

PLANNING COMMITTEE

Agenda Item 101
Brighton & Hove City Council

BRIGHTON & HOVE CITY COUNCIL

PLANNING COMMITTEE

2.00pm 2 SEPTEMBER 2009

COUNCIL CHAMBER, HOVE TOWN HALL

MINUTES

Present: Councillors Hyde (Chairman), Carden (Opposition Spokesperson), Davey, Hamilton, Kennedy, Smart, Steedman, C Theobald, Mrs Cobb, Caulfield, Allen and Kemble

Co-opted Members Mr J Small (CAG Representative)

Officers in attendance: Development Control Manager (J Walsh); Area Planning Manager (West) (S Walker); Solicitor (A Gatherer); Democratic Services Officer (J Clarke)

PART ONE

82. PROCEDURAL BUSINESS

82a Declaration of Substitutes

82.1 Councillor Kemble declared that he was substituting for Councillor Wells.

82.2 Councillor Allen declared that he was substituting for Councillor McCaffery.

82b Declarations of Interest

82.3 Councillor Caulfield stated that she was involved with the Local Delivery Vehicle. The applicant for application BH2009/01249, The Hyde, Rowan Avenue, Hove, is the Chairman of the LDV but Councillor Caulfield did not know the applicant in a personal capacity. She had sought legal advice on whether she had a personal interest in application and had been advised that this would not constitute a personal or prejudicial interest, and as such remained in the meeting and took full part in the discussion and voting thereon.

82c Exclusion of the Press and Public

82.4 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 the 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).

82.5 **RESOLVED** – That the press and public be excluded from the meeting during consideration of item 99, Consideration of Legal Matters as this item is exempt under Paragraph 6 of Schedule 12A of the 1972 Act (information which reveals that which the authority proposes to do).

83. MINUTES OF THE PREVIOUS MEETING

83.1 **RESOLVED** – that the Chairman be authorised to sign the minutes of the meeting held on 12 August 2009 as a correct record with the following amendment:

D. Application BH2009/01384, Former Gospel Hall, 57 Falmer Road, Rottingdean

(11) A vote was taken and on a vote of 7 to 4 with 1 abstention planning permission was granted.

84. CHAIRMAN'S COMMUNICATIONS

Webcasting

84.1 The Chairman explained that afternoon's meeting of the Planning Committee was being web cast. 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.

85. PETITIONS

85.1 There were none.

86. PUBLIC QUESTIONS

86.1 There were none.

87. DEPUTATIONS

87.1 There were none.

88. WRITTEN QUESTIONS FROM COUNCILLORS

88.1 There were none.

89. LETTERS FROM COUNCILLORS

89.1 There were none.

90. NOTICES OF MOTION REFERRED FROM COUNCIL

90.1 There were none.

**91. CLARIFICATION AND AMPLIFICATION OF REASONS FOR REFUSAL
APPLICATION BH2007/03454, LAND AT BRIGHTON MARINA**

91.1 The Council's witness to the inquiry, Mr Kevin Goodwin, gave a presentation to explain the rationale for the clarification and amplification of reasons for refusal on the application, which had been refused at the Planning Committee meeting on 4 December 2008. He noted that a Public Inquiry was due to begin on 3 November 2009 and that a Statement of Case was required from the Council, which was due to be submitted on 4 September 2009. Mr Goodwin explained that the Structure Plan for East Sussex and Brighton & Hove, which had been referred to in the original reasons for refusal, had now been superseded by the Regional Spatial Strategy for the South East Plan, and the Committee Members were being asked to reconsider the policy basis for their reasons in light of this. He further noted that the applicants had contacted the Council to ask whether they wished to reconsider reasons four, five and six of the original refusal, and Committee Members were being presented with the opportunity to either remove those reasons, to modify them or to maintain them. Mr Goodwin added that reason six was recommended to be conditionally withdrawn as subsequent evidence had invalidated the reason.

