

**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**

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

| Application:  | Requested by:                               |
|---|---|
| BH2012/00114, Park House, Old Shoreham Road, Hove               | Jeanette Walsh; Head of Development Control |
| BH2011/03791, Land Adjoining Unit5, 274 Old Shoreham Road, Hove | Jeanette Walsh; Head of Development Control |
| BH2010/03696 & BH2010/03717, 6-8 St. James’s Street, Brighton.  | Councillor Bowden                           |
| BH2011/03705, 23 Lowther Road, Brighton                         | Councillor Hyde                             |
| BH2011/03509, 7 Elm Close, Hove                                 | Councillor Carol Theobald                   |

The meeting concluded at 17.17

Signed

Chair

Dated this

day of







# PLANNING COMMITTEE

## Agenda Item 163

Brighton & Hove City Council

|                         |  |
|-------------------------|--|
| <b>Subject:</b>         | Former Nurses Accommodation, Brighton General Hospital, Pankhurst Road, Brighton<br>Request for a variation of s106 dated 09 August 2010 signed in association with BH2010/01054 |
| <b>Date of Meeting:</b> | 4 April 2012   |
| <b>Report of:</b>       | Director of Environment  |
| <b>Contact Officer:</b> | Name: Aidan Thatcher Tel: 292265<br>E-mail: Aidan.thatcher@brighton-hove.gov.uk  |
| <b>Wards Affected:</b>  | Hanover and Elm Grove  |

### 1. PURPOSE OF THE REPORT:

- 1.1 To consider a proposed variation to the s106 Agreement.

### 2. RECOMMENDATIONS:

- 2.1 That the Committee resolves to allow the completion of a variation to the s106 planning agreement dated 09 August 2010 relating to land at Former Nurses Accommodation, Brighton General Hospital, Pankhurst Road, in accordance with the proposed heads of terms set out in section 8 of this report.

### 3. BACKGROUND INFORMATION:

- 3.1 Application **BH2010/01054** granted approval for the demolition of the former nurses accommodation buildings and the construction of two residential apartment buildings (Blocks A and B) of 5 storeys and one apartment block (Block C) of 6 storeys comprising 95 units and a 105 sqm community facility with associated car parking and landscaping. Approval was subject to conditions and a Section 106 Obligation with the following Heads of Terms:

- i) 80% of the units as affordable;
- ii) A financial contribution towards adult / youth outdoor sports facilities towards open space improvements of £26,782.48 – as a result of negotiation provision for children's equipped play space (LEAP) and casual / informal play space (LAP) on site which will be maintained by the applicant;
- iii) A financial contribution of £135,796 for primary and secondary education;

- iv) Integrated public art provision element within the scheme equates to the value of £55,000;
- v) Financial contribution of £6,000 to moving the existing bus stop on the north side of Pankhurst Avenue to facilitate the construction of the proposed access;
- vi) Construction Environmental Management Plan;
- vii) Management program to be agreed for the use of the community facility hereby approved which shall be made available for use within 6 months of first occupation of the residential element; and
- viii) Detailed methodology for translocation of slow worms to suitable receptor site within Brighton & Hove – maintenance for at least 10 years to be provided if on Brighton & Hove City Council receptor site.

#### **4. PROPOSAL**

4.1 Development has commenced on site. The applicant has requested a Variation of the s106 attached to application BH2010/01054 to ensure that the scheme remains viable throughout the build.

4.2 It is proposed to vary the Heads of Terms as set out below:

- Affordable housing from 80% to 40%;
- Integrating a public art provision element within the scheme to equate to the value of £55,000 (rather than a stand alone contribution);
- Introducing phased payments; and
- Introducing a new Head of Terms requiring a minimum of 20% of the workforce during the construction phase to be local employment.

#### **5. CONSULTATION:**

5.1 **Public Art:** Were the scheme to provide for 100% affordable housing we could apply a further reduction to the public art contribution to reflect that as this is one of the issues we consider when it comes to reducing the standard sqm rate for a particular development within a particular area.

5.2 It is suggested however, that it does not go down beyond £42.5k as a reduction was negotiated at the time of the original approved application (the suggested contribution prior to negotiations taking place at the time of the previously approved application was £85k).

5.3 **Planning Strategy:**

The move away from the Local Plan HO1 policy with indicative requirement for 80% can be justified given the viability problems that we have on key sites in the city. In this particular case a provision to 40% affordable housing provision is supported. It is understood that Housing Strategy will also accept the proposal to 40% provision and providing they confirm the same then I can advise we support the pragmatic approach to policy to see this site being developed.

5.4 The requirement for on site local employment and training with a minimum target figure in accordance with approved Developer Contributions Technical Guidance is welcomed.

5.5 **Housing Strategy:** Comments awaited.

**6. COMMENT:**

6.1 **Affordable housing:** The applicant has requested a reduction in the affordable housing contribution from 80% to 40%.

6.2 The previous s106 secured 80% affordable housing in accordance with the indicative percentage in Policy HO1. However, this is an indicative aspiration in policy terms and the more general policy situation across the City is to secure 40% affordable housing on sites such as this, in accordance with Policy HO2 of the Brighton & Hove Local Plan.

6.3 The applicants have provided a viability assessment with their request, which confirms that with a higher level of affordable housing, and payment of the financial contributions, that the scheme would be unviable.

6.4 Therefore, to ensure that the scheme can move forward, a flexible approach needs to be considered. The LPA have taken the view that the financial contributions are required to mitigate against the impact of the development, and thus reviewing the policy requirements of the scheme, such as the level of affordable housing secured is entirely appropriate, and in accordance with best practice for cases where viability issues may be a cause for concern.

