

PLANNING COMMITTEE	Agenda Item 2 Brighton & Hove City Council
-------------------------------	---

BRIGHTON & HOVE CITY COUNCIL

PLANNING COMMITTEE

2.00pm 29 APRIL 2009

COUNCIL CHAMBER, HOVE TOWN HALL

MINUTES

Present: Councillors Hyde (Chairman), Wells (Deputy Chairman), Allen, Barnett, Carden (Opposition Spokesperson), Davey, Fallon-Khan, Hamilton, Kennedy, Smart, Steedman and C Theobald

Co-opted Members Mr J Small (CAG Representative)

Officers in attendance: Jeanette Walsh (Development Control Manager), Steve Walker (Area Planning Manager (West)), Hilary Woodward (Senior Lawyer) and Jane Clarke (Democratic Services Officer)

PART ONE

238. PROCEDURAL BUSINESS

238A Declaration of Substitutes

238.1 Councillor Allen declared that he was substituting for Councillor McCaffrey.

238.2 Councillor Fallon-Khan declared that he was substituting for Councillor K Norman.

238B Declarations of Interest

238.3 Councillor Kennedy declared a personal and prejudicial interest in application BH2009/00023, 36 North Gardens (Caxton Arms), Brighton, arising from the Landlord being well known to her. She stated she would leave the meeting during consideration of the application, and would take no part in the discussion or voting thereof.

- 238.4 Councillor Davey declared a personal and prejudicial interest in application BH2009/00023, 36 North Gardens (Caxton Arms), Brighton, arising from involvement with a letter of objection to the application from Councillor West. He stated he would leave the meeting during consideration of the application, and would take no part in the discussion or voting thereof.
- 238.5 Councillor Hamilton declared a personal and prejudicial interest in application BH2008/03731, Compass House, East Street, Portslade, arising from his involvement with objectors to the scheme. He stated that he would speak to the application as Ward Councillor and then leave the meeting. He would take no part in the discussion or voting thereof.
- 238.6 Councillor Hamilton declared a personal but not prejudicial interest in application BH2009/00414, The Old Market, 11A Upper Market Street, Hove, arising from knowing Delia Forrester, who had previously been Vice-Chairman of the Planning Committee, and had written a letter in support of the application. It was his intention to remain in the meeting and take part in the discussion and voting thereof.
- 238.7 Councillor Fallon-Khan declared a personal but not prejudicial interest in BH2008/03893, Land Adjoining Brighton Health and Racquet Club (University of Brighton), Falmer Campus, arising from being a member of the Brighton Health and Racquet Club.

The Solicitor to the Committee stated that the application appeared to have no implications for the Brighton Health and Racquet Club, and as such Councillor Fallon-Khan did not have an interest in this application.

- 238.8 Councillor Smart declared a personal but not prejudicial interest in application BH2009/00394, Former Police Box, Margery Road, Hove, arising from having regularly used the police box in his former profession. He had not used the police box for around 25 years however and it was his intention to remain in the meeting and take part in the discussion and voting thereof.

238C Exclusion of the Press and Public

- 238.9 In accordance with section 100A of the Local Government Act 1972 ('the Act'), the Planning Committee considered whether the press and public should be excluded from the meeting during an item of business on the grounds that it was likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the press or public were present during that item, there would be disclosure to them of confidential information (as defined in section 100A(3) of the Act) or exempt information (as defined in section 100I of the Act).
- 238.10 **RESOLVED** – That the press and public be not excluded from the meeting during consideration of any item on the agenda.

239. MINUTES OF THE PREVIOUS MEETING

- 239.1 **RESOLVED** – That the Chairman be authorised to sign the minutes of the meeting held on 8 April 2009 as a correct record.

240. CHAIRMAN'S COMMUNICATIONS

240.1 The Chairman explained that afternoon's meeting of the Planning Committee was being web-cast as part of the on-going pilot study which would run until June 2009. Members were reminded to speak directly into the microphones and to switch them off when they had finished speaking in order to ensure that they could be heard clearly both within the Council Chamber and the public gallery above.

240.2 The Chairman read out a statement from the Brighton and Hove Federation of Disable People, as follows:

The Brighton and Hove Federation of Disabled People has been exploring ways for disabled people to be more involved in local planning processes. These include consultation around the Local Development Framework and involvement at the earlier stages of planning applications. These new arrangements will also enable the Planning Department to engage with and to draw on the experience and expertise of a wider community of disabled people.

The Board of Trustees requests that the Federation retains its seat on the committee but will not be sending a representative whilst piloting the new way of working.

The Board thanks the Planning Committee for the opportunity and support to enable disabled people to be more meaningfully involved.

241. PETITIONS

241.1 There were none.

242. PUBLIC QUESTIONS

242.1 There were none.

243. DEPUTATIONS

243.1 There were none.

244. WRITTEN QUESTIONS FROM COUNCILLORS

244.1 There were none.

245. LETTERS FROM COUNCILLORS

245.1 There were none.

246. NOTICES OF MOTION REFERRED FROM COUNCIL

246.1 There were none.

247. APPEAL DECISIONS

247.1 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.

248. LIST OF NEW APPEALS LODGED WITH THE PLANNING INSPECTORATE

248.1 The Committee noted the list of planning appeals which had been lodged as set out in the agenda.

249. INFORMATION ON INFORMAL HEARINGS/PUBLIC INQUIRIES

249.1 The Committee noted the information set out in the agenda relating to Informal Hearings and Public Inquiries.

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

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

Application:	Site visit requested by:
BH2008/02772 & BH2008/02771, William IV gateway, Royal Pavillion Gardens, Brighton	Councillor Steedman at a previous Planning Committee
BH2008/02303, Elmhurst, Warren Road, Woodingdean	Development Control Manager
Implemented visit to New England Quarter	Councillors Hyde (Chairman) and Steedman

251. TO CONSIDER AND DETERMINE PLANNING APPLICATIONS ON THE PLANS LIST: 29 APRIL 2009

(i) SUBSTANTIAL OR CONTROVERSIAL APPLICATIONS ON THE PLANS LIST: 29 APRIL 2009

A. Application BH2009/00414, The Old Market, 11A Upper Market Street, Brighton
 – Erection of 2 no. new penthouse apartments on the roof of the Old Market combined with a new meeting room facility for the Old Market. Extension of existing stair/lift well to south for access to the new apartments, alterations to windows and installation of front canopy.