Questions/Matters on Which Clarification was Sought

- 91.2 Councillor Kemble asked for examples of where this approach to a refusal decision had been taken before, as he felt it was quite unusual for reasons to be amended by a third party. Mr Goodwin agreed that it was not common, but noted that there had been previous examples on an application at Kings Cross, London, application and a Welsh wind farm application. He stated that each case was individual but that the policies of the Council had recently changed and the refusal decision would need to reflect this at Public Inquiry to ensure the reasons were robust and relevant.
- 91.3 Councillor Hamilton understood that the applicant had requested that the Council reconsider reasons 4, 5 and 6, but asked why, in his opinion, major changes had been made to reasons 1, 2 and 3. He felt that several of the reasons had been substantially changed and he was unhappy that many of the Members of the current Committee meeting had not been present when the original decision was made. He was also concerned that changing the reasons for refusal might result in costs being awarded against the Council at the forthcoming appeal. Mr Goodwin agreed that some of the reasons had been changed to clarify them. In terms of reason 1 this was to include references to the new Regional Spatial Strategy. He noted that the Inquiry Team had taken the opportunity to look at all of the reasons for refusal, and felt it was their professional duty to present the Committee with the most robust case for refusal to take forward to the Public Inquiry stage.
- 91.4 Councillor Hamilton asked if the sections that were recommended to be withdrawn from the reasons for refusal were likely to result in the incursion of costs against the Council if taken to Public Inquiry stage as they were not robust enough. Mr Goodwin stated that, in

his view, these sections did not necessarily add to the case, or were included elsewhere in the decision, and therefore the decision would be more robust without them.

- 91.5 Councillor Mrs Theobald expressed concern about the removal of a sentence in reason 2 that referred to the nuisance and loss of amenity residents in the area would suffer if the application was approved and asked why this had been removed. Mr Goodwin felt that this aspect was adequately dealt with under reason 1 and therefore had been removed from reason 2. He recognised that the residents had not been referred to specifically in reason 1, but believed that the reason should refer to the harm that would be suffered by the area as a whole, including the Area of Outstanding Natural Beauty and the Conservation Area.
- 91.6 Councillor Steedman accepted the professional opinion of Officers but expressed concern that reason 6 had been withdrawn as he felt it was inappropriate to build new homes for vulnerable people in an area that was potentially open to a high flood risk. He suggested that we may need to look at our policy framework at a later stage.
- 91.7 Councillor Caulfield was very concerned that she was being asked to reconsider and possibly alter a decision that had been made by a Committee meeting that she had not sat on. She asked what the implications were if the current Committee did not agree to reconsider the decision. Mr Goodwin stated that the case at the Public Inquiry would be fought on the original reasons for refusal and this could present problems in terms of presenting and substantiating evidence.
- 91.8 Councillor Smart noted that reason 2 referred to both material nuisance and building quality and asked if this would be better separated into two distinct reasons for refusal. Mr Goodwin acknowledged that reason 2 dealt largely with the poor quality of the accommodation for residents of the new development, but that reason 1 now dealt with issues of harm arising from the scheme.

Debate and Decision Making Process

- 91.9 Councillor Cobb also expressed concern about the removal of a sentence in reason 2 that had referred to the local residents of the area, and proposed that this reason be altered to reinstate this sentence. Councillor Mrs Theobald seconded the proposal. Councillor Cobb hoped that Councillor Steedman would bring a similar proposal in relation to reason 6.
- 91.10 Councillor Hamilton was very concerned that a legal team had been appointed to alter a decision on the Council which they did not feel would be sustainable at Public Inquiry and felt this had been done to avoid costs awarded against the Council being incurred. He was also surprised that amendments to the recommendation were now being proposed and asked the Solicitor to the Committee if making this amendment could further weaken the Council's case. The Solicitor replied that if the elements of the decision that had been recommended for removal were retained, witnesses would have to be found to substantiate these claims. If they could not be found then there was a risk that costs against the Council could be incurred. Mr Goodwin responded that the recommendation before Councillors was, in his opinion, the most robust case to put before the Public Inquiry. The Development Control Manager addressed the Committee

and stated that if the amendment was agreed, Members would need to give reasons as to why this particular aspect was a necessary part of the decision.

