

### BRIGHTON & HOVE CITY COUNCIL

#### PLANNING COMMITTEE

2.00pm 2 FEBRUARY 2011

COUNCIL CHAMBER, HOVE TOWN HALL

#### MINUTES

**Present:** Councillors Hyde (Chairman), C Theobald (Deputy Chairman), Carden (Opposition Spokesperson), Alford, Cobb, Davey, Fallon-Khan, Hamilton, Kemble, Kennedy, McCaffery and Steedman

**Co-opted Members** Mr Philip Andrews (Conservation Advisory Group)

**Officers in attendance:**

Paul Vidler (Deputy Development Control Manager), Claire Burnett (East Area Planning Manager), Aidan Thatcher (Senior Planning Officer), Steve Walker (Senior Team Planner), Steve Reeves (Principal Transport Planner), Di Morgan (Arboriculturist), Alison Gatherer (Lawyer), Hilary Woodwood (Senior Lawyer) and Caroline De Marco (Democratic Services Officer).

#### PART ONE

#### 204. PROCEDURAL BUSINESS

##### 204A Declaration of Substitutes

204.1 Councillor Fallon Khan declared that he was substituting for Councillor Simson.

##### 204B Declarations of Interests

204.2 There were none.

##### 204C Exclusion of the Press and Public

204.3 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.

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

**205. MINUTES OF THE PREVIOUS MEETING**

205.1 **RESOLVED** – That the Chairman be authorised to sign the minutes of the meeting held on 14 January 2011 as a correct record.

**206. CHAIRMAN'S COMMUNICATIONS**

206.1 There were none.

**207. PETITIONS**

207.1 There were none.

**208. PUBLIC QUESTIONS**

208.1 There were none.

**209. DEPUTATIONS**

209.1 There were none.

**210. WRITTEN QUESTIONS FROM COUNCILLORS**

210.1 There were none.

**211. LETTERS FROM COUNCILLORS**

211.1 There were none.

**212. NOTICES OF MOTION REFERRED FROM COUNCIL**

212.1 There were none.

**213. APPEAL DECISIONS**

213.1 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.

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

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

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

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

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

216.1 The Committee noted the information regarding pre-application briefings and requests.

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

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

Application:	Requested by:
BH2010/03324, BH2010/03325, Bh2010/03379 & BH2010/03380 – Royal Alexandra Hospital, 57 Dyke Road, Brighton	Deputy Development Control Manager
BH2010/03744 – Open Market, Marshalls Row & Francis Street, Brighton	Deputy Development Control Manager

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

**(i) TREES**

(1) Application BH2010/03800, 13 Friar Road, Brighton – To fell 1x Ailanthus altissima (Tree of Heaven) covered by Tree Preservation Order (No 12) 1996.

218.1 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in paragraph 7 of the report and resolves to grant consent subject to the conditions listed in the report.

(2) Application BH2010/03951, 21 Lansdowne Road, Hove – To fell 1x Quercus ilex (Holm Oak) covered by Tree Preservation Order (No 10) 2009.

218.2 Councillor Mrs Theobald questioned the need to fell such a fine specimen. The Arboriculturist explained that the tree was undermining the nearby block of flats where subsidence was occurring.

218.3 Councillor Fallon-Khan asked about the size of the replacement tree. The Arboriculturist explained that it would be 2 to 3 metres in height. A more suitable specimen would be chosen for the available space.

218.4 The Chairman commented that consideration should be given to planting fruit trees as replacement trees. This would be sustainable and would provide food.

218.5 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in paragraph 7 of the report and resolves to grant consent subject to the conditions listed in the report.

- (3) Application BH2011/00144, 71 Dyke Road Avenue, Hove – To fell 1x Cedrus atlantica (Atlas Cedar) covered by Tree Preservation Order (No 3) 1993.
- 218.6 Councillor Kennedy asked if officers checked to ensure that replacement trees were planted. The Arboriculturist explained that when approval letters was sent out, a form was attached which the applicant was required to complete and return.
- 218.7 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in paragraph 7 of the report and resolves to grant consent subject to the conditions listed in the report.
- (4) Application BH2010/03514, Curwen Place, London Road, Brighton – To fell 1x Robinia pseudoacacia (Robinia) covered by Tree Preservation Order (No 13) 1998.
- 218.8 Councillor Alford asked if it would be possible to prune this mature tree. The Arboriculturist explained that the tree had been in decline for some time.
- 218.9 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in paragraph 7 of the report and resolves to grant consent subject to the conditions listed in the report.

