

BRIGHTON & HOVE CITY COUNCIL

PLANNING COMMITTEE

2.00pm 30 JUNE 2010

COUNCIL CHAMBER, HOVE TOWN HALL

MINUTES

Present: Councillors Hyde (Chairman), C Theobald (Deputy Chairman), Alford, Cobb, Davey, Hamilton, Kennedy, McCaffery, Simson, Smart and Steedman

Co-opted Members Philip Andrews ((Chairman) Conservation Advisory Group)

Officers in attendance: Jeanette Walsh (Development Control Manager), Hilary Woodward (Senior Lawyer), Pete Tolson (Principal Transport Planner), Liz Hobden (Planning Policy Officer), Steve Reeves (Principal Transport Planner), Claire Burnett (Area Planning Manager (East)) and Jane Clarke (Senior Democratic Services Officer)

PART ONE

34. PROCEDURAL BUSINESS

34a Declarations of Substitutes

34.1 Councillor Allen declared that he was substituting for Councillor Carden.

34b Declarations of Interests

34.2 Councillor Allen declared a personal and prejudicial interest in application BH2010/00060 and BH2010/00061, St Augustine's Church, Stanford Avenue, Brighton arising from the fact that he had already expressed an opinion on the application and intended to speak in objection as Ward Councillor.

34c Exclusion of the Press and Public

34.3 In accordance with Section 100A of the Local Government Act 1972 ("the Act"), the Planning Committee considered whether the public should be excluded from the meeting during consideration of any item of business on the grounds that it is likely in view of the business to be transacted or the nature of the proceedings, that if members of the public were present during it, there would be disclosure to them of confidential information as defined in Section 100A (3) of the Act.

34.4 **RESOLVED** - That the public be not excluded from the meeting during consideration of any item appearing on the agenda.

35. MINUTES OF THE PREVIOUS MEETING

- 35.1 **RESOLVED** – That the Chairman be authorised to sign the minutes of the meeting held on 9 June 2010 as a correct record of the meeting with the following amendments:
- 18.1 “Councillor Carden declared a personal interest on application BH2010/00669, 75 Crest Way, North Portslade in knowing an objector to the application but as he did not consider that this amounted to a prejudicial interest he took part in the discussion and abstained from voting thereon.”
- 17.4 “Councillor Cobb declared an interest in application BH2010/00559, Dolphin House, Manchester Street as she had been closely involved in licensing issues relating to the objectors residences. She felt that the public perception may be that she had predetermined the application and therefore did not take part in the discussion or voting and left the room for the duration of the application.”
- D (16) [In relation to Mr Reeves’ advice on application BH2010/00083, Land to the rear of 67-81 Princes Road] “...there were no bus stops in the vicinity of the site that needed up-grading or improving...”

36. CHAIRMAN'S COMMUNICATIONS

- 36.1 The Chairman reported that a report from the Enforcement Team would be coming to the next meeting regarding the performance of the team over the last year.
- 36.2 The Chairman introduced Liz Hobden from the Planning Policy Team to discuss new changes to national planning policy.
- 36.3 Ms Hobden stated that a briefing note would be circulated to Members regarding changes to the housing targets and the Regional Spatial Strategy. There was a clear intention from the government to abolish the South East Plan and this would have implications on housing targets which would be locally rather than regionally set in future. She noted that Brighton & Hove had been historically good at meeting these targets. The Growth Point designated around Shoreham Harbour would change in status, but the Team were awaiting more details on this, and targets for gypsy and traveller sites would now be locally determined.

Further changes to PPS3 included deletion of the nation minimum density targets, but this would have less impact on Brighton & Hove as it was already a densely populated city. Garden land would no longer be considered as previously developed land and would now be defined as greenfield land. Within national policy (PPS3) there is no longer a presumption against building on greenfield land. Nor can gardens be treated as ‘open space’ within the definitions of policy HO20 that deals with protection or public and private outdoor recreation space. However, each planning application for garden development will need to be considered on its merits in the current planning policy framework but the changes will allow the city council to apply higher standards for design, retention of garden space, appropriate density standards and for meeting higher sustainability requirements.