6.5 In addition, the site has a complex history, and the original allocation, with the indicative 80% affordable housing requirement relates to a wider site across a larger part of the hospital where the yield had been forecast at 200 units. The remainder of this site is not coming forward for redevelopment at the current time, with no indication of when this is likely to occur, if at all. Larger development sites can accommodate higher proportions of affordable housing, as the costs of this can be mitigated against the remainder of the development.

6.6 The application site is much smaller than the original Local Plan allocation site, and as such it is considered that there is less scope for high proportions of affordable housing.

6.7 Therefore, based on the viability issues, site history and reduction in size of the site, it is considered that a lower proportion of affordable housing is acceptable in this particular instance. The level recommended is in accordance with Policy HO2 of the Local Plan, and would not compromise the provision of affordable housing elsewhere in the city.

- 6.8 **Type and Tenure of Affordable Housing:** The existing s106 agreement stipulates that 42% of the affordable housing units are to be for Social Rent and the remainder be Intermediate affordable housing.
- 6.9 In accordance with best practice, it is proposed to remove this clause and allow the application to determine the split between tenure types.
- 6.10 This is considered to be entirely appropriate as the appropriate level of affordable housing is to be secured and there is no policy basis within the 2005 Brighton & Hove Local Plan to secure any breakdown between the tenures. As such this amendment will bring the proposal in line with the current policy framework.
- 6.11 **Public Art:** The comments from the Public Art Officer are clear and outline the history in relation to the education contributions and demonstrate the significant reductions have already taken place.
- 6.12 That said, there is additional scope to be more flexible in the way we approach the public art contribution. As such it is recommended that the agreement be amended to allow a scheme of public art to be incorporated within the development itself, to a value of £55,000.
- 6.13 This will ensure that the development provides an acceptable level of public art, without placing any undue burden on the applicant.
- 6.14 **Phased payments:** The phasing of payments is an accepted method of ensuring that the monies required to mitigate against the impact of the development are made, however within a timeframe which allows for this to be paid when it is appropriate, rather than all being prior to the commencement of development.
- 6.15 The principle of phased payments also forms part of the agreed measure to assist the development in these times of economic downturn and as such is acceptable.
- 6.16 **Local Employment Scheme:** Since the application was determined, there is now a new requirement on all major sites to secure that a proportion of the workforce during the development stage comes from the local area. As such, the applicants have offered to meet a minimum level of 20% in this regard in mitigation.
- 6.17 This is to be welcomed and goes some way to secure compliance with the new position in relation to local employment.

## 7. **FINANCIAL & OTHER IMPLICATIONS:**

- 7.1 Financial Implications:  
None identified.

7.2 Legal Implications:

Lawyer Consulted: Hilary Woodward

Section s106A of the Town and Country Planning Act 1990 provides that an agreement under s106 of that Act may be varied by agreement between the local planning authority and the person against whom the agreement is enforceable.

7.3 Equalities Implications:

None identified

7.4 Sustainability Implications:

None identified

7.5 Crime & Disorder Implications:

None identified

7.6 Risk and Opportunity Management Implications:

None identified

7.7 Corporate / Citywide Implications:

None identified.

**8. CONCLUSION**

8.1 The applicant has applied to vary the signed s106 agreement as set out at 4.2 of this report.

8.2 The proposed amendments are considered to be acceptable for the reasons as detailed above.

8.3 Therefore, the recommendation is for the heads of terms of the s106 agreement be amended to read as follows:

- i) 40% of the units as affordable;
- ii) A financial contribution towards adult / youth outdoor sports facilities towards open space improvements of £26,782.48 – as a result of negotiation provision for children’s equipped play space (LEAP) and casual / informal play space (LAP) on site which will be maintained by the applicant;
- iii) A financial contribution of £135,796 for primary and secondary education;
- iv) Integrated public art provision element within the scheme equates to the value of £55,000;
- v) Financial contribution of £6,000 to moving the existing bus stop on the north side of Pankhurst Avenue to facilitate the construction of the proposed access;
- vi) Construction Environmental Management Plan;

- vii) Management program to be agreed for the use of the community facility hereby approved which shall be made available for use within 6 months of first occupation of the residential element;
- viii) Detailed methodology for translocation of slow worms to suitable receptor site within Brighton & Hove – maintenance for at least 10 years to be provided if on Brighton & Hove City Council receptor site; and
- ix) The provision of an Employment and Training Strategy with the developer committing to using a minimum of 20% local employment during the construction phase.

In addition to the above, amendments are also required to introduce phased payments of the financial contributions.

**APPEAL DECISIONS**

|  | <b>Page</b> |
|--|-------------|
| <b>A. REGENCY</b>  |             |
| Application BH2011/01904, 47 Temple Street, Brighton – Appeal against refusal to grant planning permission for a change of use from single dwelling (C3) to language school on ground floor (D1) with maisonette above (C3). <b>APPEAL ALLOWED</b> (delegated decision)  | <b>27</b>   |
| <b>B. HANOVER AND ELM GROVE</b>  |             |
| Application BH2011/01159, Southern Water Reservoir, Islingword Road, Brighton – Appeal against refusal to grant planning permission for a 10m monopole telecommunications mast and equipment cabinet. <b>APPEAL ALLOWED</b> (delegated decision)   | <b>31</b>   |
| <b>C. ROTTINGDEAN COASTAL</b>  |             |
| Application BH2011/02227, 71 Lustrells Crescent, Saltdean, Brighton – Appeal against the refusal to grant planning permission for a two storey detached dwelling. <b>APPEAL DISMISSED</b> (committee decision)   | <b>35</b>   |
| <b>D. ROTTINGDEAN COASTAL</b>  |             |
| Application BH2011/03337, 11 Dean Court Road, Rottingdean, Brighton – Appeal against refusal to grant planning permission for extension to house, including rear and roof extension. <b>APPEAL DISMISSED</b> (delegated decision)  | <b>39</b>   |
| <b>E. ST. PETER’S &amp; NORTH LAINE</b>  |             |
| Application BH2011/02247, 24 North Gardens, Brighton – Appeal against refusal to grant planning permission for proposed installation of wood framed window cill on front of house at first floor level above front door porch. Render to existing brick pilasters and dwarf walls supporting railings and gate. <b>APPEAL ALLOWED IN PART AND DISMISSED IN PART</b> (delegated decision) | <b>41</b>   |