(ii) **MINOR APPLICATIONS**

(A) **Application BH2010/02926, 25 Oaklands Avenue, Brighton** – Demolition of existing garage and erection of 1no 2 bedroom bungalow (part retrospective).

- (1) The East Senior Planning Officer introduced the application and presented plans, elevational drawings and photographs.
- (2) The site previously formed part of the rear garden to 25 Oaklands Avenue. The plot had now been subdivided and the scheme proposed in application BH2009/01574 although refused, had been commenced. The planning history which was particularly relevant was set out in the report. The current application related to the erection of a single storey bungalow and garage – part retrospective. One letter of objection, one letter of comment and 7 letters of support had been received.
- (3) The applicant sought the sub division of the site. The plot did not have full planning permission for sub division at this stage. It was considered that the increased size of the development was closing the gap between the properties which was important to the character of the street scene and out of character with the immediate surroundings. There would be loss of light and overshadowing of the original property at 25 Oakland Avenue. There would be direct overlooking to the bedroom of no. 25. There was a large reduction in garden space and the amenity space was low quality. There were no adverse highway issues. No information had been provided detailing how the development would seek to achieve the Code for Sustainable Homes Level 5 and minimise its reliance on energy, water, and materials, and as such failed to demonstrate compliance with SU2.

- 4) Ms Bloomfield, agent for the applicant, spoke in favour of the application and stated that the land had been lawfully sold and had already been sub-divided. The fencing had resulted in loss of light and not the bungalow. The fence did not need planning permission. The planning application gave the opportunity to improve the property. The new landscaping had been planted at the highest point. There was minimum overlooking. She asked the Committee to support the application.

#### **Questions/Matters on Which Clarification was Sought**

- (5) Councillor Kemble asked if there were any issues between the applicant and the owner of the original property, no 25. Ms Bloomfield replied that there were no objections from no. 25. Councillor Kemble questioned why the planning officer had suggested that cycle parking could be secured by condition if the application was considered acceptable. Sustainable Transport had raised no objection to the scheme. The East Senior Planning Officer replied that if consent was given to the application, the cycle parking would be in the garden area.
- (6) Councillor Cobb asked for clarification about the boundary line between the two properties. The East Senior Planning Officer replied that the closest point between the two properties was 2.3m, wall to wall.
- (7) Councillor Steedman asked for clarification regarding the fencing issue raised by Ms Bloomfield. The Deputy Development Control Manager explained that the applicants were permitted to have a 2m fence without planning permission.

#### **Debate and Decision Making Process**

- (8) The Chairman noted that the Inspector's report had stated that the amenity space was considered to be adequate. The Inspector had also stated that such gardens were normally adapted with appropriate planting.
- (9) Councillor Kemble disputed that there was severe overlooking to the bedroom at no. 25. At the site visit he had found it impossible to see into the bedroom. Councillor Kemble could not see any problems with the application. Part of the garden space had been given up to increase light. On the whole it was a reasonable development and he would support the application.
- (10) Councillor Carden concurred. He had also been on the site visit and could not see into the bedroom window.
- (11) Councillor Mrs Theobald stated that she would not like to accept every retrospective application but with the additional piece of garden given to No. 25, she considered the application acceptable.
- (12) A vote was taken and on a vote of 2 for, 8 against and 2 abstentions the recommendation to refuse planning permission was lost.
- (13) Councillor Kemble proposed an alternative recommendation for approval and Councillor Carden seconded this.

(14) A second recorded vote was taken and on a vote of 8 for, 2 against and 2 abstentions planning permission was granted subject to conditions.

218.10 **RESOLVED** – That the Committee has taken into consideration and does not agree with the reasons for the recommendation set out in the report and resolves to grant planning permission subject to the following conditions:

1. The development hereby permitted shall be carried out in accordance with the approved drawing nos. 2010/25OA/001, 002, 003A, 004, 005, 006 and 007 received on 27.09.10.

**Reason:** For the avoidance of doubt and in the interests of proper planning.

2. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no extension, enlargement or other alteration of the dwellinghouse other than that expressly authorised by this permission shall be carried out without planning permission obtained from the Local Planning Authority.

**Reason:** The Local Planning Authority considers that further development could cause detriment to the amenities of the occupiers of nearby properties and to the character of the area and for this reason would wish to control any future development to comply with policies QD14 and QD27 of the Brighton & Hove Local Plan.

3. The high level windows in the south elevation of the development hereby permitted shall be obscure glazed and non-opening, unless the parts of the window/s which can be opened are more than 1.7 metres above the floor of the room in which the window is installed, and thereafter permanently retained as such.