- 36.4 Councillor Kennedy asked about the impact on the existing estate owned by the Council and Ms Hobden replied that the same considerations would remain as this was not classed as private garden land.
- 36.5 Councillor Cobb felt the briefing note seemed to contradict itself. The Solicitor to the Committee, Ms Woodward replied that the briefing note was a summary of the changes, but more detailed information was provided in section two which clarified the changes. The Head of Development Control, Ms Walsh added that a greater test would now apply to garden land, but if the application passed that test planning permission could be granted. The Chairman noted that the complete document was available to Members and available on the website for further consideration.
- 36.6 Councillor Davey asked about the implications for Shoreham Harbour and Ms Hobden replied that it was likely the South East Plan would be revoked rapidly and further guidance for these implications would be issued shortly to Members.

37. PETITIONS

- 37.1 There were none.

38. PUBLIC QUESTIONS

- 38.1 There were none.

39. DEPUTATIONS

- 39.1 There were none.

40. WRITTEN QUESTIONS FROM COUNCILLORS

- 40.1 There were none.

41. LETTERS FROM COUNCILLORS

- 41.1 There were none.

42. NOTICES OF MOTION REFERRED FROM COUNCIL

- 42.1 There were none.

43. APPEAL DECISIONS

- 43.1 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.

44. LIST OF NEW APPEALS LODGED WITH THE PLANNING INSPECTORATE

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

45. INFORMATION ON INFORMAL HEARINGS/PUBLIC INQUIRIES

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

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

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

Application:	Site visit requested by:
BH2009/03014, 331 Kingsway, Hove	Head of Development Control
BH2010/001054, Brighton General Hospital, Pankhurst Avenue, Brighton	Head of Development Control

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

(i) TREES

47.1 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation and resolves to refuse consent to fell the tree which is the subject of this application.

BH2010/01518, 15 Wanderdown Close, Ovingdean.

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

A. BH2010/00060, St Augustine’s Church, Stanford Avenue, Brighton – Conversion of Church Hall to provide 14 self-contained flats together with alterations to existing building and 2-storey extension with accommodation in roofspace and basement car parking to rear. Alterations to church to provide additional community space. Demolition of timber building to rear.

Note: [The presentation of this application and application BH2010/00061, St Augustine’s Church, Stanford Avenue, Brighton (listed building consent application) were taken together.]

(1) The Area Planning Manager (East), Ms Burnett, introduced the application and presented plans and elevation drawings for applications BH2010/00060 and BH2010/00061. Three errors were corrected on the report in that there were in fact fourteen flats comprising of 12x2 bed and 2x1 bed units, with regard to highways and parking a legal agreement requiring a financial contribution of £10,500 and not £15,000 and that there were 16 car parking spaces plus 1 disabled car parking space.

Ms Burnett noted there had been 48 letters of support and 15 letters of objection including a letter of objection from Councillor Allen as Ward Councillor.

The building was a prominent landmark grade II listed building in the Preston Park Conservation Area. Planning permission had been sought for conversion of the church hall to flats with a rear extension. The extension would be at a minimum two metres from the site boundary and there would be balconies and windows created as part of the scheme. No materials had been submitted in this respect. Access would be from Florence Road and 19 cycle spaces would be created. Furthermore alterations to the interior of the Church were sought to create community space. There were concerns regarding standing room on the third floor due to the trusses for the roof.

In principle the development accorded with policy, but did not meet the affordable housing requirements for a scheme of this size and there was no satisfactory reason why this was the case. The Conservation Officer had objected to the scheme stating that the Nave and Palladian window made important contributions to the street scene and would be unacceptably altered by the proposals. The amenity of neighbouring properties would also be affected and the size of the extension would be dominant and overbearing. It was felt the scheme would be poor in terms of light and outlook for future occupiers and the spatial relationship of the buildings was poor and contrary to policy. Private amenity space for future occupiers was limited and poor, and there had been no bat report submitted with the scheme, which was against policy in terms of biodiversity.

The listed building application was also recommended for refusal due to the unacceptable changes to the Palladian window and the interior of the Church. There were a number of inaccuracies in the plans submitted by the developer, and this was proposed as a further reason for refusal.