(1) It was noted that this application would be taken together with application BH2009/00415, The Old Market, 11A Upper Market Street, Brighton (for resolution

see minute 251.2), and that these applications had formed the subject of a site visit prior to the meeting.

- (2) The Area Planning Manager (West), Mr Walker, gave a detailed presentation setting out the main elements of the application and stated that the Old Market was a grade two listed building in a conservation area.

Permissions had previously been granted for seven flats in 2006 and a refurbishment of the offices in 2007, but these had not been implemented. The new structure would be predominantly glazed and make use of obscured glazing. The west elevation would contain a green wall structure.

Area Planning Manager (West) noted that since the original submission of the proposals there had been some alterations to include reduction of the terraces, reduction of the length of the penthouses and reduction to the height of the lift shaft.

Objections to the proposals stated that this was an inappropriate addition to a listed building; it adversely affected the neighbouring flats and related poorly to the conservation area. English Heritage did not object to the principle of further extension to the Old Market, however, it was opposed to the current design solution because of the harm that would be caused to the Grade II listed building and the wider townscape. They had suggested the option of raising the central structure instead, and for the design of the extension to be in line with the original building.

The Georgian Group had raised concern about the over-dominance of the new structure in the conservation area.

The Conservation Advisory Group had raised concerns about the intrusion of the structure on the sky-line, and that alterations to the roof were against policies contained with the Brighton & Hove Structure Plan.

There had been three letters of support for the application and the Conservation Team supported the scheme, stating that it was not overly grand or modest in its approach, that it would lift the original building architecturally and the use of glass materials were appropriately light and would not over-dominate the area.

Area Planning Manager (West) noted that the applicant was financially constrained by the requirement for loan repayments, but Officers did not feel that the finances of the applicant were a material planning consideration in this instance. He stated that the structure had been altered several times over the years and did not form a unified building. The new structure would be set back from current sight-lines, using materials sensitive to the conservation area. To ensure the success of the scheme extensive detailing of the materials would need to be submitted and agreed. A uniformity of approach to development of the building was also necessary.

- (3) Mr Chavasse spoke on behalf of Mr Bigg, a neighbouring objector to the application, and stated that the proposals were inappropriate for a listed building and he believed there were viable alternatives. Mr Bigg had invested £1,000,000 into the Old Market Trust based on the architectural merits of the building, and stated that current tenants had expressed alarm about the proposals. There was concern over

the mix of so many uses in the building and the varying ownerships, and it was felt that the new structure would detrimentally affect the ambience of the building. The recommendation for Minded to Grant planning permission was in denial of current policies of the Council regarding conservation areas and he was astonished that no positive alternatives had been proposed as a route forwards.

- (4) Mr Gamper spoke in objection to the application, and stated that he had 10 years experience of managing a similar venue. He realised the economic pressure the applicants were under but this application lacked any merit and would destroy a cultural centre. Mr Gamper felt that residents of a conservation area had a duty to preserve the area they were situated in, and to accept the financial burden this entailed. This application was overriding this duty however and he felt that the new structure would in no way enhance the present listed building.
- (5) Mr Chavasse spoke in objection to the application, and stated that the proposals had been brought to Committee with undue haste. He felt that the Committee report was out-dated and that the application was controversial because it was ignoring both local and national policies relating to conservation areas. He felt that English Heritage and the Georgian Group had given compelling advice on the scheme and the current proposals would not conserve the original building or add to the conservation area. He was concerned over the change to the sky line, and felt the application had many downsides. Mr Chavasse noted that English Heritage had stated that the revised drawings for the scheme did not address the majority of their concerns, and he urged the Committee to reject the application.
- (4) Mr Minton, the applicant, spoke in support of the application and stated that the Trust had no public sector funding but despite this kept the building in good repair to ensure its usage. He felt that the building would fall into ruin if the Old Market Trust ran into financial difficulties. The Trust currently ran a varied programme of events and hired 10 full time members of staff and 18 part time staff, and the facility played a positive role in the community. The application would give the Trust the opportunity to be free from debt and to ensure the preservation of the building.
- (5) Mr Lomax, architect for the applicant, spoke in favour of the application and stated that he recognised this was a controversial design and he had some sympathy with the objectors, as it was difficult to get a realistic impression of how the structure would look once built. He agreed that the design needed a leap of faith, but that his company had a successful track record in dealing with sensitive sites. He noted the objections but felt the impact on neighbouring buildings had been dealt with, which left only issues of aesthetics and conservation.

Mr Lomax stated that the new extension would be built over the modern part of the building and would hide some unattractive gables, and the new structure would not be viewed in full at any time. He recognised this was a contemporary intervention but would create a positive icon for the city that would be inspirational and dynamic.

- (5) Councillor Watkins, Local Ward Member, spoke against the application and stated that the application was in the conservation area where there was a duty to conserve the buildings in their current form. He felt the design of the application was excellent, but so too was the original building, and he did not feel the two should be

joined. He noted that residents in the conservation area were allowed to do very little to their buildings, and it was surprising that this application was being recommended for approval. He asked the Committee to defer or reject the application as it was a major redesign of what currently existed, and there was a large amount of local opposition to the scheme.