- 91.11 Councillor Davey noted the concerns of residents and also felt that the harm they would suffer as a result of the application was an important aspect of the reason for refusal. However, he recognised that the Council had employed expert legal advice to ensure the decision was as strong as possible and he felt that the Committee should accept their advice in this instance.
- 91.12 Councillor Steedman agreed with Councillor Davey and although he held outstanding concerns over the flood risk at the site, he felt that the professional advice should be followed and that the Committee should make decisions in line with its own policy framework.
- 91.13 Councillor Kennedy felt that it would be unwise to overturn professional legal advice which the Council had employed specifically to form a robust case at Public Inquiry stage.
- 91.14 Councillor Cobb accepted the opinions of the Committee and withdrew the proposed amendment.
- 91.15 Councillor Hamilton stated that he was very concerned about what the Committee Members were being asked to do and had no knowledge of this process happening elsewhere. He noted that the original decision had been derived after several months of work and negotiation on both sides and a full debate at Committee. He understood that some of the policy references needed to be changed but felt that large parts of the decision were being altered and he was not confident that these additions had been fully discussed at the original meeting. Councillor Hamilton acknowledged that the Council wanted to avoid the risk of costs being awarded against them, but felt that changing the decision in this way could increase the likelihood of this and he did not want to take part in the voting on this decision.
- 91.16 Councillor Carden agreed with Councillor Hamilton and stated that he was very unhappy with the recommendation. He felt unable to take part in any part of the voting on this application and was concerned there was no input from members of the public, whereas there had been a full democratic debate for the original decision which had met all of the guidelines at the time. He did not want to justify a decision which, in his opinion, had been wrong in the first place.
- 91.17 A vote was taken and on a vote of 5 for, 1 against and 3 abstentions agreement to clarification and amplification of the reasons for refusal was given. Councillors Hamilton and Carden did not take part in the voting thereof.
- 91.18 **RESOLVED** – That the Committee has taken into consideration and agrees with the recommendation set out in the report and resolves to clarify and amplify the reasons for refusal nos. 1, 2, 3 and 4 and conditionally withdraw reason for refusal no. 6.

Note: Councillors Hamilton and Carden did not take any part in the voting and left the Chamber during the vote taking.

92. APPEAL DECISIONS

92.1 The Committee noted the content of the letters received from the Planning Inspectorate advising of the result of the planning appeals which had been lodged as set out in the agenda.

93. LIST OF NEW APPEALS LODGED WITH THE PLANNING INSPECTORATE

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

94. INFORMATION ON INFORMAL HEARINGS/PUBLIC INQUIRIES

94.1 The Committee noted that list of planning appeals set out in the agenda relating to Information Hearings and Public Inquiries.

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

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

Application	Site Visit Requested By
BH2008/00792, Brighton General Hospital	Development Control Manager

96. TO CONSIDER AND DETERMINE PLANNING APPLICATIONS ON THE PLANS LIST: 2 SEPTEMBER 2009

(i) TREES

96.1 There were none.

(ii) SUBSTANTIAL OR CONTROVERSIAL APPLICATIONS OR APPLICATIONS DEPARTING FROM COUNCIL POLICY

A. BH2009/01249, The Hyde, Rowan Avenue, Hove – Proposed construction of two blocks of 2 and 3 storeys to provide a total of 27 new sheltered housing units with associated caretakers’ flat, support and recreation areas including private landscaped gardens and car and cycle parking facilities.

(1) The Area Planning Manager (West) gave a presentation detailing the constituent elements of the scheme, and referred to floor plans and elevation drawings. He stated that the application was on land that had not been previously developed and was therefore considered a greenfield site. It was also land that had not been allocated for development in The Development Plan. He believed that there was not sufficient reason to depart from policy and approve this application and noted that PPG 17 stated that existing open space should not be built on unless an assessment had been undertaken which showed that the open space was surplus to requirements. The development was

felt to be incongruous to its setting, and failed to meet the high levels of sustainability required on a Greenfield site.