- (2) Mr Simon Bareham, Agent for the applicant, and Reverend Peter Dennett spoke in support of the scheme. Reverend Dennett stated that the application had been through several stages of detailed discussion to achieve its current stage. The Church had been marketed and sixteen bids for redevelopment had been received. Only one bid combined a community and church element with a residential redevelopment proposed. Reverend Dennett felt that the scheme proposed had excellent community benefit credentials including child care and lunch clubs for the elderly. The development would encourage employment and revive the building for community life. Local residents and businesses had been surveyed and there was a groundswell of support for the scheme. The loan to maintain the Church was crippling and this would be an enabling development that would turn a negative situation into a positive for the community.
- (3) Mr Bareham spoke and stated that the costs to provide community space in schemes were prohibitive and the residential element was needed to meet some of these costs. There was a shortfall of around £80,000 that parishioners would need to find. The extension had been altered to reduce overlooking and he did not feel it would now result in overshadowing. The lack of affordable housing on the site was down to finances, and with each unit of affordable housing provided, there would be an additional shortfall in funding of around £100,000.
- (4) Councillor Mrs Theobald asked for more information on the community uses of the Church. Reverend Dennett said that the Church was needed for far more than just

Sunday mornings. A similar example of what they hoped to emulate was at a Church and community centre in Patcham, which was used seven days a week for a variety of community uses.

- (5) Councillor Mrs Theobald asked if the Church could still be used for worship and Reverend Dennett agreed, stating that it could be used for weddings et cetera as well. As the community space interiors would be moveable, the Church could adapt to the needs of the community.
- (6) Councillor Mrs Theobald noted many mature trees on site and asked if they would be retained. Reverend Dennett replied there were no plans to disturb the trees.
- (7) Councillor Kennedy highlighted the lack of consideration paid to biodiversity issues on site, in particular noting that no bat study had been performed, and asked why this was. Mr Bareham replied that as bat surveys only needed to be done when there were changes to the roof structure on buildings older than 1914 they had not considered it was necessary. However, they were happy to provide this information if required.
- (8) Councillor Smart asked if the applicant had considered running the community project in the same way as a similar community scheme run by Cornerstone. Reverend Dennett replied that this project was unique in style and nature and was aiming to provide the community with the best centre possible.
- (9) Councillor McCaffery asked about the lack of affordable housing offered on the scheme, and asked if this was purely for financial reasons. Mr Bareham confirmed this and stated that a shortfall of £80,000 already existed on the project and for each affordable housing unit that was included as part of the scheme, a further £100,000 would need to be found by parishioners. Reverend Dennett added that they had submitted a previous application with an affordable housing element, but had been advised that the density on site was too high and they were advised to remove the affordable housing to lower the density levels.
- (10) Councillor Allen spoke as Ward Councillor in opposition to the scheme and asked the Members to support the officer's recommendation and refuse the scheme. The development would have an unsatisfactory impact on neighbouring properties, it lacked any affordable housing element and Councillor Allen urged the committee to uphold the policy of Brighton & Hove City Council in this regard. Further clarification was needed on the purpose of the community element of the scheme, and it would create parking issues on Florence Road and Stanford Avenue. Councillor Allen noted that parking was a particularly sensitive issue in this area and he was surprised that the traffic officer had stated that there was spare capacity in the area. Whilst he agreed that the Church needed to be brought back into use again, and this was an admirable scheme in principle, he urged the developers to rethink the application and return with a more detailed scheme that addressed the issues raised today.

Questions/Matters on which Clarification was Sought

- (11) Councillor Simson asked what the structure was and how high that was indicated near to the Church on the ordnance survey plan. Ms Burnett replied that she believed it was a timber shed that was one storey high.