Questions/Matters on which Clarification was Sought

- (6) Councillor Hyde asked for clarification on the stance of English Heritage and Area Planning Manager (West) stated that they supported the application in principle, but not this particular design solution.
- (7) Councillor Steedman asked why the application had come to Committee when the consultation period had not expired. The Development Control Manager stated that the application had been submitted on 19 February 2009 and was advertised in the normal manner. There was recognition that it was a controversial application, and although there was no duty to re-advertise amendments to the scheme, it was felt appropriate in this instance. This meant that some consultation was still outstanding, but this was not an unusual circumstance for large applications, and the recommendation for Minded to Grant planning permission was subject to comments from the outstanding consultees.
- (8) Councillor Steedman asked if it was possible to seek a deferral of the application until the end of the consultation period and the Development Control Manager agreed that this was an option open to the Committee.
- (9) Councillor Mrs Theobald asked if there had been a structural survey completed to demonstrate that the building could hold the weight of the new structure and the Area Planning Manager (West) agreed there had been.
- (10) Councillor Wells raised concern on the affect on wildlife, and in particular birds, given that the structure would be mainly glass.
- (11) Councillor Wells asked whether the comments from the Head of Culture and Economy should be taken into account, and if not, why it formed part of the report. The Area Planning Manager (West) stated that the Economic Development Team were a consultee, and would necessarily view the application in economic terms. Whether the Committee chose to give weight to the comments made was Members' decision, but it was necessary to report all consultee comments to Members, regardless of whether they were relevant planning considerations in the circumstances.
- (12) Councillor Smart felt the setting back of the design was limited when viewed from Western Road, and asked for comments on this. The Area Planning Manager (West) did not agree with this view, but recognised the structure would be prominent from the top of the road and from buses. This was not necessarily a negative impact however.
- (13) Councillor Hamilton asked Mr Chavasse, speaker objecting to the application, about the comments made by the Georgian Group, and asked for clarification. Mr

Chavasse stated that the Georgian Group objected to the application in principle and in full. They urged the Committee to refuse the application as there was no justification for the works to be done, and what was proposed would negatively affect the listed building. They felt it would be a clear over-dominance and awkward juxtaposition of the Georgian town surroundings.

- (14) Councillor Mrs Theobald asked the applicant how they intended to keep the glass clean, and Mr Lomax replied that it would be self-cleaning glass and there was access for manual cleaning if necessary.
- (15) Councillor Davey asked how the building would look if some glass was intended to be obscured and some reflective, and also who was responsible for maintaining the green wall. Mr Lomax stated that the glass specification would allow a uniformity of appearance across the site, and that maintenance of the green wall would be conducted by remote irrigation. The Old Market Trust would also take on responsibility for maintaining the wall.
- (16) Councillor Kennedy asked what the design purpose of the green wall was. Mr Lomax stated a free movement of air below the penthouses was needed for ventilation and so part of the structure was built on stilts. The green wall was there as a suitable design solution to disguising the stilts.
- (17) Mr Small, CAG representative, asked if the glass would be similar to the Central Library site. Mr Lomax stated that the reflectivity would be slightly greater for the Old Market. He noted that the quality of materials would be essential to the success of the building, and issues of thermal conductivity needed to be taken into account. He also recognised that the impact on wildlife would need to be examined.
- (18) Councillor Smart felt the view from Western Road would be intrusive and asked Mr Lomax to explain this elevation. He stated that the view from this aspect was important, but felt that most people would pass it by quickly. He did not think this view should necessarily be hidden however and felt that the new structure enhanced and respected the environment without dominating it.

Debate and Decision Making Process

- (19) Councillor Wells began the debate and stated that he liked some views of the structure but not others. He felt that the Western Road view would be very obvious and intrusive and would over-dominate the building. He also felt that the new structure would be very eye-catching, to the extent that it would take the emphasis away from the listed structure.
- (20) Councillor Barnett agreed that the Western Road view was poor and felt the structure was not in-keeping with the area.
- (21) Councillor Mrs Theobald felt that the design was indiscreet and there would be an unacceptable loss of original architecture on the eastern elevation. She also felt that the new structure would create unacceptable overshadowing of the existing gardens.

- (22) Councillor Fallon-Khan stated that he did not object to modern design in a conservation area, but he had reservations about this particular scheme. He felt the green wall was inappropriate and did not work well with the rest of the design, and was concerned by the outstanding objections from English Heritage. He noted he would not want to see a pastiche structure, but remained unconvinced by this design aspect.
- (23) Councillor Allen felt the application was challenging and startling and noted there was strong opposition to the proposals. He stated that English Heritage recognised the building was accretive by nature however, and that they were not opposed to the principle of the extension. He felt that modern intervention could work and that these proposals could also work, and would be of benefit to a building that needed a secure financial arrangement to ensure it was well maintained. He felt it would not serve the city to refuse this application and thus put the good maintenance of the listed building in jeopardy.
- (24) Councillor Hamilton felt the design of the new structure would be distinctive and he would be supporting the recommendation for approval.
- (25) Councillor Steedman recognised that conservation was not about keeping buildings exactly as they are and that the listed building had been changed many times over the years. He felt that the principle of design was modern and forward looking, but it was important to get the scheme exactly right and there were outstanding concerns about the design elements of the western and southern elevations.
- (26) Councillor Smart stated that he had a number of reservations about the scheme including the green wall element. He also felt that there was a limit to what could be appropriately added to a building and that the Old Market had already reached that limit.
- (27) The Chairman noted concern over the design element on the eastern elevation over the listed arch, which she felt had not been resolved.
- (28) A vote was taken and on a vote of 4 to 7 with 1 abstention, the recommendation for Minded to Grant planning permission was refused. A second vote was taken and on a vote of 7 to 4 with 1 abstention the substantive motion for Minded to Refuse planning permission was agreed.
- 251.1 **RESOLVED** – That the Committee resolves that Minded to Refuse planning permission is agreed for the following reasons:
1. The proposed development by virtue of its scale, height and design will appear incongruous and overbearing, and thereby harm both the setting of the listed Waterloo Street Arch, the listed terraces within the Upper and Lower Market Street and the architectural and historical character of the Old Market building. The proposal is therefore contrary to policies HE3 and HE1 of the Brighton & Hove Local Plan, and to government guidance in PPG15 planning and the historic Environment, which seeks to preserve the setting of the listed building.

2. The proposed development by virtue of its height, built form, materials and detailing, neither reflects the scale and appearance of the surrounding area, nor is it sympathetic with the character and appearance of the Brunswick Town Conservation Area, having a harmful impact on the townscape and roofscape in the vicinity of the development. The proposal is therefore contrary to policies HE6 of the Brighton & Hove Local Plan and to PPG15 Planning and the Historic Environment, which seeks to ensure that proposals preserve or enhance the character or appearance of conservation areas.
3. The proposed development by virtue of scale, height and detailing, neither demonstrates a high quality of design, nor does it enhance the qualities of the local neighbourhood or take into proper account local characteristics. The proposal is therefore contrary to policies QD1 and QD2 of the Brighton & Hove Local Plan.