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# 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: 14 March 2012

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**Appeal Ref: APP/Q1445/A/11/2164201**  
**47 Temple Street, Brighton BN1 3BH**

- 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 Firas Baja against the decision of Brighton and Hove City Council.
  - The application Ref. BH2011/01904, dated 28 June 2011, was refused by notice dated 23 August 2011.
  - The development proposed is change of use from single dwelling (C3) to language school on ground floor (D1) with maisonette above (C3).
- 

## Decision

1. The appeal is allowed and planning permission is granted for change of use from single dwelling (C3) to language school on ground floor (D1) with maisonette above (C3) at 47 Temple Street, Brighton BN1 3BH in accordance with the terms of the application, Ref. BH2011/01904, dated 28 June 2011, subject to the conditions in the appended Schedule.

## Reasons

2. The main issue in this case is whether the proposal would provide satisfactory living conditions for its intended future occupants, in relation to the adequacy of access and the absence of outdoor amenity space.
  3. The application site is a three-storey end-terrace property set towards the end of a street of similar properties. Temple Street has a predominantly residential character, whilst nearby Western Road is more mixed in its uses and has a more bustling commercial character.
  4. The proposed ground floor use of the building as a small language school would leave the two upper floors in use as a single residential unit. Whilst the two uses would share the same communal entrance hall, the modest scale of the proposed educational use would be unlikely to generate such volumes of visitors as to render this type of access arrangement unacceptable in terms of noise and disturbance, privacy or convenience. The first floor residential unit would remain entirely private behind its front door, with the proposal resulting in a situation similar to that where a private dwelling opens onto a mixed or public space.
-

5. The appellant has referred to a similar arrangement allowed at appeal<sup>1</sup> where offices and a single residential unit were proposed to share a common internal entrance lobby. Whilst I have only limited details of that proposal, the modest scale and nature of the proposed language school would not appear to pose any functional or operational differences to that of a similarly-sized office suite. In this instance, the shared lobby would not be so constrained or confined as to render it inappropriate or impractical, considering the modest size of the proposed language school. Accordingly, whilst I have considered the current appeal on its own merits, the suitability of the proposed lobby arrangement would be equally as acceptable in this instance.
6. The upper floor residential unit would not have access to any outdoor amenity space. The existing rear garden is only of a modest size, and is extensively overlooked by adjacent properties. It has no pedestrian access to the street, meaning that were cycles or refuse/recycling to be stored in the garden, they would need to be brought through the house. Together these factors limit the utility and attractiveness of the existing constrained rear garden for family use. On balance, therefore, the loss of the outdoor amenity area from residential use would not cause any significant harm to the living conditions of future occupiers.
7. Accordingly, the proposed three-bedroom upper floor maisonette would remain as attractive for family occupation as the current property and would provide satisfactory living conditions for its intended future occupants, in relation to the adequacy of access and the absence of outdoor amenity space. Whilst the appellant contends that on the balance of probability the premises would remain in occupation by students, this does not affect my conclusion that the proposal complies with Policies HO9, HO19 and QD27 of the Brighton and Hove Local Plan.

*Other matters*

8. The appeal premises lie with the Montpelier and Clifton Hill Conservation Area. No external changes are proposed and therefore there would be no effect on the appearance of the Conservation Area, whilst the modest scale of the proposed language school would not affect its character. Accordingly, the proposal would preserve the character and appearance of the Conservation Area.
9. A number of local residents have expressed concerns in respect of noise and disturbance from the building's current residents and in relation to the proposed new use. The Council has suggested limiting the opening hours of the proposed language school, a condition which the appellant raises no objection to. Given the mainly residential nature of nearby buildings, an opening hours condition is therefore appropriate in order to safeguard the living conditions of nearby occupiers.
10. Both the Council and the appellant refer to the advice in Planning Policy Statement 4: *Planning for Sustainable Economic Growth* ("PPS4"). PPS4 provides for a positive approach towards economic development and the Council confirms that it would support an additional language school should an

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<sup>1</sup> APP/Q1445/A/11/2155439

appropriate site be found. For the reasons set out above I conclude that the appeal site is appropriate for the proposed use, and therefore there is no need to consider whether other more suitable sites might be available.

### **Conditions**

11. The Council has suggested a number of conditions, which I have considered in light of the guidance in Circular 11/95. It is necessary to impose a condition specifying the approved works. In order to minimise the potential for noise and disturbance to nearby occupiers it is necessary to limit the hours of opening to those suggested by the Council, and to grant permission solely for the use of the ground floor as a language school (and no other purpose within Use Class D1). Reference is made on the drawings to noise insulation measures, but in the absence of any details of these it is necessary to impose a condition requiring soundproofing details to be approved and carried out.
12. The Council has also suggested conditions in respect of cycle parking and refuse/recycling storage. As I have set out above, the premises currently do not benefit from the provision of either of these facilities, a situation which would be made no worse by the appeal scheme. During my site visit I noted that there are on-street cycle parking stands almost immediately outside the premises, and a community refuse/recycling point on the opposite side of the road. Given these circumstances, the additional conditions suggested by the Council are unnecessary.