**Reason:** To safeguard the privacy of the occupiers of the adjoining property and to comply with policies QD14 and QD27 of the Brighton & Hove Local Plan.

4. The development hereby approved shall not be occupied until a scheme for the storage of refuse and recycling has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be carried out in full as approved prior to first occupation of the development and the refuse and recycling storage facilities shall thereafter be retained for use at all times.

**Reason:** To ensure the provision of satisfactory facilities for the storage of refuse and to comply with policy QD27 of the Brighton & Hove Local Plan.

5. Unless otherwise agreed in writing by the Local Planning Authority, the new dwelling hereby permitted shall be constructed to Lifetime Homes standards prior to their first occupation and shall be retained as such thereafter.

**Reason:** To ensure satisfactory provision of homes for people with disabilities and to meet the changing needs of households and to comply with policy HO13 of the Brighton & Hove Local Plan.

6. Unless otherwise agreed in writing by the Local Planning Authority, none of the residential units hereby approved shall be occupied until a Final/Post Construction Code Certificate issued by an accreditation body confirming that each residential unit built has achieved a Code for Sustainable Homes rating of Code level 5 has been submitted to, and approved in writing by, the Local Planning Authority.

**Reason:** To ensure that the development is sustainable and makes efficient use of energy, water and materials and to comply with policy SU2 of the Brighton & Hove Local Plan and Supplementary Planning Document SPD08 Sustainable Building Design.

7. The hard surface hereby approved shall be made of porous materials and retained thereafter or provision shall be made and retained thereafter to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the property.

**Reason:** To reduce the risk of flooding and pollution and increase the level of sustainability of the development and to comply with policy SU4 of the Brighton & Hove Local Plan.

8. The development hereby permitted shall not be occupied until details of secure cycle parking facilities for the occupants of, and visitors to, the development hereby approved have been submitted to and approved in writing by the Local Planning Authority. These facilities shall be fully implemented and made available for use prior to the occupation of the development hereby permitted and shall thereafter be retained for use at all times.

**Reason:** To ensure that satisfactory facilities for the parking of cycles are provided and to encourage travel by means other than private motor vehicles and to comply with policy TR14 of the Brighton & Hove Local Plan.

9. The development hereby approved shall not be occupied until there has been submitted to and approved in writing by the Local Planning Authority a scheme for landscaping, which shall include hard surfacing, means of enclosure, planting of the development, indications of all existing trees and hedgerows on the land and details of any to be retained, together with measures for their protection in the course of development.

**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.

10. All planting, seeding or turfing comprised in the approved scheme of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation. All hard landscaping and means of enclosure shall be completed before the development is occupied.

**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.

11. The development hereby approved shall not be occupied until a scheme to enhance the nature conservation interest of the site has been submitted to and agreed in writing by the Local Planning Authority. The scheme shall be implemented in full prior to the occupation of the development hereby approved.

**Reason:** To increase the biodiversity of the site, to mitigate any impact from the development hereby approved and to comply with Policy QD17 of the Brighton & Hove Local Plan.

Informatives

IN04.01 Lifetime Homes

IN05.02A Code for Sustainable Homes

IN05.10 Hardsurfaces

Reasons for Granting:

The proposed development would not result in a cramped form of development which would be out of character with the surrounding area. The proposed development would not result in inadequate levels of private amenity space for the occupiers of the host and proposed dwellings. The proposed development would not result in an unacceptable degree of overlooking to neighbouring properties.

Note 1: Councillors Hyde, Alford, Carden, Cobb, Hamilton, Kemble, Fallon-Khan, and Mrs Theobald voted for the proposal to grant. Councillors Kennedy and Steedman voted against the proposal to grant. Councillors Davey and McCaffery abstained from voting.

**(B) Application BH2010/03961, Pavement Outside Hollingdean Depot opposite 13 Upper Hollingdean Road, Brighton, Brighton –** Erection of 12.5 high replica telegraph pole with 3 no antennas, a radio equipment cabinet adjacent to the pole and development works.