Note: Councillors Hyde (Chairman), Barnett, Fallon-Khan, Smart, Steedman, Mrs Theobald and Wells voted for refusal of planning permission. Councillors Carden, Davey, Hamilton and Allen voted against refusal of planning permission. Councillor Kennedy abstained from voting.

B. Application BH2009/00415, The Old Market, 11A Upper Market Street, Brighton
 – Erection of 2 no. new penthouse apartments on the roof of the Old Market combined with a new meeting room facility for the Old Market. Extension of existing stair/lift well to south for access to the new apartments, alterations to windows and installation of front canopy.

(1) A vote was taken and on a vote of 3 to 7 with 1 abstention, the recommendation for Minded to Grant planning permission was refused. A second vote was taken and on a vote of 7 to 3 with 1 abstention the substantive motion for Minded to Refuse planning permission was agreed.

251.2 **RESOLVED** – That the Committee resolves that Minded to Refuse planning permission is agreed for the following reasons:

1. The proposed development by virtue of its scale, height, design and appearance, will be dominant and uncharacteristic, and thereby cause harm to the external appearance of this grade II listed building. The proposal is therefore contrary to policy HE1 of the Brighton & Hove Local Plan and to government guidance in PPG15 Planning and the Historic Environment, which seeks to preserve the character of the listed building.

Note 1: Councillors Hyde (Chairman), Barnett, Fallon-Khan, Smart, Steedman, Mrs Theobald and Wells voted for refusal of Listed Building Consent. Councillors Carden, Davey and Hamilton voted against refusal of Listed Building Consent. Councillor Kennedy abstained from voting.

Note 2: Councillor Allen was not present during the voting on this item.

C. Application BH2008/01148, Block K, Brighton Station Redevelopment, Brighton – Proposed office development including public open space and landscaping (amended proposals).

- (1) It was noted that this application had formed the subject of a site visit prior to the meeting.
- (2) The Planning Officer, Kathrine Rawlings, gave a detailed presentation setting out the main elements of the application and stated that this was part of a phased development that had begun in 2006. The application before the Committee included amendments to make the south side office block taller and wider, and to amend certain aspects of the design.

Questions/Matters on which Clarification was Sought

- (3) Councillor Smart noted the provision of a children's play area and asked who it was intended for, given the application was for an office block. The Planning Officer stated that the Master Plan for the site included provision of a children's play area, and it would be for the use of the flats on site that had already been built and were occupied.
- (4) Councillor Davey asked about the use of cladding on site and the Planning Officer stated that although cedar cladding had been used on several applications in the past, it did not weather well and the applicants had proposed a composite timber cladding, which the Officers felt was acceptable.
- (5) Councillor Wells asked why the roof height had been reduced in the north corner, and the Planning Officer explained that the original height had been a matter of concern for English Heritage. The amended plans had lowered the bulk and height in this corner to maintain views of St Bartholomew's Church.
- (6) Mr Small asked about the sun screening on the eastern elevation, which he felt was inadequate. The Planning Officer confirmed that additional solar shading had been requested for the south and east elevations.
- (7) Mr Small asked for more details on the composite timber cladding and the Planning Officer explained that it would be comprised of 70% wood based fibres and was designed to be low-maintenance and have a high life-span.

Debate and Decision Making Process

- (8) Councillor Hyde questioned the use of a sedum roof and felt that mixed grasses or 'brown roof' would be more suitable. The Planning Officer agreed that this could be done, and Councillor Steedman formally proposed an amendment to the recommendation to include an amendment of the wording of the condition.
- (9) The Conservation Officer, Roger Dowty, addressed the Committee and stated that this application was a vast improvement on the previous scheme. He noted that the

primary issue of visual permeability had been dealt with in an acceptable manner and commended the scheme to Members.

- (10) A vote was taken and Members voted unanimously to agree the recommendation for granting Minded to Grant planning permission.

251.3 **RESOLVED** – That the Committee had taken into consideration and agrees with the reasons for the recommendation set out in paragraph 10 of the report and that subject to the conditions and informatives set out in the report, that Minded to Grant planning permission is agreed. Further that condition 5 to be amended to read:

- (5) “Notwithstanding the details hereby approved, no development shall commence until details of the green walls, green roof terraces and *brown* roof, have been submitted to and approved in writing by the Local Planning Authority...”

Reason: In the interests of nature conservation and to comply with policy QD17 of the Brighton & Hove Local Plan.

D. Application BH2008/03893, Land adjoining Brighton Health and Racquet Club (University of Brighton, Falmer Campus), Village Way, Falmer – Erection of 2-storey building for sport, recreation and social facilities, with associated plant, access, disabled, coach and cycle parking.

- (1) It was noted that this application had formed the subject of a site visit prior to the meeting.
- (2) The Senior Planning Officer, Kathryn Boggiano, gave a detailed presentation setting out the main elements of the application and stated that the new building would replace a facility that was being demolished in order to create space for the new Falmer Stadium. The new building would allow community use and was in two parts, using muted green, grey, cream and white colours in order to blend in with the AONB and National Park surroundings.

It was noted that there was disabled parking but no other parking proposed with the scheme. The current provision for students at the university campus could absorb any additional parking requirements on site. The Senior Planning Officer added she was recommending that condition 16 in the report, relating to fire hydrants, be removed.

Questions/Matters on which Clarification was Sought

- (3) Councillor Smart asked if the community use would be available for residents across the city. The Senior Planning Officer stated that this usage would be subject to further discussions with the Council, but she envisaged it would be mainly those living closest to the site that would use the facilities.
- (4) Councillor Smart was concerned about the lack of parking provision on site and the Senior Planning Officer drew attention to the late items list and replied that most

community use would occur in the evenings and weekends, when the existing university car-parks would be available and free of charge.