- (2) Mr Collins spoke as a local neighbour objecting to the application and stated that this application was largely the same as the previous one which had been refused. Both applications had received considerable objection from the community as the development was too high and was inappropriate to the surroundings. He felt the proposal would create overlooking along the properties of Rowan Avenue and the removal of a security fence along the site would increase residents' loss of privacy. There was a parking shortfall identified on the site and any overspill onto nearby roads would be unacceptable as they were already congested and difficult to park along. He was concerned that the access road to the Lions' Gate development had not been completed properly and poor signage had been placed on a one-way street, causing further traffic problems. He felt that the existing problems on the site needed to be dealt with to ensure that the land was not classified as brownfield and to prevent further planning applications being submitted.
- (3) Councillor Theobald asked what Mr Collins would like to see the land used for and he replied that he would like it to remain open land for community use or football/sports facilities.
- (4) Mr Lewis from Birch Reconstruction Ltd spoke on behalf of the applicant and stated that this was a resubmission of a previous planning application which sought to take into account residents and Members comments from the previous refusal. He noted that the main issue was whether the land could be considered previously developed, and felt that the history of the site showed that it could be considered brownfield land. The Social Club which had previously been on the site was in fact a fully licensed private club with restaurant facilities and caretakers' flat included. It was not a community facility and was solely for the use of the private club members. The area was fully tarmaced from around 2000 and permanent structures had been built on it subsequently in 2004, which demonstrated it had been previously developed. Mr Lewis added that the scheme had been designed by one of the most prominent architects in the city and provided 40% of the units as affordable housing.
- (5) Councillor Caulfield asked if there was flexibility for use of the greenfield space on site and Mr Lewis noted that it had been identified for use as football pitches in the S106 Agreement. Local residents had been surveyed and 90% had requested that the land be retained as a landscaped park area.
- (6) Councillor Caulfield asked if this land would be open to the public, what the intention of the £75,000 was for and why a flat roof design was chosen for this proposal. Mr Lewis replied that the architects did not deem the surrounding architecture as a high enough quality to warrant mimicking the design in the proposals, which was why a flat roof had been used. The offer of £75,000 had resulted from discussions with Officers relating to the 2002 s106 Agreement regarding the cost of developing the green space into usable space, providing possible ancillary structures like changing rooms for football pitches, and for maintenance of the pitches. He noted that if a landscaped garden was to be implemented instead of football pitches, the money could be used elsewhere on site. Mr Lewis added that if gardens were created, they would likely be for the sole use of

residents in this development and Lions' Gate as there were issues of security as the development would likely house some vulnerable people.

- (7) Councillor Hamilton noted that the Social Club had been demolished and the Lions' Gate development built in its place. He did not see how this application related to either of those two developments and asked Mr Lewis to comment on this. Mr Lewis stated that the Social Club had been a substantial structure and its entire cartilage and associated parking could be considered brownfield land available for development. He noted that there was no intention to develop the greenfield land at this stage.
- (8) Councillor Mrs Theobald asked if the greenfield space could be designated for the use of the entire community. The Solicitor to the Committee reminded Members that questions should be asked about the specifics of the application, and not what may or may not be acceptable on site following planning permission.
- (9) Councillor Theobald asked why a green roof was not considered for the application. Mr Lewis replied that the architects for the development did not believe a green roof was suitable for a suburban situation, and added that solar thermal heating had been included instead.
- (10) Further questions were asked and the Development Control Manager asked for these to be considered in part two of the agenda. She stated for the record that there had been a Section 106 Agreement with the previous application, and that the requirements of this agreement had not been discharged by the applicant. The Committee Members had all the information before them however to determine the application in front of them on its merits.

Questions/Matters on Which Clarification was Sought

- (11) Councillor Steedman noted that the Area Planning Manager (West) had referred to a shortfall in parking spaces provided with the application, but believed that the Council applied a maximum parking standard rather than a minimum, and asked if this was the case. The Area Planning Manager (West) agreed that this was technically correct, but felt that there could be a problem with providing fewer than the maximum number of spaces at a sheltered accommodation scheme.
- (12) Councillor Caulfield noted that there was a substantial amount of tarmac present on the site and questioned whether it could still be considered a greenfield site. She asked if there were less planning restrictions on a brownfield site. The Area Planning Manager (West) agreed that there were less restrictions on a brownfield site, but firmly felt that this site was greenfield land. The tarmac on site was only a recent development and was ancillary to the Lions' Gate development, which had expanded unlawfully in any case.
- (13) Councillor Caulfield asked if any of the previous approvals related to the greenfield site. The Area Planning Manager (West) agreed and detailed the applications which had previously been approved and had related to the greenfield site. The Development Control Manager noted that in 2006 a Certificate of Lawfulness had been applied for on part of the land, but it had not been granted.