- (12) Councillor Mrs Theobald asked about the orientation of the flats and Ms Burnett replied that they were oriented in various different ways and had a variety of aspects.
- (13) Councillor Cobb queried the parking standards given in the report and felt they were conflicting. She believed that the parking standards should be one parking space provided per unit plus one visitor space per two units.
- (14) The Principal Transport Officer, Mr Tolson stated that the general parking standards were a maximum for new developments rather than a target. They could submit applications with less parking provided if they wanted to.
- (15) Councillor Cobb asked whether the affordable housing provision should be 40% or up to 40%, and the Head of Development Control, Ms Walsh, replied that policy HO2 stated that on housing windfall schemes, affordable housing of 40% should be provided. She felt that Councillor Cobb may be referring to the emerging policy in the Core Strategy, but advised Councillors that this policy only held limited weight at the moment.
- (16) Councillor Davey asked whether the Church was intended to be brought back to full Church use and Ms Burnett replied that it was for both Church and community use. Ms Walsh added that it appeared from the site visit that the Church had already been put into use.
- (17) Councillor Davey asked if there would be restrictions on the community space in terms of what uses it could be put to, and what development may or may not be allowed in the future. Ms Burnett stated that there was an existing community use established for the space and the policies of Brighton & Hove City Council would seek to retain this use in any future planning applications.
- (18) Councillor McCaffery asked about the suggestions for a proposed children's nursery. Ms Burnett indicated where this would be situated on the plans, and Ms Walsh added that due to health and safety concerns this area could not be accessed on the site visit.

Debate and Decision Making Process

- (19) Councillor Mrs Theobald stated that the Church was a beautiful building that needed to be brought back to community use. She believed there was enough parking and did not believe that the scheme needed to provide 40% affordable housing as the community use was so worthwhile.
- (20) Councillor Hamilton believed that as the Council had a policy regarding 40% housing this needed to be adhered to regardless of how worthy a particular scheme might be or how expensive it might be for developers to include. He understood the difficulties on site and agreed with the overall use of the development however.
- (21) Councillor Kennedy agreed and stated the policy must be protected otherwise it would be weakened and challenged by other developers. She also felt that the Church was a beautiful building, but the proposals would spoil the interior. She added that whilst community space was generally good, it might not be suitable to situate it in a Church

for certain parts of the community who might belong to different faiths and feel uncomfortable about using a church. Finally she believed that the adverse biodiversity implications with this application were very serious and should the application be approved conditions would be needed to protect this.

- (22) Councillor Smart was satisfied with the car parking provision on site but not the lack of affordable housing. He recognised that the Paladian window was in danger as were parts of the interior, however felt the community aspect of the scheme was excellent and understood how difficult it was to bring such projects to fruition and on budget. He felt that other denominations would be happy to use the Church on a community basis.
- (23) Councillor McCaffery felt this was an exciting development as the Church was currently derelict and used by drug-users. She understood the difficulties on the scheme, but felt that a compromise between density and affordable housing could be reached. She remained concerned about the implications to the Paladian window and overlooking on neighbours.
- (24) Councillor Simson felt that some leeway could be granted to this scheme as the community use would be so beneficial. She appreciated the problems with delivering the affordable housing on site and felt that this requirement could be dropped in this instance to bring the building back to a viable use quickly.
- (25) Ms Walsh addressed the Committee and stated that there would be an adverse cumulative impact on overlooking and the amenity of nearby neighbours if the scheme was granted. The Conservation Team and Conservation Advisory Group had also raised significant objections to the scheme. There were discrepancies in the drawings submitted by the applicant and this was recommended as an additional reason for refusal. There was no overall objection to the proposals for the site, but there were unresolved planning and listed building issues that provided solid grounds for refusal.
- (26) Councillor Kennedy raised concerns over proposed internal floors being solid and crossing the width of the building. Ms Burnett noted that there would be voids in the floors around the Nave area.
- (27) Councillor Mrs Theobald felt that lots of Church conversions had solid floor insertions that did not create a problem and felt this could be achieved here. She was concerned that the building would fall down if there was no investment. Ms Walsh replied that a structural survey had been conducted and the building was structurally sound and would not fall down.
- (28) Councillor Alford asked if the Nave would retain floor to ceiling vision and Ms Burnett confirmed this.
- (29) Councillor Smart asked if views through the Church would be retained due to the partition walls proposed and this was confirmed.
- (30) A vote was taken and on a vote of 6 for refusal, 3 against refusal and 2 abstentions, planning permission was refused for the reasons given in the report.

47.2 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in paragraph 1 of the report and resolves to refuse planning permission.

B. Application BH2010/00061, St Augustine’s Church, Stanford Avenue, Brighton – Conversion of Church Hall to provide 14 self-contained flats together with alterations to existing building and 2-storey extension with accommodation in roofspace and basement car parking to rear. Alterations to church to provide additional community space. Demolition of timber building to rear.