- (5) Councillor Mrs Theobald asked why only one green roof was proposed and the Senior Planning Officer stated that the scheme was in two parts, and it was likely that the second building could not support the weight of a green roof.
- (6) Councillor Fallon-Khan asked if five disabled parking bays were adequate and the Transport Manager addressed the Committee and stated that this exceeded with the current standards set out in SPG4.
- (7) Councillor Wells asked why parking provision on site was so restricted, as he was aware that the applicant had requested greater provision, but this had not been allowed.
- (8) The Solicitor to the Committee asked Councillor Wells to confirm that he had not had discussions with the applicant, and Councillor Wells stated he had not, and that he had gained this information indirectly from a colleague.
- (9) The Development Control Manager clarified the situation further and stated that during the site visit Members had asked a question of the representative of the university staff about whether they would like more parking. That person had replied that more parking was always required. She confirmed that this person had not been involved in any discussions with Officers, and parking had not been raised as an issue by the applicant at any time.
- (10) The Transport Manager further added that he had not had discussions with the applicant over car parking provision, and as far as he was aware the University was satisfied with the current arrangements. He noted that the University was currently developing a travel plan, which would cover the application site, and there was no prospect of overspill or displaced car parking in residential areas for this application. It was also recognised that the site was serviced by very good public transport links.
- (11) A vote was taken and Members voted unanimously to agree the recommendation to Grant planning permission.

251.4 **RESOLVED** – That the Committee had taken into consideration and agrees with the reasons for the recommendation set out in paragraph 10 of the report and resolves to Grant planning permission, subject to the conditions and informatives set out in the report. Further that condition 16 of the report shall be deleted.

E. Application BH2007/04125, Lawnscroft Nursing Home, 155 Kingsway, Hove – Construction of four/five storey, 30 bed nursing home with basement car park and ancillary staff accommodation (amended design).

- (1) It was noted that this application would be taken together with application BH2007/04126, Lawnscroft Nursing Home, 155 Kingsway, Hove (for decision see minute 251.6), and that this application had formed the subject of a site visit prior to the meeting.
- (2) The Area Planning Manager (West), Mr Walker, gave a detailed presentation setting out the main elements of the application and stated that the site was situated in a conservation area. The main issues to consider were that of amenity space, transport and sustainability.

Questions/Matters on which Clarification was Sought

- (3) Councillor Barnett expressed considerable concern over the lack of parking provision on site, especially given the number of staff that would be working in such a large unit. The Area Planning Manager (West) stated that two extra parking spaces were considered along the frontage of the site, but it was decided that this space was more important in amenity terms. He noted that there would be thirteen members of staff on site.
- (4) Councillor Fallon-Khan asked why the original application was refused and whether more parking had been provided with this scheme. The Area Planning Manager (West) stated that the design materials were inappropriate on the first two schemes submitted, but it was felt that the current scheme struck the right balance between a mix of render and brick. He agreed that the previous scheme would have had more parking available.
- (5) The Conservation Manager, Mr Dowty, stated that the existing front garden of the site was an important feature in the conservation area and felt it should be retained.
- (6) Councillor Mrs Theobald asked for an informative to be added to the decision to include retention of the flint wall and the Area Planning Manager (West) agreed that this could be done.
- (7) Councillor Fallon-Khan asked how much on street parking was available nearby and the Transport Manager stated that he had surveyed the site numerous times throughout the year and there appeared to be ample parking provision.
- (8) Councillor Allen and Councillor Barnett still felt that parking was an issue on site and Councillor Allen referred to the need for relatives to park close to the building, especially if they were picking-up an elderly or infirm relative. The Traffic Manager stated that data suggested that parking provision of 0.34 to 0.6 spaces per bedroom was adequate for care home sites, and therefore parking provision was considered to be adequate in this instance. He also noted that to add an extra level of underground parking would be prohibitively expensive for the applicant.

- (9) The Development Control Manager clarified further that there was a lift on site, which had access to the basement level where a disabled parking bay was located. She stated it was not unreasonable to think that the care home would manage usage of this bay to enable their residents to be picked up and set down as close as possible to the building.
- (10) Mr Small asked for an informative to be added to the decision to state that a mid-grey brick colour be used rather than dark grey or red, and the Committee agreed to include this.
- (11) A vote was taken and Members voted unanimously to agree the recommendation to Grant planning permission.

251.5 **RESOLVED** – That the Committee had taken into consideration and agrees with the reasons for the recommendation set out in paragraph 10 of the report and resolves that Minded to Grant planning permission is agreed, subject to the conditions and informatives set out in the report, and the following additional informative:

Informative: That a mid-grey brick is preferred to a red or dark grey brick.

Informative: That Members would like to see the flint wall retained.

F. Application BH2007/01426, Lawncroft Nursing Home, 155 Kingsway, Hove – Demolition of existing building.

- (1) A vote was taken and Members voted unanimously to agree the recommendation to Grant planning permission.

251.6 **RESOLVED** – That the Committee had taken into consideration and agrees with the reasons for the recommendation set out in paragraph 8 of the report and resolves to Grant planning permission, subject to the conditions and informatives set out in the report.

G. Application BH2009/00036, 112-113 Lewes Road, Brighton – Demolition of existing building with redevelopment to provide for replacement of 2 no. retail units on ground floor and 16 self-contained flats on ground, first, second, third and fourth floors. Refuse and recycling at ground floor level.

- (1) It was noted that this application had formed the subject of a site visit prior to the meeting.
- (2) The Senior Planning Officer, Kate Brocklebank, gave a detailed presentation setting out the main elements of the application and stated that the recommendation was for refusal on the grounds that it was an overdevelopment of the site, would relate poorly to the surrounding area and overly dominate the street scene. There was an unacceptable lack of amenity and recreational space, and no demonstration that the retail units would be viable and the application did not accord to Lifetime Homes Standards. It was also recognised that this application was in an air quality hotspot and Environmental Health Officers had recommended that there were no openings onto the Lewes Road on the first floor of the scheme.

- (3) Mr Bareham, agent for the applicant, spoke in support of the application and noted that the Conservation Team were broadly in support of the application subject to a list of recommendations, which he felt could be achieved within the current proposals. He stated that previous applications that lacked amenity space had been approved and felt that the retail units would be viable. Mr Bareham noted that there was no requirement to provide a sustainability statement, but he was confident the scheme would achieve a level four rating. He recognised the issues around air quality but felt that mechanical ventilation could be used to address this.