- (14) Councillor Caulfield asked why the land was still considered to be greenfield when applications in the past had been approved on it. The Area Planning Manager (West) replied that all previous planning approvals on the land had been classed as either ancillary or enabling development. Because these developments did not change the nature or essence of the land as open space, or enabled the land to be retained and maintained as open space in the case of the football club, it was considered that the land remained greenfield and therefore undeveloped.
- (15) Councillor Smart asked if previously granted applications for car parking on site related to the western car park that was currently in situ. The Area Planning Manager (West) did not know if this was the case, but stated that any car parking that was approved as ancillary to the open space use would be acceptable on a greenfield site. He reiterated that development was not banned on a greenfield site as long as it did not change the primary use of the that site.
- (16) Councillor Smart asked a further question regarding the plans of the site, but this was subsequently withdrawn following legal advice from the Solicitor to the Committee.
- (17) Councillor Carden asked what the relevance was between the block of approved flats on the site and the original Social Club as it seemed that a complete change of use had been approved. The Area Planning Manager (West) replied that the block of flats would have been considered an enabling development which would help to fund maintenance and retention of the open space land. He noted that the primary intention of that approval had been to achieve an area of primarily open space of good and usable quality.
- (18) Councillor Davey asked if there was a ground floor Police Room listed on the plans, and asked what the purpose of this was. The Area Planning Manager (West) agreed that there was a room for this, but did not know its use. He stated that the Police had made no request to the Planning Authority for this room.
- (19) Councillor Davey asked if it was usual to have two bedroom flats available in sheltered accommodation and asked if there was anything in place to stop conversion of the lounge area into a flat. The Area Planning Manager (West) stated that they believed the mix of one and two bedrooms was appropriate for the development, and that if permission were approved a condition would need to be added to retain the facilities for the residents.
- (20) Councillor Caulfield noted that £75,000 had been offered by the application for use on the site and asked why this was not referred to in the report. The Area Planning Manager (West) stated that this had been offered unilaterally and had not been negotiated by Officers. The Development Control Manager asked that Member discuss this issue in a later part of the agenda.
- (21) Mr Small, CAG, asked if the landscaped gardens were intended to be gated and kept private. The Area Planning Manager (West) stated that the intended use would only be for residents of the new development or the Lions' Gate development.
- (22) Councillor Kennedy noted that the application was for sheltered housing, and asked how this development could be retained for this use in perpetuity. The Solicitor to the

Committee stated that the Section 106 Agreement would secure the development as sheltered housing only in the form of a covenant. If this covenant were breached the Council could pursue a breach of contract through the Courts of Law.

- (23) Councillor Cobb asked if the development was for both affordable and sheltered housing. The Area Planning Manager (West) stated that the use would be for sheltered housing, but some of this housing would be deemed “affordable”, i.e. below the market rate for that type of property.

Debate and Decision Making Process

- (24) Councillor Steedman stated that in his view it was clear that any previous development on the site was ancillary in nature to the greenfield space. He felt there was a defined need to protect the open space that was identified on this application and believed that any development on such land should be subject to the highest sustainability credentials in the first instance, which this application did not achieve. As such he felt unable to support the application.
- (25) Councillor Hamilton did not believe there was any cause to designate this land as brownfield as all previous development was clearly ancillary. He was concerned that the previous Section 106 Agreement obligations had not been fulfilled, and could not support the development.
- (26) Councillor Cobb was concerned about the mixture of uses proposed on the land, and agreed that the sustainability measures proposed with the application were not well addressed. She was also concerned about the architecture of the building which did not match its surroundings.
- (27) Councillor Carden felt that this type of community space was needed in the local area and felt that it should be preserved as such. Councillor Kennedy agreed and felt that many such sites were being built on across the city and that the Council needed to support its own policies by rejecting any development on this land.
- (28) Councillor Smart was concerned that if part of the land was not permitted to be developed then the community space, which he agreed was in great demand, would never be made available. He added that the proposed development would not create an adverse impact on neighbouring properties and met with existing policies.
- (29) Councillor Mrs Theobald felt that there was a need for sheltered housing in the city and was not against development on the site.
- (30) Councillor Caulfield expressed concern that many issues that Committee Members wanted to discuss as part of the application were restricted under part two of the agenda. She proposed that the application be deferred until the part two report had been considered. Councillor Theobald seconded the deferral.
- (31) The Solicitor to the Committee stated that Members had all of the information necessary to enable a determination of the application on its merits and noted that the two issues were entirely separate. She advised that a decision was possible on the information before them without referring to any other information that may or may not be restricted.

(32) A vote was taken and on a vote of 4 for, 7 against and 1 abstention deferral of the application was refused.

(33) A second vote was taken on the Officer's recommendation and on a vote of 7 for, 2 against and 3 abstentions planning permission was refused.

96.2 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in paragraph 10 of the report and resolves to refuse planning permission for the reasons and informatives set out in the report.

(iii) **MINOR APPLICATIONS**

B. Application BH2009/00696, 39 Salisbury Road, Hove – Demolition of existing building and erection of a four storey private residential building containing nine mixed size units and community area on ground floor.