### **Conclusion**

13. Given all of the above, the appeal should be allowed.

*James Croucher*

INSPECTOR

**SCHEDULE: 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 plan: 821/01
- 3) The use of the language school and garden on the ground floor of the property hereby permitted shall not be open to customers except between the hours of 0900 and 1700 on Mondays to Saturdays and at no time on Sundays, Bank or Public Holidays.
- 4) The D1 classrooms and associated staff room as shall only be used for the purposes of a language school with staff room and for no other purpose including any other purpose in Class D1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (or any provision equivalent to that class in any statutory instrument revoking or re-enacting that Order with or without modification).
- 5) No development shall commence until a scheme for the soundproofing of the building has been submitted to and approved in writing by the Local Planning Authority. The measures shall be implemented in accordance with the approved details prior to the occupation of the development and shall thereafter be retained as such.



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# Appeal Decision

Site visit made on 28 February 2012

**by L Rodgers BEng (Hons) CEng MICE MBA**

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

**Decision date: 15 March 2012**

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**Appeal Ref: APP/Q1445/A/11/2160404**

**Southern Water Reservoir, Islingword Road, Brighton, Sussex BN2 9SJ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Part 24 of Schedule 2 of the Town & Country Planning General Permitted Development Order 1995 (as amended).
  - The appeal is made by Telefonica O2 UK Ltd against the decision of Brighton & Hove City Council.
  - The application Ref BH2011/01159, dated 14 April 2011, was refused by notice dated 8 June 2011.
  - The development proposed is a 10m monopole telecommunications mast and equipment cabinet.
- 

## Decision

1. I allow the appeal and grant approval under the provisions of Part 24 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 (as amended) for the siting and appearance of a 10m monopole telecommunications mast and equipment cabinet on land at the Southern Water Reservoir, Islingword Road, Brighton, Sussex BN2 9SJ in accordance with the terms of the application Ref BH2011/01159, dated 14 April 2011, and the plans submitted with it.

## Procedural matter

2. Although the description refers to 'equipment cabinet', the drawings show that there would be more than one cabinet. This is confirmed by the Appellant's submissions and is the basis on which the Council made its decision. I shall do likewise.

## Main Issues

3. I consider the main issues to be the effect of the proposal on the character and appearance of the area and, in the event that any harm is identified, whether that harm would be outweighed by the need for the installation and the lack of less harmful alternative sites.

## Reasons

4. The appeal site is within the grounds of Southern Water's Islingword Road Reservoir. The mast itself would sit between some trees and the reservoir pump house and the equipment cabinets would be positioned just inside Southern Water's security fence alongside the reservoir access road. The submitted drawings show the pump house to be approximately half the height

- of the proposed mast; from what I saw on my visit, the nearby trees are of a similar height to the proposed mast.
5. The fairly dense vegetation along the security fencing and the existing buildings to the south and south east would effectively screen the cabinets from public view. Although it is likely that the cabinets would be glimpsed through the reservoir entrance gate, they would have no material effect on the area's character or appearance.
  6. The overall height of the proposed monopole would be some 10m. The mast itself would be some 0.3m in diameter but, as the mast would be shared by O2 and Vodafone, the antennas would be incorporated into a somewhat thicker shroud. This would be around 0.5m in diameter and would be approximately 2.5m tall.
  7. The covered reservoir extends to the north east of the appeal site and appears much like a large grassed field. A large number of residential properties surround the reservoir and concerns have been raised in respect of the mast's visibility from the properties at Luther Street, Luther Mews, Bentham Road, Cobden Road and Whichelo Place.
  8. However, for most of these properties the mast would be a considerable distance away and would be seen against a backdrop which would include mature trees rising to a height of approximately 10m. Although the Council is especially concerned about the mast's prominence from the break in the terraced housing on Cobden Road, the photomontage submitted by the Appellant suggests that the mast is unlikely to be visible from this point. Based on my observations at the site visit, and given the topography of the land and the presence of the pump house and trees it seems to me that little, if any, of the mast would be seen from this point. Even if it was to be seen, it would be from an appreciable distance and I do not consider that it would be conspicuous or give rise to material harm to the area's character and appearance.
  9. It is likely that the mast would be seen from the properties along Beaufort Terrace and, especially for those properties at the upper end of Beaufort Terrace, the mast would be considerably closer than in the views from Cobden Road. In particular, the mast is likely to be obvious from their upper front windows. Notwithstanding the potential benefits of mast sharing, the size of the shroud would make the mast appear quite bulky and intrusive against the skyline. Although the nearby trees would offer some screening, this is unlikely to be completely effective - especially during the winter months.
  10. I understand that the open area to the south west of the appeal site is used by local residents as a recreational area and is known as the 'reservoir green'. The Appellant's photomontage suggests that whilst the mast would be visible from this area, it would be largely screened by trees. However, it is again the case that in the winter the trees would offer only limited cover. The green, and indeed Islingword Road beyond, are well below the level of the site and in the winter the mast would appear as a prominent feature of the skyline.
  11. The mast would also be seen from the rear of the properties on Whichelo Place. However, as these properties are set above the reservoir they would tend to look down on the mast. Given that, in general, they would also be further

away than the properties on Beaufort Terrace I do not see these views as being so harmful.