(1) A vote was taken and on a vote of 7 for refusal, 1 against refusal and 3 abstentions, listed building consent was refused for the reasons given in the report.

47.3 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in paragraph 1 of the report and resolves to refuse listed building consent.

C. Application BH2010/00813, 53a New Church Road, Hove – Demolition of existing bungalow and erection of new 2 storey dwelling house.

(1) This application was deferred for a site visit without discussion.

D. Application BH2009/01355, Wolseley Build Centre, 19 Bristol Gardens, Brighton – Demolition of existing building and construction of 9 new residential dwelling houses. Provision of on site parking, cycle store and refuse facilities.

(1) Ms Burnett introduced the application and presented plans and elevational drawings. She noted that there was significant frontage proposed on the west boundary of the development and the existing structure would be demolished to provide 9 dwellings. Off road parking would be provided. Access would be from Bristol Gardens. Seventeen letters of objection had been received. There were no policies which did not support a change of use of the site and there were a variety of styles in architecture in the surrounding area, so the modern style proposed was acceptable. As this was a residential scheme it would reduce the impact of noise on site from the current use. Whilst the development would increase overlooking on Princes Terrace the distances were in acceptable limits for a city centre location. The scheme was set back and so would reduce any overbearing element from the current structure. The size of amenity space varied greatly in the surrounding area and so the proposed amenity space on this development was acceptable. There was one parking space provided per unit and conditions were included to ensure safety measures on site. Code level three for sustainable homes was required as a site condition.

(2) The agent for the applicant, Mr Green spoke in favour of the application and stated that this was an exemplary scheme which had taken in considerations from pre-application meetings. The use on site was sui generis. The existing occupier was relocating and the site would fall into disuse. Given the existing residential surroundings a residential scheme was entirely appropriate here. Although there was a small loss of on street parking, several spaces were provided off street and this would be balanced out by the lack of commercial movements on site. The density was slightly lower than 50 dwellings per hectare. Mr Green was happy to include a condition to retain the flint wall and a

precise height for boundary treatments. There was a minor variance in site levels of about one metre and so there would be no loss of light as a result of the development. Finally Mr Green agreed that there would be no balconies or roof terraces on site.

- (3) Councillor Smart asked if the repairs to the flint wall would include replacement of the brick sections and Mr Green agreed to enter into discussions with officers regarding this.
- (4) Councillor Alford asked if there would be any overlooking created by the development and Mr Green replied that the 1st floor level bathrooms would be obscured glazing on this aspect, and whilst there were some bedroom aspects that would not be appropriate for this they were at distances of around 17 meters and so the overlooking implications were not that significant. The development was consistent with its surroundings.
- (5) Councillor Mitchell spoke against the application as Ward Councillor and stated that the site was very constrained with access and egress issues, which was very narrow and almost hidden. Princes Close was a quiet area and the application would significantly change the amenity of the Close. She welcomed the offer to repair the flint wall but questioned the suggested raising of the boundary walls as this might create loss of light issues for some of the existing residents. The Officer's report recognised there would be increased overlooking from the development and this was compounded by the variance in site levels which was quite considerable. She welcomed the condition to prevent roof terraces and balconies being created, but overall the issues around overlooking, density and loss of light for existing residents remained unresolved.

Questions/Matters on Which Clarification was Sought

- (7) Councillor Alford asked if the boundary wall treatment could be increased along Princes Terrace to allay concerns about overlooking. He asked whether there was a condition to prevent balconies and roof terraces being included on site and whether there would be any obscured glazing on site. Ms Burnett replied that the flint wall would need to be retained to an agreed height. The roof terraces and balconies would be restricted by condition and Officers did not have details of obscured glazing on site. Ms Walsh added that there were amenity issues with raising the boundary too high and an informative could be included for details of the boundary to be discussed.
- (8) Councillor Simson asked what was the closest distance relationship between the development and Princes Terrace. Ms Burnett replied that units 4 and 13 would be 10.5 meters distance back to back.
- (9) Councillor Steedman asked why this site was not included in current policies to protect employment use on site. Ms Walsh replied that the current site use did not fall into any class. The department were aware of this discrepancy and were addressing this in the forthcoming Local Plan.
- (10) Councillor Hamilton noted the loss of employment space on site and asked why similar applications had been refused under employment usage. He also asked why there was not 40% affordable housing provision on site. Ms Walsh replied that the current site use did not fall into any category defined by the policy and so was not protected. She added that the affordable housing policy only applied to developments with 10 or more units on

site. She believed 9 units on this site were appropriate given the density and concerns around overlooking.