(1) The Area Planning Manager (West) gave a presentation detailing the constituent elements of the scheme, and referred to floor plans and elevation drawings. He stated that the application was sited on a known Bronze Age burial ground, although emphasised that the burial ground covered a large area and there was no suggestion that this application was being built over actual archaeological remains.

The Area Planning Manager (West) noted there were issues of overshadowing on the site, but this was not severe enough to constitute a reason for refusal. The standard of accommodation to be provided was acceptable and the retention of the community space within the building was desirable. He referred to two late responses from the Manager of Cornerstone Community Centre in support of the application, and a letter from a member of the public that did not support the application.

(2) Mr Tanner, a local objector to the scheme, addressed the Committee and stated that his main concern was in relation to loss of light. The BRE assessment originally conducted had taken measurements at incorrect angles and had resulted in an outcome that stated there was a satisfactory loss of light suffered by the residents. However, a new assessment taken at the correct angles had significantly increased the loss of light likely to be suffered by residents and Mr Tanner felt this was unacceptable. He also felt that the assessment took no account of interior light loss and did not consider the effect the development would have on the living room on 11 Palmeira Square, which would suffer the greatest impact. The local residents accepted the principle of development on this site and welcomed the community use, but asked that the issue of loss of light be resolved before the application was agreed.

(3) Councillor Caulfield asked if parking in the area was difficult and Mr Tanner agreed that it was but that the area was permitted.

(4) Mr Pickup, the applicant, addressed the Committee and stated that the building had been marketed up to 2007 but had fallen into disrepair and was currently unusable. It was a building of little architectural merit and attracted squatters despite several security measures. A new building was proposed to ensure a mix of use and be of benefit to the community. The building would have full disabled access and all of the units would

comply with lifetime homes standards. Mr Pickup felt that all elements of the scheme were now acceptable, including the loss of light that the neighbouring properties would suffer.

- (5) Councillor Davey asked how the community space would be managed once the development was built, and how many cycle parking spaces there were on site. Mr Pickup replied that the management would form part of the planning obligation and had been designed to be flexible in its use to ensure feasibility. Kitchens could be added to the development if there was a need for them. There were 24 cycle spaces provided at the front and back of the development.
- (6) Councillor Caulfield asked who would manage the community space on a day to day basis, and why it was not considered to put a 10th flat in the development instead of a community space. Mr Pickup stated that the management of the community space would be subject to agreement of the planning obligation and the Planning Inspector had rejected a previous appeal on the site because of the lack of community space offered.
- (7) Councillor Mrs Theobald asked if disabled toilets were provided as part of the development, whether there was any car parking available on site and where the obscured glazed windows were situated. Mr Pickup replied that all the toilets were DDA compliant, there was no car parking on site and the obscured glazed windows were part of some bathrooms, some bedrooms and some living accommodation of the units.
- (8) Councillor Smart asked why there were rear balconies if there was no access to them. Mr Pickup explained that part of the design was to step back the building, which created artificial balconies. However, these were not intended for use as such.
- (9) Councillor Smart recognised that the building had been marketed for two years but felt that it was unlikely to find a buyer in its current state and asked why it was allowed to get into disrepair. Mr Pickup agreed and stated that the building had squatters despite the security measures implemented which made it almost impossible to market.
- (10) Councillor Watkins addressed the Committee as Ward Councillor and stated that it was unacceptable that some of the residents would lose up to an hour of sunlight a day due to this development. He felt the facility was underused and had not been marketed properly and although the residents welcomed the community use for the building the current proposals were too high and too intrusive. He also raised concerns about the ongoing management of the community space and felt that these issues should be resolved before the application was approved.

Questions/Matters on Which Clarification was Sought

- (11) Councillor Kennedy and Councillor Smart expressed concern that this was an archaeological site, and Councillor Kennedy asked if the recommended condition regarding archaeology was strong enough given the sensitivity of the possible remains. The Area Planning Manager (West) confirmed that this was a condition recommended by central government and as a consequence was very robust. The process was clearly defined and took the form of two stages. The development would be closely monitored and progress halted if remains were found on site.