Questions/Matters on which Clarification was Sought

- (4) Councillor Wells asked for confirmation that there was no children's play area proposed. The Senior Planning Officer confirmed this and stated that there was a park nearby, but this was accessed by crossing the Lewes Road gyratory system, which the Officers did not feel was appropriate for children to do.
- (5) Councillor Davey asked for clarification on the air quality issues. The Senior Planning Officer stated that Environmental Health Officers had performed a health impact assessment and recommended that there were no openings to the Lewes Road on the first floor level of the scheme, which would include a Juliette balcony and kitchen window opening. This would leave only two small windows for ventilation on the opposite side of the building and this was not considered acceptable.
- (6) Councillor Fallon-Khan asked Mr Bareham why the development did not meet Lifetime Homes Standards and he stated that he had believed that it did when the plans were submitted.
- (7) Councillor Mrs Theobald asked if there were problems with refuse and recycling storage on site and Mr Bareham stated that an area was provided on the ground floor plans for this. The Senior Planning Officer clarified that City Clean had responded to the application with concerns over the suitability of access to the refuse storage area.
- (8) Councillor Steedman noted that Mr Bareham had addressed the Committee in the past on a different application in Lewes Road, and had stated that small retail units were not viable in this area. It now appeared that Mr Bareham was supporting the idea of small retail units with this application, and Councillor Steedman asked for clarification of this. Mr Bareham replied that the previous application had market information to state that the units were not viable on Lewes Road. The current application provided a more flexible space however, and there was indication that these units could be successfully marketed. He also noted that Brighton & Hove policy stated the need to retain retail units and so he was somewhat tied into providing them.
- (9) Councillor Smart asked about the lack of amenity space, and noted that previous applications that had been passed with a similar lack of amenity space had in fact been situated very close to large parks or outside areas. Mr Bareham felt there were

lots of accessible parks in the area of Lewes Road and did not see amenity space as a problem for this application.

Debate and Decision Making Process

- (10) Councillor Mrs Theobald began the debate and stated that the application seemed very cramped and overdeveloped. She noted the ongoing problems with air quality in the area and remained concerned over the lack of amenity space.
- (11) Councillor Wells felt that the visual impact was not a great problem in this area, but the lack of amenity space, the problems with waste storage and the fact that the application did not meet the minimum standards for Lifetime Homes were issues that had not been resolved and remained a concern.
- (12) A vote was taken and Members voted unanimously to agree the recommendation to refuse planning permission.
- 251.7 **RESOLVED** – That the Committee had taken into consideration and agrees with the reasons for refusal set out in the report.

(ii) MINOR APPLICATIONS

H. Application BH2008/02077, 79-80 Western Road, Hove – Change of use from A1 to A3 on first and second floors and variation of condition 2 of planning permission BH2006/02429 to allow use of premises between hours of 08:30 and 01:45 (part retrospective).

- (1) It was noted that this application had formed the subject of a site visit prior to the meeting and that the application had been deferred from a previous meeting on 8 April 2009, where questions and debate had taken place. This application would be taken together with application BH2008/01985, 79-80 Western Road, Hove (for decision see minute 251.9) and BH2008/01986, 79-80 Western Road, Hove (for decision see minute 251.10).
- (2) A vote was taken and Members voted unanimously to agree the recommendation to Grant planning permission.
- 251.8 **RESOLVED** – That the Committee had taken into consideration and agrees with the reasons for the recommendation set out in paragraph 8 of the report and resolves to grant Minded to Grant planning permission, subject to the conditions and informatives set out in the report.

Note: Councillors Hamilton, Kennedy, and Mrs Theobald were not present during the voting of this item.

I. Application BH2008/01985, 79-80 Western Road, Hove – Six air conditioning units to the rear of property (retrospective).

- (1) It was noted that this application had formed the subject of a site visit prior to the meeting and that the application had been deferred from a previous meeting on 8 April 2009, where questions and debate had taken place.
- (2) A vote was taken and on a vote of 7 for, 0 against and 2 abstentions, the recommendation for Minded to Grant planning permission was agreed.

251.9 **RESOLVED** - That the Committee had taken into consideration and agrees with the reasons for the recommendation set out in paragraph 8 of the report and resolves to grant planning permission, subject to the conditions and informatives set out in the report.

Note: Councillors Hamilton, Kennedy, and Mrs Theobald were not present during the voting of this item.

J. Application BH2008/01986, 79-80 Western Road, Hove – Three rooflights to front and rear (part retrospective).

- (1) It was noted that this application had formed the subject of a site visit prior to the meeting and that the application had been deferred from a previous meeting on 8 April 2009, where questions and debate had taken place.
- (2) A vote was taken and Members voted unanimously to agree the recommendation for granting Minded to Grant planning permission.

251.10 **RESOLVED** - That the Committee had taken into consideration and agrees with the reasons for the recommendation set out in paragraph 8 of the report and resolves to grant planning permission is agreed, subject to the conditions and informatives set out in the report.

Note: Councillors Hamilton, Kennedy, and Mrs Theobald were not present during the voting of this item.

K. Application BH2009/00023, 36 North Gardens (Caxton Arms), Brighton – Replacement of existing steel mezzanine, including new umbrella and new lean-to polycarbonate roof. New paving to basement yard (part retrospective).

- (1) It was noted that this application had formed the subject of a site visit prior to the meeting.
- (2) The Senior Planning Officer, Kathryn Boggiano, gave a detailed presentation setting out the elements of the application and stating that the mezzanine had been extended slightly and a new courtyard area was proposed. It was noted that the Environmental Health Team had not objected to the proposals but there had been objection from local residents on the grounds of noise disturbance.