- (11) Councillor Mrs Theobald asked about the loss of parking space on street and Mr Reeves replied that he was not aware of any capacity elsewhere in the area where these spaces could be met and the scheme met with the Council's currently adopted standards.

Debate and Decision Making Process

- (12) Councillor Steedman was disappointed that the employment use on site could not be protected but believed that this was a good scheme which brought forward family homes which were needed in the city.
- (13) Councillor Hamilton was also disappointed that the employment use was not protected on site, and felt that other sites had enjoyed this protection in the past despite having the same use and functions. He felt the existing policy needed to be amended quickly to resolve this issue.
- (14) The Solicitor to the Committee, Ms Woodward, stated that the previous application to which Councillor Hamilton referred had been storage use only and therefore fell into B8 class and could be protected. This was not the case with the current application site and therefore the employment usage could not be protected using policy grounds.
- (15) A vote was taken and on a vote of 11 for approval, none against approval and one abstention, planning permission was granted subject to the conditions and informatives in the report and as detailed below.

47.4 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in paragraph 9 of the report and resolves to grant Minded to Grant planning permission subject to the applicant entering into a Section 106 Agreement and to the conditions and informatives listed in the report and the following additional conditions:

1. No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a scheme for the restoration and repair of the existing flint and brick walls surrounding the development. The scheme shall include details of openings and restoration of the walls.

Reason: To enhance the appearance of the development in the interest of the visual amenities of the area and to comply with policies QD1 and QD15 of the Brighton & Hove Local Plan.

2. The details approved in accordance with the condition above shall be implemented prior to the occupation of the development.

Reason: To enhance the appearance of the development in the interest of the visuals

E. Application BH2010/01132, 41 Ladies Mile Road, Brighton – Change of use from A2 to A5.

- (1) Ms Burnett introduced the application and presented plans and elevational drawings. She noted that the application was minded to grant and five further letters of objection, plus a letter of objection from Councillor Pidgeon had been received. The property was currently vacant but had been used as a betting shop. The proposed use was for a takeaway. There would be external works to the shop front and the signage would be relatively modest. There was a flat roof at the rear and there were concerns that this would be used as a roof terrace. A condition to restrict the use of this roof to emergency access and maintenance only was proposed. It was felt that the proposed use would not increase disturbance but there would be greater evening use on site. The applicant had proposed a condition that the premises was not open for counter sales before 16:00 hours. There was no significant increase in traffic caused by the development and whilst there was insufficient information regarding cycle space provision, this could be secured by condition. The change of use accorded with existing policies of the Council. Legal advice had been given to Members regarding health issues related to the site.
- (2) Ms Sampson, a local neighbour spoke against the scheme and stated that it had been previously refused and she felt the applicant was purposefully targeting this site to gain trade from nearby school children. She felt that the product the applicant sold was poor in nutritional value and believed that the law made it possible for Local Councils to take account of healthy eating policies and strategies. A recent NICE report recommended restricting takeaways near schools to reduce cardio-vascular disease. The local residents were also concerned about the anti-social behaviour that might occur should this application be granted as it was a low lit area where people would congregate. There were parking and traffic congestion concerns and she felt the scheme would contribute to obstruction of the highway with delivery vehicles parking illegally in the area. Finally, local residents were concerned about the increase in noise and pollution that might be caused by this application.
- (3) The agent for the applicant, Mr Unwin, spoke in favour of the scheme and stated that since the previous refusal on this site a detailed highway report had been commissioned and the Highways Department and the Environmental Health Department had now given the scheme their full support. Sussex Police had been consulted and had stated that there was no record of this type of premises attracting anti-social behaviour and as the premises would be closed at 23:00 hours it would not attract people coming home from local public houses.