- (12) Councillor Kemble noted that this was to be a car-free development and asked when this was agreed. The Area Planning Manager (West) replied that an agreement to this had been reached on 30 June 2009 and formed part of the policies of Brighton & Hove City Council.
- (13) Councillor Mrs Theobald asked if the general public would be able to use the community space provided with the application, whether any of the units were designated for disabled use and if there was a lift planned as part of the application. The Area Planning Manager (West) stated that a lift was provided, and although all of the units were wheelchair accessible, none were specifically designated for wheelchair disabled use. He was unable to say who would use the community space as this was a matter for the owners of the building, but stated there was an identified need in the area.
- (14) Councillor Mrs Theobald asked if there was any car parking provided on site and the Area Planning Manager (West) replied there was not.
- (15) Councillor Steedman asked where it was stated that the development would be car-free and the Area Planning Manager (West) replied that there was a unilateral agreement between the developers and the Council to this effect.
- (16) Councillor Davey noted the intention for community use of the facility and asked if a Community Facility Management Plan would be drawn up to guarantee this. The Area Planning Manager (West) stated that there could not be a guarantee that the community would use the facility, but the intention of this use could form part of the Section 106 Agreement.
- (17) Councillor Davey asked if the cycle parking area was covered and the Area Planning Manager (West) stated that an informative could be added to the decision to ensure this was the case.
- (18) Mr Small, CAG, asked what the dimensions of the community space would be under the new development. The Area Planning Manager (West) replied that the total community space would be 320 square meters in the new development, which would constitute a loss of 76 square meters from the existing building dimensions.
- (19) Councillor Caulfield asked if the community use could be stipulated as part of the decision to ensure it was not returned to residential use at any point. The Area Planning Manager (West) stated that this would be intrinsic to the decision, but added that if the community space was not being used a further application could be submitted to change the use back to residential.
- (20) Councillor Smart stated that he was worried about the intrusion of the use of the proposed garden on the nearby residential properties and asked what enforcement was available to the Council to ensure the amenity of the neighbours was protected. The Area Planning Manager (West) stated that a condition could be added to improve screening along the garden cartilage and noted that the Environmental Health Department would deal with any statutory nuisance created by the garden and could take enforcement action if necessary.

- (21) Councillor Steedman asked what items could be secured by a Section 106 Agreement and referred specifically to kitchens on the development. The Development Control Manager stated that the Head of Term could be expanded to include this and a management plan for the premises.

Debate and Decision Making Process

- (22) Councillor Mrs Theobald welcomed the proposed community space in the building but felt that the application required some car parking facility on site. She felt that the development would increase the number of cars on the street, which was already congested. She also felt that application was too high compared with other buildings on the street and was concerned about the issues of overshadowing that the neighbours would suffer.
- (23) Councillor Smart was also unhappy about the issues of lack of parking and overshadowing, which had not been resolved satisfactorily, and stated he could not support the development.
- (24) A vote was taken and on a vote of 6 for, 4 against and 2 abstentions Minded to Grant planning permission was granted.

96.3 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in paragraph 8 of the report and resolves it is Minded to Grant planning permission subject to the conditions and informatives set out in the report and the following additional conditions and informatives:

- (a) A Section 106 obligation to secure the following:
- The provision of the community facility as a community benefit, and
 - A management plan for the community facility to ensure its use as such.
- (b) A condition for the details of the boundary treatment.
- (c) Informative: That the cycle parking area should be a covered area for the storage of cycles in all weathers.

C. Application BH2009/014000, 32 Redhill Drive, Brighton – Demolition of existing house and construction of a pair of semi-detached houses.

- (1) The Area Planning Manager (West) gave a presentation detailing the constituent elements of the scheme, and referred to floor plans and elevation drawings. He stated that the application had previously been refused, which was upheld at appeal. The Planning Inspector had agreed with the reasons for refusal regarding the roofscape but did not agree that the neighbours would suffer detrimental impact. The new application sought to resolve this with an increased roof pitch. The development was close to badger sets but a condition to ensure their successful relocation was included in the recommendation.
- (2) Mr Gibson, a local objector, addressed the Committee and stated that the development was inappropriate in terms of size and appearance. The demolition of the detached

residence for two semi-detached residences was out-of-keeping with the area and contravened Brighton & Hove's planning policies. He felt the development felt cramped in and the footprint had increased by 100 percent which would make the building appear bulky and over-dominant. Mr Gibson was concerned about the effect of the hard-standing at the front of the building, and felt that the problem of the badger sets was unresolved. He also felt that the development would create extra parking on the street.