12. Policy QD23 of the Brighton and Hove Local Plan 2005 (LP) states that proposals for telecommunication developments will only be permitted where, amongst other matters, there will be no serious adverse effect on the character and appearance of the area. Taking account of the background above it is my view that the height and bulk of the monopole, particularly its shroud, would make it appear as an intrusive feature that would harmfully detract from the character and appearance of the area. As such the proposal must conflict with Policy QD23.
13. However, the mast would only appear intrusive from a limited number of perspectives and although described by the Council as a predominantly residential area, the mast would be on land to which the public does not have access. It would also be positioned between a pump house and a fairly utilitarian sub station. Accordingly I consider that the harm likely to be caused by the development, although material, would be limited and localised in nature.
14. The Council has accepted the Appellant's technical justification for the need to improve network coverage in the area and in particular that the proposed installation would result in a much improved 3G coverage for both O2 and Vodafone networks. Although local residents suggest that there is no problem in getting signals for mobile phones in the surrounding area, including indoors, there is little substantive evidence to challenge the Appellant's technical justification of the need to improve coverage. I therefore see no reason to take a different stance to that of the Council.
15. The Council accepts that the Appellant has addressed, and discounted, other potential sites in the area. However the Council notes that, despite the refusal of previous applications in respect of this site, the Appellant has not explored any further options as part of the current proposal. Nevertheless, the Council has not suggested any specific alternatives.
16. According to the Appellant, further searches of the area have been carried out as a result of the Council's refusal of both this and earlier applications. In searching for a site the Appellant has adopted the sequential approach looking first for existing telecommunications sites to assess their suitability for sharing before moving on to rooftops and existing structures and finally ground based structures. The Appellant has set out the alternative sites that were considered and the reasons why they were not pursued. Several technically suitable locations have been discounted, either because, in the Appellant's opinion, they would have a greater harmful impact than the appeal site or because they are unavailable. A number of sites have also been discounted on technical reasons as they would fail to deliver the required coverage. There is no evidence to undermine the Appellant's position on any of these matters.
17. I note the concerns of local residents regarding the health implications of the proposal. However, *Planning Policy Guidance Note 8: Telecommunications (PPG 8)* states that if a proposed installation meets the guidelines published by the International Commission on Non-Ionizing Radiation Protection (ICNIRP) for public exposure, it should not be necessary to consider further the health aspects and concerns about them. In the present case, the Appellant has confirmed that the proposed installation would be in full compliance with the

ICNIRP guidelines. I have found no overriding reason to set aside Government advice regarding this issue and I do not consider that the concerns of local residents regarding health matters would justify withholding planning permission for the proposal.

18. The need for this installation and the lack of available alternatives weigh in favour of allowing the appeal. The Council has previously refused permission for various alternative telecommunications installations on the site and it is clear that a solution to the problem of network coverage in this area has been sought for some time. Therefore, whilst I accept that this proposal would result in some harm to the character and appearance of the area, and in that respect would conflict with the development plan, to my mind this would be outweighed by the need for the installation and the lack of suitable alternative sites.
19. Local residents have expressed further concerns over the multiple applications put forward by the Appellant, the lack of discussion with residents' groups, the overshadowing effect of the mast, the effect on the nearby Conservation Area and the effect on the Government's localism agenda. However, whilst I have considered all these matters, none would carry sufficient weight to alter the overall balance above. Although concerns have also been raised as to the effect of the proposal on property prices, this is not of itself a planning matter.
20. The Council has suggested that, should the appeal be allowed, a condition be imposed dealing with the removal of the mast. However, such removal is dealt with by other arrangements and a condition to that effect would not be necessary.
21. Having had regard to all other matters put forward, I find nothing to alter my conclusion that, for the reasons above, the appeal should succeed.

*Lloyd Rodgers*

Inspector





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# Appeal Decision

Site visit made on 28 February 2012

by **L Rodgers BEng (Hons) CEng MICE MBA**

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

Decision date: 1 March 2012

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**Appeal Ref: APP/Q1445/A/11/2164093**

**71 Lustrells Crescent, Saltdean, Brighton, BN2 8FL**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Paul Sheehan against the decision of Brighton & Hove City Council.
  - The application Ref BH2011/02227, dated 25 July 2011, was refused by notice dated 17 October 2011.
  - The development proposed is the construction of a two storey detached dwelling.
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## Decision

1. The appeal is dismissed.

## Main Issues

2. The effect of the proposed development on the character and appearance of the area and on the living conditions of neighbouring and future residents.

## Reasons

### *Character and appearance*

3. The proposed dwelling would face onto Saxon Close and would sit between the side elevation of No 8 Saxon Close, a large detached property, and the rear elevation of No 71 Lustrells Crescent, a modest bungalow. The proposed house would be some 6.9 metres high - slightly taller than No 71 (some 6.4m high) but smaller than No 8 (around 8.8m high).
4. The properties on Saxon Close are by no means identical. However, despite the variety of designs and layouts, which includes detached and semi-detached dwellings as well as flats, the properties all appear substantial buildings. Their neo-Georgian styling coupled with their substantial scale gives them a distinct 'family resemblance' which in turn gives Saxon Close a clear and definable character. In contrast, the design, scale and orientation of No 71 show that it is clearly allied to the development on Lustrells Crescent. This is of a smaller and more modest scale and contains a predominance of bungalows typical of the 1950s.
5. In the Appellant's view the proposed dwelling would form a visual bridge between No 8 and No 71. However, not only would the proposed dwelling face onto Saxon Close, it would be positioned much closer to No 8 than to No 71. In these circumstances, and despite the appeal plot being part of the former garden to No 71, the proposed dwelling would appear somewhat divorced from