To allay any health concerns arising from students from the nearby school using the facility the applicant proposed a condition to restrict counter sales to after 16:00 hours. The premises would not be able to deliver any products to the school. The premises had been on the market for two years without any interest and the applicants were able to spend a large amount of money on the development to refurbish the property. There were no policies against this application and Mr Unwin urged the Committee to approve it.

- (4) Councillor Smart asked if orders could be phoned ahead and picked up at the premises beforehand and Mr Unwin replied that this was not possible with the proposed condition as there would be no counter service before 16:00 hours.

- (5) Councillor Kennedy asked if the applicant had any policies regarding delivery drivers and where it was appropriate for them to park vehicles. Mr Unwin replied that a document was available for this purpose. A meeting had taken place with the franchisee and the Police regarding similar problems at a separate site and it was the view of the Police that this outlet would relieve parking pressures at the alternate store. Therefore the Police fully supported the application.
- (6) Councillor Mrs Theobald asked about the amount of delivery vehicles at the premises and the health content of the food. Mr Unwin replied that the product was created with fresh ingredients and he felt that many health issues were related to lack of exercise. Traffic movements would obviously vary but be at their peak between 18:00 and 20:00 hours. This did not coincide with other peak traffic movements however and the applicant was able to synchronise traffic movements across its stores to minimise overall deliveries.
- (7) Councillor Mrs Theobald asked where the vehicles would be kept during lulls. Mr Unwin replied that during the peak times most other shops would be closed so there would be more parking spaces available. The applicant was able to anticipate movements well in advance to ensure smooth traffic flow.
- (8) Councillor Simson asked what policies would be in place to ensure there were no counter sales before 16:00 and to ensure delivery drivers parked sensibly. Mr Unwin stated that the applicant held the lease of the franchisee and would enforce any legal conditions, government laws and by-laws. He added that there was also an enforcement team at the Council which would be able to legally enforce any conditions placed on the planning permission.
- (9) Councillor Cobb asked if deliveries could be made in the local area and Mr Unwin replied that they could.
- (10) Councillor Pidgeon spoke as Ward Councillor against the application and handed a petition to the Chairman regarding the application. He stated that there was significant local objection to the proposals and referred to a recent NICE paper "Public Health Guidance", which recommended that local authorities have the power to control fast food outlets and there was a need to restrict these when in walking distance to schools. He felt that a recent High Court judgement supported this stance and added that there were already a lot of takeaway premises in the area. He urged the Committee to refuse the application.
- (11) Councillor Smart asked if there was another takeaway pizza outlet close by and Councillor Pidgeon confirmed there was one next door but one to the application.
- (12) Councillor Simson asked for the reasons for refusal given on the petition and the Chairman stated that there were various reasons given ranging from the premises being too close to a school, to noise issues, no need for the outlet, the promotion of local trade, concerns around anti-social behaviour and additional litter in the area.

Questions/Matters on Which Clarification was Sought

- (13) The Chairman noted the letter from Councillor Pidgeon attached to the late list and advised Members that it was not printed completely.
- (14) Councillor Simson noted that Sussex Police had suggested there was a high frequency of delivery vehicle movements at other stores but the Highways Department had not objected to this application and asked why there was this discrepancy. Mr Reeves stated that the Highways Department assessed traffic movements across the city as a whole and determined the impact on the total network. The existing impact from this application would not be enough to warrant a material reason for refusal of the application.
- (15) Councillor Smart asked if traffic was assessed when other local community centres were at the peak use. Mr Reeve stated that the assessment had been conducted on a Friday between 17:00 and 20:00 hours. He did not think this issue would have been picked up in this assessment.
- (16) Councillor Alford asked where the flue would terminate and Ms Burnett replied that that a condition was included for details of this to assess the impact.
- (17) Councillor Mrs Theobald asked where the cycle parking would be located and Mr Reeves stated that although it was not on the plans, it would be required to be safe for cyclists and not impede pedestrians.
- (18) Councillor Simson asked why the application was recommended for approval now when it had been refused in 2009. Ms Burnett replied that an anti-social behaviour and traffic assessment had been conducted for this application and the Police had been consulted for their views. This indicated that the previous reasons for refusal had been satisfactorily met. Mr Reeves added that any increase in traffic on the road could be accommodated on the surrounding network.
- (19) The Chairman asked for details of the delivery vehicles and Mr Reeves replied that there were no formal loading areas on the carriageway. He believed that scooters might be used for delivery of the products from this premises.
- (20) Councillor Simson asked why the anti-social behaviour reason was given for refusal of the last application in 2009. Ms Walsh replied that Committee Members had been concerned about instances of anti-social behaviour in the area, but the Police had been consulted and a recommended hours condition had been placed on the permission.
- (21) Councillor Steedman asked for more information regarding the healthy eating legal advice and Mrs Woodward replied that a Planning Committee at the London Borough of Tower Hamlets had been wrongly advised by Officers that healthy eating concerns were not material planning considerations. The High Court had recently confirmed that a healthy eating policy was capable of being a material planning consideration and should be given the appropriate weight. The planning authority's decision had been quashed on this ground. It was not for the Court to consider the merits of the planning application. Mrs Woodward added that it was her understanding that the Brighton & Hove Local Plan