- (3) Ms Cattell, Agent for the applicant, addressed the Committee and stated that the Planning Inspector's decision at appeal had been helpful in designing a more acceptable building. The principle of development on the site was accepted and only the issue of the flat roof had been upheld. Several meetings had taken place between Council Officers and the Design Team to resolve this issue, which she felt the current application did. There was an improved relationship with the frontline of the building and the impact on the neighbours was not significant. The hard-standing to the front of the building would be a permeable surface and the badger sets would be relocated to artificial sets. There were no outstanding statutory objections to the scheme and she urged the Committee Members to support the application.
- (4) Councillor Caulfield asked if development would take place on the site while the badgers were still in their current sets. Ms Cattell stated that the development would take place in accordance with national regulations regarding badger sets on development sites, and would adhere to the advice of the Ecological experts at the Council.

Questions/Matters on Which Clarification was Sought

- (5) Councillor Caulfield believed it was unusual to move badger sets and asked what would happen if they did not relocate to the artificial sets. The Development Control Manager stated that the Council's Ecologist had not raised any objections to this application and believed it was likely the badgers could be relocated. She noted that there was separate legislation to protect badger sets and the developer would not be able to continue with the development until the badgers were satisfactorily relocated.
- (6) Councillor Smart expressed concerns over the overhang of the building, and the overshadowing this might create for number 30 Redhill Drive. The Area Planning Manager (West) agreed that some morning sun might be lost for this property, but the Planning Inspector had not upheld this as a reason for refusal.
- (7) Councillor Davey noted that the application had been previously refused as the front garden was covered with hard-standing. He asked if a condition could be added to prevent this occurring with the new application. The Development Control Manager stated that permitted development rights could be removed from this property to ensure hard-standing was not laid to the front garden.
- (8) Councillor Mrs Theobald asked if there were any other semi-detached buildings on the street and the Area Planning Manager (West) stated that they were mainly detached residents, but there were several changes in the style of properties along the street.

Debate and Decision Making Process

(9) Councillor Mrs Theobald stated that she was concerned about the large footprint of the building and felt that it constituted overdevelopment. She felt the neighbours would be overshadowed, the semi-detached properties were out-of-keeping with the area and remained concerned about the successful relocation of the badger sets.

(10) A vote was taken and on a vote of 8 for, 2 against and 2 abstentions planning permission was granted in accordance with the conditions and informatives set out in the report.

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

D. Application BH2008/01283, 1 Tivoli Crescent, Brighton – Demolition of existing garages and non original extension, conversion of existing 1st and 2nd floor maisonette to form a two bed 1st floor flat and a one bed 2nd floor flat retaining the existing two bed ground floor flat together with the erection of a new three bed house with parking and gardens.

(1) The Area Planning Manager (West) gave a presentation detailing the constituent elements of the scheme, and referred to floor plans and elevation drawings. He stated that the application included sustainability measures and met lifetime homes standards. There was a reduction in car-parking spaces on site but the development was near good public transport and so this was considered acceptable.

Questions/Matters on Which Clarification was Sought

(2) Mr Small, CAG, asked what material was planned for the roof of the house and the Area Planning Manager (West) stated that this would be a metal and sedum roof with solar panels on the back. Mr Small felt that a metal roof could be intrusive to neighbours and asked if a condition could be added to ensure that a matt finish was used.

(3) Councillor Allen was concerned about the lack of parking as the development was near the parking zone extension area, and asked if the design was appropriate given the uniformity of Edwardian properties on the street. The Area Planning Manager (West) felt that it was not unusual to have striking new developments in uniform areas and they could add to the distinctiveness of the area. The Traffic Manager stated that if the area joined the parking zone the residents of the development and of the area would be required to join a list for a parking permit. He noted that his comments in the report had been made in June 2009, before a new parking zone had been proposed.

(4) Councillor Mrs Theobald was concerned about the light levels for the lower ground floor and the Area Planning Manager (West) stated that light wells to the front and back of the building would provide light for this floor.

Debate and Decision Making Process

(5) A vote was taken and on a vote of 8 for, 3 against and 1 abstention planning permission was granted in accordance with the conditions and informatives set out in the report.

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

97. 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

97.1 **RESOLVED** – That the following site visits be undertaken by the Committee prior to determining the application:

Application	Site Visit Requested By
BH2008/00792, Brighton General Hospital	Development Control Manager

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

98.1 **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 had been submitted for printing, was circulated to Members on the Friday preceding the meeting (for copy see minute book). 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 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.

99. CONSIDERATION OF LEGAL MATTERS

99.1 The Committee considered legal advice received in respect of an outstanding matter and determined to take further action as appropriate.

The meeting concluded at 6.30pm

Signed

Chairman

Dated this

day of