- (3) Mrs Layland spoke on behalf of neighbouring objectors and stated that she had lived in the centre of Brighton all her life and had never had cause to complain about licensed premises. Since the introduction of the new licensing laws and the smoking ban however, she was becoming increasingly disturbed by smokers from the premises using the rear courtyard until late into the night. In the summer when the doors and windows were open the noise was particularly bad, but Mrs Layland noted that the use of patio heaters in the winter kept the courtyard area open all year round. She suggested that if Members were minded to grant the application, could they impose a restriction in hours to 23:00 everyday and 22:30 on Sundays.
- (5) Councillor West, Local Ward Member, spoke against the application and stated that the area was quiet and family orientated. He felt that this application was an attempt by the Licence Holders to subvert the planning process and believed that many families would be negatively impacted by the extension of the outside space around the premises. Given that a greater part of the structure was given over to all-weather usability, the noise and levels of disturbance for the neighbours would only increase if the application was allowed. Councillor West felt the Officer's report contained inaccuracies and was concerned that no noise assessment of the new proposals had taken place. He requested that the Committee refuse the application, or defer the application for a site visit and noise assessment to be conducted.

Questions/Matters on which Clarification was Sought

- (1) Councillor Smart asked if the area had previously been used as a smoking area and the Senior Planning Officer confirmed that it had.
- (2) Councillor Mrs Theobald asked what time the premises was licensed until and whether the mezzanine and courtyard were purely for smokers after a certain time. Councillor West replied that both the courtyard and mezzanine area were in general use the whole time the premises was open.
- (3) Councillor Fallon-Khan asked what time the noise abated and Councillor West replied that the disturbance continued until late in the evening and the problem had been increasing. He felt that the extra capacity would only make the situation worse.
- (4) Councillor Hyde asked Councillor West what the main issue of concern was for residents and he replied that the covered courtyard area was a major concern, as most of it would now be usable all year. He also noted that the size of the canopy was shown incorrectly in the report. The Senior Planning Officer clarified that the new polycarbonate structure over the courtyard would assist in reducing noise levels compared with the previous structure. She also noted that the Members could not examine the use of the outdoor courtyard area as it did not form part of the application before Committee.
- (5) Councillor Smart asked whether the mezzanine was part of the original premises and Councillor West stated that it had existed previously, but had been adapted over the years to provide a greater drinking area.

Debate and Decision Making Process

- (5) Councillor Barnett noted that there had been a low number of objections from the surrounding residential area, and felt that if there were issues of disturbance then this was an issue that the premises management needed to take up.
- (6) Councillor Mrs Theobald stated that she felt the proposed condition from the objector and Councillor West to limit the hours of use of the mezzanine was appropriate, and moved to add this to the recommendation.
- (7) Councillor Wells felt that any ongoing noise issues should be taken up with the Environmental Health Team, but believed the suggested condition was also appropriate and seconded the motion to add this condition to the recommendation, which the Committee accepted.
- (8) A vote was taken and Members voted unanimously to agree the recommendation to Grant planning permission.

251.11 **RESOLVED** – That the Committee had taken into consideration and agrees with the reasons for the recommendation set out in paragraph 8 of the report and resolves to Grant planning permission, subject to the conditions and informatives set out in the report, and to amend condition 1 to read:

- (1) The mezzanine floor at ground level and basement courtyard shall not be open to customers outside of 09:00 and 23:00 hours from Monday to Saturday, and 09:00 and 22:00 hours on Sundays.

Note: Councillors Kennedy and Davey declared a personal and prejudicial interest in this item and did not take part in the debate or voting thereof.

L. Application BH2009/00394, Former Police Box, Margery Road, Hove –
Conversion of former police box (B1) to one bedroom studio (C3) with side conservatory extension.

- (1) This application was taken together with application BH2009/00393, Former Police Box, Margery Road, Hove (for decision see minute 251.13). The Area Planning Manager (West), Mr Walker, gave a detailed presentation setting out the elements of the application and stated that due to a lack of market information regarding change of use, the design of a studio being out of character with the existing street scene and the lack of amenity space for both applications, both applications were being recommended for refusal.
- (2) Mr Glasser and Mr Szozerbicki spoke in support of the application. It was stated that they felt this application would be suitable for a single person living in rented accommodation. The character of the road was residential and it was entirely appropriate to convert this property into a residential unit. It was noted that marketing information could be made available on these applications if necessary. The second application would be ideally used as a two bedroom starter home, and although there was limited outdoor space in the form of a balcony, studies could

show that due to the placement of the balcony there would be no overlooking of neighbouring properties.

Questions/Matters on which Clarification was Sought

- (3) Councillor Wells asked how much amenity space was available in the two bed application and the Area Planning Manager (West) stated that there would be 1.2 metres.
- (4) Councillor Hyde asked about the visual impact of both properties and the Area Planning Manager (West) replied that there would be a perception of overlooking and with the second application the number of windows would increase this perception.
- (5) Councillor Smart asked questions about gardens around the site and the Planning Officer replied that the neighbouring gardens encircled the site on the side and at the back.

Debate and Decision Making Process

- (6) Councillor Barnett began the debate and stated that the two bedroom application would be preferable to the studio and felt it was appropriate for this area. Councillors Carden, Smart, Wells and Kennedy agreed with this statement.
- (7) Councillor Wells felt that marketing information, whilst generally very important, was not such an issue with this site and that a marketing exercise would be a waste of time.
- (8) Councillor Kennedy noted some design reservations but felt the scheme was largely successful.
- (9) A vote was taken and on a vote of 7 for, 3 against and 2 abstentions, the recommendation to refuse planning permission was agreed.

251.12 **RESOLVED** - That the Committee has taken into consideration and agrees with the reasons for refusal set out in the report.

M. Application BH2009/00393, Former Police Box, Margery Road, Hove –
Demolition of former police box and construction of two bed house.

- (1) A vote was taken and on a vote of 0 for, 10 against with 2 abstentions the recommendation to refuse planning permission was refused. A second vote was taken and on a vote of 10 for, 0 against with 2 abstentions, the substantive motion to grant planning permission was agreed.

251.13 **RESOLVED** - That the Committee had taken into consideration but does not agree with the reasons for refusal set out in the report. The Committee resolves to Grant planning permission with the following conditions:

- (1) Time condition.
- (2) Obscure glazing to the first floor rear windows.
- (3) The applicant shall submit a waste minimization statement.
- (4) CSH level 3 pre commencement and pre-occupation.
- (5) Details of material shall be submitted to the satisfaction of the Planning Authority.
- (6) Permitted development rights shall be removed.
- (7) Cycling parking shall be provided on site.