- No 71. Instead it would be seen as being closely associated with No 8 and the street scene on Saxon Close and as such it would have only a limited effect in a transitional or bridging role.
6. The proposed dwelling would be appreciably narrower than the properties at Nos 7 & 8, a matter emphasised by the stepped ridge and set back of the living area and study. At some 6.9m high it would also be lower in height than No 8 (by around 1.9m). The fact that Saxon Close slopes steeply down from No 8 towards No 71 means that the proposed dwelling would also be founded at a lower level than No 8 and as a result the main ridge of the proposed dwelling would be some 4m below that of No 8.
  7. Although the width of the appeal site would be commensurate with a number of others along Saxon Close the proposed dwelling would be seen as occupying a smaller proportion of the plot width. This apparently more spacious setting would only serve to emphasise its small scale in comparison to the other properties, particularly Nos 7 & 8. Consequently the proposed dwelling would appear as a discordant element in the street scene, out of place with its setting. This impression would be reinforced by its limited empathy with the otherwise strong and distinctive styling of the remaining properties on Saxon Close.
  8. The Council is also concerned that the proposed development would reduce the spacious feel of the plots fronting Lustrells Crescent and would set a precedent that, if repeated, would alter the area's character. However, whilst I accept that the size of No 71's residual plot would be apparent from Lustrells Crescent, the Appellant's analysis shows that neither the plot size nor the size of the private amenity space would be unique in the area. In any event I note that the corner plots tend to lack the regularity inherent in the general run of development and each case must be determined on its own merits. I therefore do not see the proposed plot size for No 71 giving rise to material harm.
  9. The Appellant suggests that it would be inappropriate to mimic the style of architecture on either Saxon Close or Lustrells Crescent, that a building the size of the other Saxon Close dwellings would create a loss of daylight to No 8 and No 71 and that a bungalow would appear incongruous next to No 8. However, notwithstanding the Appellant's concerns over issues that may or may not arise with alternative developments I must determine the proposal before me.
  10. Taking account of all the matters above it is my view that the proposed development would cause material harm to the character and appearance of the area and would thereby conflict with Policies QD1 and QD2 of the Brighton and Hove Local Plan (LP). In various ways these policies seek for design to make a positive contribution to the visual quality of the environment and to emphasise the positive qualities of the local neighbourhood - with particular reference to matters such as scale and height.

*The living conditions of neighbouring and future residents*

11. The Council found that the subdivision of the existing plot would fail to make an adequate provision of private usable amenity space for the occupiers of No 71 Lustrells Crescent. However, as noted above, the private amenity space is not dissimilar in size to a number of others on Lustrells Crescent and I saw on my visit that it is both regular in shape and easily accessible from the property. According to the submitted information it would exceed 100 sqm and it would

- clearly be large enough to accommodate normal activities such as sitting out and play. Contrary to the Council's view I consider that it would be adequate.
12. The Council has also raised concerns over the garden area for the proposed dwelling describing it as ".....limited and poor quality for a three bedroom house" - albeit that the Council felt that it was not so different from other Saxon Close garden areas as to warrant a refusal on this basis.
  13. The amenity area for the proposed house would be some 80sqm. However, this figure belies the fact that it would be arranged in a number of areas. The area immediately outside the patio doors to the dining and living rooms, likely to be the most important and well used, would be small, enclosed by a privacy screen and would suffer from significant shading in the late afternoon. The lower area alongside the boundary with No 71 would be narrow and would contain the cycle store and recycling bins.
  14. Irrespective of whether the proposed dwelling is regarded as a two or three bedroom house it could clearly accommodate a family. In these circumstances the shortcomings of the amenity area would be more acute and, like the Council, I regard the proposed space as being of poor quality. Even accepting that some people may prefer small, low maintenance gardens, and would be able to choose whether or not the proposed arrangements suited their particular circumstances, this matter reinforces my overall concerns with the proposal.
  15. A number of local residents have also objected to the effect that the proposed dwelling would have on their living conditions. In respect of those residents living on the opposite side of Saxon Close I do not see the proposed development as being different to any other 'cross street' relationship. With regard to the impact of the development on the living conditions of the residents at No 8 I note that the lobby doors opposite the proposed development are said to provide 60% of the daylight to the Annex studio room. Nevertheless, I agree with the Council that, given the changes in level between the sites, the height of the proposed dwelling and the siting off the shared boundary any loss of light or outlook to the side windows to No 8 is unlikely to be so severe as to result in material harm. However, the fact that I have found that no material harm would be caused to the living conditions of neighbouring residents does not affect my other concerns.

## **Conclusion**

16. I am conscious that the proposal has attracted support from a number of local residents. I am also conscious that it would result in a more efficient use of land and that the proposed dwelling would be close to public transport links and could contribute towards the achievement of the Council's 5 year housing targets. Nevertheless, despite having had regard to these and all other matters drawn to my attention, including the further national and development plan policies highlighted by both the Appellant and the Council, I find nothing to overcome the development plan conflict identified above. I therefore conclude that the appeal should fail.

*Lloyd Rodgers*

Inspector





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# Appeal Decision

Site visit made on 6 March 2012

by **E A Lawrence BTP MRTPI**

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

Decision date: 13 March 2012

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**Appeal Ref: APP/Q1445/D/12/2169909**

**11 Dean Court Road, Rottingdean, Brighton, East Sussex, BN2 7DH**

- 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 G Hacker against the decision of Brighton & Hove City Council.
  - The application Ref BH2011/03337 was refused by notice dated 6 January 2012.
  - The development proposed is extensions to house, including rear extension and extension to roof.
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## Decision

1. The appeal is dismissed.

## Main issues

2. The first main issue is the effect of the proposal on the character and appearance of the host dwelling and the surrounding area. The second main issue is the effect of the proposal on the living conditions of the occupiers of the adjacent dwellings to the west and east, with particular regard to visual impact, privacy and sunlight.