did not contain policies supporting a refusal on these grounds. She accepted that the Brighton & Hove Planning Committee may have been wrongly advised in the past regarding the issue of a healthy eating policy being a material planning consideration.

Debate and Decision Making Process

- (22) Councillor Mrs Theobald did not believe this scheme was any different to the last scheme and she was very concerned about parking problems in the area. She noted that the area was already used as overspill parking for the school and community centre and this application would add to the problems. There were anti-social behaviour problems in the area and she felt that this application was likely to encourage congregation with the takeaway being a focal point for trouble.
- (23) Councillor Simson agreed and stated that young people frequently hung around takeaways. She appreciated the offer of a 16:00 hour restriction on counter sales offered by the applicant but did not think the parking and anti-social behaviour problems that might be caused by the application had been resolved satisfactorily.
- (24) Councillor Steedman felt that the healthy eating policies of the school needed to be taken into account, and Councillor Simson agreed, adding that the wellbeing of young people using the community youth centre also needed to be considered.
- (25) A vote was taken and on a vote of 3 for approval, 6 against approval and 3 abstentions, planning permission was not granted.
- (26) Councillor Mrs Theobald proposed an alternative recommendation for refusal, seconded by Councillor Simson and the Committee took a short recess in order to confirm the reasons for refusal given.
- (27) A second recorded vote was taken and on a vote of 6 for refusal, 3 against refusal and 3 abstentions, planning permission was refused for the reasons set out below.
- 47.5 **RESOLVED** – That the Committee had taken into consideration and does not agree with the reasons for the recommendation set out in paragraph 8 of the report and resolves to refuse planning permission for the following reasons:
1. The proposal would result in increased pressure on parking, increased traffic flow and resulting vehicle noise, contrary to policies SU9, SU10 and QD27 of the Brighton & Hove Local Plan.
 2. The proposal would result in the generation of anti-social behaviour by reason of the congregation of youths and resulting noise, contrary to policies SU9, SU10 and QD27 of the Brighton & Hove Local Plan.
 3. The proposed change of use by reason of its close proximity to Patcham High School, Patcham Community Centre and Patcham Youth Centre would have an adverse impact on the health of young people using the same, contrary to the Council's Health School's Strategy and the social objective of encouraging healthy eating as evidenced by the Council's Community Strategy.

[**Note:** Councillors Hyde, Alford, Cobb, Simson, Steedman and Mrs Theobald voted for refusal of the application. Councillors Davey, Hamilton and McCaffery voted against refusal of the application. Councillors Allen, Kennedy and Smart abstained from voting.]

48. 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

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

Application:	Site visit requested by:
BH2009/03014, 331 Kingsway, Hove	Head of Development Control
BH2010/001054, Brighton General Hospital, Pankhurst Avenue, Brighton	Head of Development Control

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

49.1 **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 by Members on the Friday preceding the meeting. Where representations are received after that time they should be reported to the Chairman and Deputy Chairman and it would be at their discretion whether they should in exceptional circumstances be reported to the Committee. This is in accordance with Resolution 147.2 of the then Sub Committee on 23 February 2006.]

The meeting concluded at 5.45pm

Signed

Chair

Dated this

day of