Reason: Due to the chronic housing situation and the need for this type of development, the Committee believes that this application is appropriate for this site. The Committee did not agree that marketing information was necessary to demonstrate lack of viability for a commercial unit on this site and were satisfied that there was adequate amenity space and the application did not unduly overlook neighbouring properties or affect their amenity space.

Note: Councillors Hyde (Chairman), Barnett, Carden, Hamilton, Kennedy, Allen, Fallon-Khan, Smart, Steedman, Mrs Theobald and Wells voted in favour of the substantive motion to grant planning permission. Councillors Davey and Steedman abstained from voting.

N. Application BH2008/03731, Compass House, East Street, Hove – Ground and first floor rear extension incorporating dust extract system and revised extracts at front roof level.

- (1) Councillor Smart wished it to be noted that his relatives lived on this road, but quite a distance from the application site, and was in no way affected by the application.
- (2) It was noted that this application formed the subject of a site visit prior to the meeting.
- (3) The Area Planning Manager (West), Mr Walker, gave a detailed presentation setting out the elements of the application and noted that the main issues were around the effects of the extension to neighbouring properties and the sustainability of the site. An original application was partly refused due to concerns over appearance and appropriateness. The new application was a sufficient distance from neighbouring properties and there were no objections to the design. Noise Abatement Notices had been served previously, but the Environmental Health and Licensing Team were satisfied that the new application would not present a noise nuisance.
- (4) Mrs Johnson-Adams spoke on behalf of local objectors and stated that there was strong opposition to this application from residents in terms of the impact the application would have on their amenity, the overshadowing that would be created and the loss of privacy to their gardens. She noted that the only letter of support to the scheme had been received from a property that had been vacant for several years, and stated that despite complaints, no enforcement action had been taken at the premises. She felt there was no evidence to suggest the new application would reduce the level of noise disturbance for residents, and would in fact allow an increase in production, and therefore noise at the site. She urged the Committee to reject the application.

- (5) Mr Scoble, the applicant, spoke in support of the application and stated that he had spent considerable time in negotiation with the Planning Officers to ensure the application met their requirements. He noted that the extension would form part of a 'quiet barrier' for residential properties backing onto the site and that the design aspects would improve the outlook onto the rear elevation. Mr Scoble stated that the company was in voluntary receivership, but that the landlords were keen to pursue this improvement to the building, which would provide extra sound insulation and noise control.
- (6) Councillor Hamilton, Local Ward Member, spoke against the application as Ward Member (this item only) and stated that Compass House was much nearer to residential gardens than any other commercial site in the area. There had been a consultation in South Portslade regarding expansion of the industrial estate, and residents felt that it was currently sufficient. Councillor Hamilton did not feel this scheme presented a high standard of design, and its proximity to residential properties could not be satisfactorily addressed.

Questions/Matters on which Clarification was Sought

- (7) Councillor Smart asked if the site used spray finishing or dust finishing and Area Planning Manager (West) stated that they used both, and that the extractors would be there to deal with the effects of this.
- (8) Councillor Carden asked if any insulation to the extractor fans was included and Area Planning Manager (West) confirmed that there was, and that the measurements from Environmental Health and Licensing for noise control were accurate. The sound proofing requirements were based on these measurements and included in condition six of the report.
- (9) Councillor Carden asked Mrs Johnson-Adams how far away her back door was to the site and she stated that it was around 15 metres.
- (10) Councillor Fallon-Khan asked Mrs Johnson-Adams why she was not confident the conditions on the application would ensure there was no noise disturbance to her property. She stated that there had been several Noise Abatement Notices served in the past, but no action had been taken against the property and the new application would still protrude from the roof where she felt most of the noise was emanating from.
- (11) Councillor Fallon-Khan asked Mr Scoble how many people worked at the premises and he replied that it was between 14 and 20 people.

Debate and Decision Making Process

- (12) The Development Control Manager addressed the Committee and stated that the financial status of the company was not a material planning consideration for this application.

(13) A vote was taken on the recommendation, but was lost. A second vote was taken on a substantive motion to refuse planning permission, and on a vote of 5 for, 1 against and three abstentions, the substantive motion to refuse planning permission was agreed.

251.14 **RESOLVED** - That the Committee had taken into consideration and does not agree with the reasons for the recommendation to grant planning permission set out in paragraph 8 of the report and resolves to refuse planning permission for the following reason:

- (1) That the proposed extension by reason of its design and close proximity to the properties to the rear would result in a development having an adverse impact on the amenities of nearby properties. The proposal is therefore contrary to policy QD27 of the Brighton & Hove Local Plan.

Note 1: Councillors Hyde (Chairman), Barnett, Carden, Fallon-Khan and Smart voted in favour of the motion to refuse planning permission. Councillor Davey voted against the motion to refuse planning permission. Councillors Allen, Steedman and Wells abstained from voting.

Note: Councillor Hamilton declared a prejudicial interest and did not take part in the debate or voting thereof. Councillor Kennedy left the meeting at 18:50 and did not take part in the voting thereof. Councillor Mrs Theobald left the meeting at 18:55 and did not take part in the voting thereof.

252. 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

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

Application:	Site visit requested by:
BH2008/02772 & BH2008/02771, William IV gateway, Royal Pavillion Gardens, Brighton	Development Control Manager
BH2008/02303, Elmhurst, Warren Road, Woodingdean	Development Control Manager
Implemented visit to New England Quarter	Development Control Manager

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

(iii) DECISIONS ON APPLICATIONS DELEGATED TO THE DIRECTOR OF ENVIRONMENT

253.1 RESOLVED – That those details of applications determined by the Director of Environment 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 Director of Environment. The register complies with legislative requirements.

Note 2: A List of Representations received by the Council after the Plans List reports have been submitted for printing, was circulated to Members on the Friday preceding the meeting (for a copy see minute book). Where representations were received after that time they should be reported to the Chairman and Deputy Chairman and it would be at their discretion whether these should in exceptional cases be reported to the Committee. This is in accordance with Resolution 147.2 of the then Sub-Committee on 23 February 2005.

The meeting concluded at 7.30pm

Signed

Chair

Dated this

day of