## Reasons

### *Character and appearance*

3. The resultant dwelling would have six large dormer windows located relatively close to the side boundaries of the property and would have a further large dormer window in the front roof slope. Together with the use of a hipped roof at the front and a gable at the rear the whole roof would appear cluttered, cramped, disjointed and totally out of keeping with the host property and its surroundings. At the same time, the proposed rear extension would project into the rear garden area, where due to its combined depth, height and gable design it would be visually prominent and overbearing within the rear garden environment.
4. For these reasons I conclude on this main issue that the proposal would unacceptably detract from the character and appearance of the host property and the surrounding area. It would therefore conflict with policies QD1, QD2 and QD27 of the Brighton and Hove Local Plan, which effectively require new developments to respect the character and appearance of existing buildings and their surroundings.

### *Living conditions*

5. It is noted that both 13 Dean Court Road (No.13) and 2 Challoners Close (No.2) have been extended to provide first floor accommodation and that they have ground and first floor windows facing the Appeal site. However these windows do not provide clear views into any rooms within the Appeal dwelling, or clear views over its rear garden area. In addition, neither the dwelling at No.13 nor the first floor element at No.2 are as deep as the Appeal property. As a result these properties and their use do not have a materially adverse impact on the living conditions of the occupiers of the Appeal dwelling.
6. Conversely, due to their position towards the rear of the property the proposed first floor windows serving the master bedroom would provide direct views into the adjacent ground floor windows of No.2 and No.13, as well as over their rear gardens. The proposed side windows to bedroom 3 and the master bedroom would provide indirect views into the first floor side windows at No.2 and the proposed side windows to bedrooms 2 and 3 would look down into the ground floor side windows at No.13.
7. The situation would be exacerbated by the proposed full length glazed doors serving the proposed master bedroom, which would provide clear views over the rear garden environment. Overall the scheme would result both actual and perceived overlooking and loss of privacy for the occupants of No.2 and No.13.
8. Due to its depth, height, gable end and dormers the proposed rear extension would dominate the outlook from the adjacent side windows at No.2 and the side windows and rear garden at No.13. At the same time the roof of the rear extension would overshadow part of the rear garden to No.13 and its kitchen/diner due to its close proximity and position to the west of No.13. As a consequence the scheme would have a visually overbearing impact on the living conditions of the occupiers of No.2 and No.13.
9. I conclude on this issue that the proposal would seriously harm the living conditions of the occupiers of the adjacent dwellings to the west and east, due to its overbearing visual impact, loss of privacy and in relation to 13 Dean Court Road, overshadowing. Accordingly the proposal would conflict with policies QD14 and QD27 of the Brighton and Hove Local Plan, which amongst other things seek to protect the living conditions of residents.

### **Conclusion**

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

*E Lawrence*

INSPECTOR



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# Appeal Decision

Site visit made on 6 March 2012

**by E A Lawrence BTP MRTPI**

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

**Decision date: 14 March 2012**

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**Appeal Ref: APP/Q1445/D/12/2169503**

**24 North Gardens, Brighton, East Sussex, BN1 3LB**

- 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 V Youlten against the decision of Brighton & Hove City Council.
  - The application Ref BH2011/02247 was refused by notice dated 4 November 2011.
  - The development proposed is installation of wood framed window and cill on front of house at 1<sup>st</sup> floor level above front door porch. Render existing brick pilasters and dwarf walls supporting railings and gate.
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## Decision

1. The appeal is dismissed insofar as it relates to the installation of a wood framed window and cill on front of house at 1<sup>st</sup> floor level above front door porch. The appeal is allowed insofar as it relates to the rendering of the existing brick pilasters and dwarf walls supporting railings and gate and planning permission is granted for render existing brick pilasters and dwarf walls supporting railings and gate at 24 North Gardens, Brighton, East Sussex, BN1 3LB in accordance with the terms of the application, Ref BH2011/02247, dated 8 July 2011 and the plans submitted with it so far as relevant to that part of the development hereby permitted and 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 approved drawings showing the existing and proposed wall/pillar details and the submitted design and access statement in so far as they relate to the alterations to the garden walls and pillars.
  - 3) Prior to the commencement of the development hereby permitted drawings of the proposed pilaster caps, at a scale of a minimum of 1:10, shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

## Main issue

2. The main issue is the effect of the proposal on the character and appearance of the host dwelling and the terrace and whether it would preserve or enhance the character or appearance of West Hill Conservation Area.

## Reasons

3. Uniform two storey terraces, narrow streets arranged in a strong street grid pattern and the undulating topography of the area all contribute to the character and appearance of this part of the heritage asset, West Hill Conservation Area. The Appeal dwelling is located within the northern part of a modest sized two storey terrace, where the front elevations of the individual dwellings are consistent in their design and appearance.
4. Whilst some changes have been made to their appearance over the years, overall the strong sense of rhythm and symmetry in the front elevation of the terrace has been retained. Notwithstanding this, the changes that have been made to the original fenestration, illustrate how even minor changes can weaken the overall integrity in the design and appearance of the terrace. Similarly the insertion of a small bow window into the blind window detail in another dwelling in the row highlights the harm such changes can make to the character and appearance of individual dwellings and the terrace as a whole.
5. The dwellings in this part of the terrace were all designed to have a single blind window at first floor level on the front elevation. This feature makes a significant contribution to the character and appearance of the terrace and is typical of many buildings of this period within Brighton.
6. The proposed new window has already been provided and whilst it respects the fenestration of the replacement windows in the host dwelling, it has completely altered the appearance of the dwelling and upsets the symmetry and uniformity of the terrace. The situation is exacerbated by the fact the replacement windows in the host dwelling are quite different to the original windows in terms of their design detailing and appearance.
7. As a result the proposed window seriously and unacceptably undermines the character and appearance of the host dwelling, the terrace and the conservation area. As stated in the Council's Supplementary Planning Document 09 - *architectural features*, where a blind window was part of the original design of a dwelling it will not be appropriate to open it up with a window, unless to do so would not harm the symmetry of the building or the group value of a terrace.
8. Although the benefits to the Appellant from providing an additional window at first floor level are noted, they would not outweigh the harm that the window causes to the character and appearance of the property.
9. Conversely the proposed rendering of the garden walls and new pilaster caps would improve the appearance of the front garden area and the setting of the dwelling. Unlike the existing brick walls, the resultant wall and pillars would respect and blend in with the front elevation of the dwelling, the terrace and the wider conservation area. This is provided the pilaster caps are of an appropriate scale and design. As indicated by the Council's conservation officer, this is something that could be controlled through the submission of larger scale details and can thus be dealt with by condition. In addition, it would be necessary to impose a condition requiring the alterations to the walls to be implemented in accordance with the approved drawings and Design and Access statement, for the avoidance of doubt and in the interests of proper planning.
10. I conclude on the main issue that the proposed new window unacceptably harms the character and appearance of the host dwelling and the terrace and fails to preserve or enhance the character or appearance of the West Hill



Conservation Area. As such this part of the proposal conflicts with policies QD14 and HE6 of the Brighton and Hove Local Plan, which seek to ensure that proposals are well designed and detailed in relation to their host building and surroundings and that they preserve or enhance the character or appearance of conservation areas.

11. However, the proposed alterations to the front garden walls and pillars would respect the host dwelling and the terrace and would preserve the character and appearance of the Conservation Area. Accordingly this part of the proposal would comply with policies QD14 and HE6 of the Local Plan.

**Conclusion**

12. I consider that the two parts of the proposal are clearly severable, being both physically and functionally independent. I therefore propose to issue a split decision in this case.

*Elizabeth Lawrence*

INSPECTOR



**NEW APPEALS RECEIVED****WARD****APPLICATION NUMBER****ADDRESS****DEVELOPMENT DESCRIPTION****APPEAL STATUS****APPEAL RECEIVED DATE****APPLICATION DECISION LEVEL****WITHDEAN**

BH2011/03862

59 Fernwood Rise, Brighton

Loft conversion incorporating raised ridge height, hip to barn end roof extension, side dormers and rooflights.

APPEAL LODGED

29/02/2012

Delegated

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

BH2011/03790

2 Tongdean Place, Hove

Erection of single storey side extension and loft conversion incorporating extension of roof with gable ends and 4no dormers.

APPEAL LODGED

01/03/2012

Delegated

**WARD****APPLICATION NUMBER****ADDRESS****DEVELOPMENT DESCRIPTION****ST. PETER'S & NORTH LAINE**

BH2011/03188

12 St Georges Place, Brighton

Application for removal of condition 5 of application BH2011/01707 (Change of use of offices (B1) to 5no self-contained flats) which states that unless otherwise agreed in writing by the Local Planning Authority, no residential development shall commence until: (a) evidence that the development is registered with the Building Research Establishment (BRE) under Ecohomes (or an equivalent or successor assessment tool) and a Design Stage Assessment Report showing that the development will achieve an Ecohomes Refurbishment rating for all residential units have been submitted to the Local Planning Authority; and (b) a BRE issued Design Stage Certificate demonstrating that the development has achieved an Ecohomes Refurbishment rating for all residential units has been submitted to, and approved in writing by, the Local Planning Authority. A completed pre-assessment estimator will not be acceptable. Removal of condition 6 which states the development hereby permitted shall not begin until such time as a scheme has been

submitted to and approved in writing by the Local Planning Authority to provide that the residents of the development, other than those residents with disabilities who are Blue Badge Holders, have no entitlement to a resident's

parking permit.

APPEAL STATUS

APPEAL LODGED

APPEAL RECEIVED DATE

02/03/2012

APPLICATION DECISION LEVEL

Delegated

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**WARD****WISH**

APPLICATION NUMBER

BH2011/03436

ADDRESS

89 Payne Avenue, Hove

DEVELOPMENT DESCRIPTION

Conversion of existing house to form 1no two bedroom and 1no 3 bedroom maisonettes incorporating single storey rear extension and associated alterations.

APPEAL STATUS

APPEAL LODGED

APPEAL RECEIVED DATE

09/03/2012

APPLICATION DECISION LEVEL

Delegated

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**WARD****QUEEN'S PARK**

APPLICATION NUMBER

BH2011/03503

ADDRESS

34 Bute Street, Brighton

DEVELOPMENT DESCRIPTION

Erection of two storey rear extension to replace existing single storey extension with associated external alterations.

APPEAL STATUS

APPEAL LODGED

APPEAL RECEIVED DATE

13/03/2012

APPLICATION DECISION LEVEL

Delegated

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**WARD****ROTTINGDEAN COASTAL**

APPLICATION NUMBER

BH2011/03523

ADDRESS

20 Lenham Road West, Brighton

DEVELOPMENT DESCRIPTION

Erection of first floor side extension above existing garage. (Retrospective).

APPEAL STATUS

APPEAL LODGED

APPEAL RECEIVED DATE

14/03/2012

APPLICATION DECISION LEVEL

Delegated

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**WARD****NORTH PORTSLADE**

APPLICATION NUMBER

BH2011/03845

ADDRESS

19 Juniper Close, Portslade

DEVELOPMENT DESCRIPTION

Erection of a single storey side extension incorporating pitched roof. Erection of fence to side boundary.

APPEAL STATUS

APPEAL LODGED

APPEAL RECEIVED DATE 14/03/2012  
APPLICATION DECISION LEVEL Delegated

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**INFORMATION ON HEARINGS / PUBLIC INQUIRIES  
04 April 2012**

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

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None to report.