- (1) The East Area Planning Manager introduced the application and presented plans and elevational drawings. A further 15 letters of objection had been received. Councillor Lepper had objected to the proposal as ward councilor and her letter was attached to the report. As there would be 2m clearance between the proposed equipment and the edge of the kerb, it was considered that the siting of the cabinet in this location would not cause obstruction to the pavement or the highway. It was not considered that the proposal would result in any significant impact on residential amenity.
- (2) Many concerns had been raised from members of the public regarding health issues. The applicant had submitted a certificate stating that the proposal would meet the International Commission for Non-Ionising Radiation Protection guidelines. If the council were to refuse the application on health grounds it would be a difficult position to sustain at appeal.
- (3) The Deputy Development Control Manager reported that there was a discrepancy in a submitted drawing. The application was for a 12.5m high replica telegraph pole. The drawing indicated it would be higher. That issue needed to be resolved. The recommendation was therefore changed to Minded that Prior Approval is not Required, subject to the receipt of satisfactory amended drawings.
- (4) Councillor Lepper spoke against the application as Ward Councillor and stated that the 12.5m replica telegraph pole, 3 antennae and adjacent cabinet was ugly in appearance. Councillor Lepper displayed photographs of the location. She



explained that these showed the flint wall by the depot as highly visible from the flats and houses. Trees were right up against the tower blocks and most people lived above them, so she was not sure who would receive any screening. This part of the pavement was narrow, on a bend and on a walk to school route. Many people in the blocks of flats were wheelchair users, and Councillor Lepper expressed concern about any reduction of the pavement width. This part of the pavement was subject to bad parking and she showed a photograph of lorry up on the kerb, reducing the width of the pavement. This was a frequent occurrence. This was a walk to school route and pushing double buggies along this stretch of the road was already causing difficulty.

- (5) Councillor Lepper stated that the health concerns could not be ignored and referred to the recommendations in the Stewart Report in relation to siting telecommunication equipment near schools. Young families overlooked the site. She asked for the application to be refused.

### **Questions/Matters on Which Clarification was Sought**

- (6) Councillor McCaffery asked how near the primary school was to the direct line of the mast. Councillor Lepper replied that Downs Infant School was next to the Nettleton Flats. It would be very visible from the school playground.
- (7) Councillor Hyde asked about the width of the cabinet. The East Area Planning Manager replied that it would be 0.5m projecting across the pavement.
- (8) Councillor Mrs Theobald asked how close the equipment would be to residents in terms of metres. The East Area Planning Manager replied that it would be 15m from the nearest properties.
- (9) The East Area Planning Manager explained that the width of the pavement appeared to be 3 metres on plan. However, officers had concern about the accuracy of the plans. An officer who went out on site had said the width of the pavement was 2 metres. The Parking Officer stated that he had looked at the footway to ensure sufficient clearance. The minimum required clearance between the edge of the carriageway and the back edge of a box in this instance was 1.4m. The distance between the flint wall and the carriageway edge was 2.1m. If 15mm was reduced from the box then there was sufficient space.

### **Debate and Decision Making Process**

- (10) Councillor Fallon-Khan sympathised with Councillor Lepper and members of the public but stressed that the council did not have powers of recourse against the Telecommunications Act.
- (11) Councillor Kennedy concurred and was mindful that decisions to refuse were not upheld on appeal. She would abstain from voting.
- (12) The Senior Lawyer advised that the Committee was very unlikely to be successful at appeal if the application was refused on health grounds. However, the Committee

did have the power to make a decision based on the siting and appearance of the equipment.

- (13) Councillor Davey considered that the pavement would be made too narrow by the cabinet. He thought that the applicants should have found a location further away from residents and a school.
- (14) Councillor Mrs Theobald had sympathy with the objectors and was concerned that the proposal was to be sited near to residents. She would vote against the application.
- (15) Councillor McCaffery drew attention to the siting of the equipment and the narrow width of the pavement. She was concerned about access to the pavement for pushchairs and wheelchairs. There was already evidence of vehicles mounting the pavement.
- (16) A vote was taken on whether prior approval was not required and one member voted in favour of not requiring prior approval. Accordingly a further vote was taken on an alternative recommendation that prior approval was required and on a vote of 10 for and 1 abstention the recommendation that prior approval was required was carried.
- (17) A vote was then taken on a recommendation that prior approval should be granted and on a vote of 1 for, 8 against and 3 absentions it was resolved that prior approval should not be granted.
- (18) A recorded vote was taken, proposed by Councillor Davey and seconded by Councillor McCaffery and on a vote of 8 for, 1 against and 3 abstentions, prior approval was refused.

218.11 **RESOLVED** – That the Committee has taken into consideration and does not agree with the reasons for the recommendation set out in the report and resolves that prior approval is required and that prior approval is refused for the following reasons:

1. The proposed development would adversely affect the visual amenity of nearby residents and further detract from the streetscene, contrary to policies QD2 and QD23 of the Brighton & Hove Local Plan.
2. The proposal would result in an inadequate pavement width for pedestrians particularly in the context of it being a pedestrian route to nearby schools, contrary to policies TR7, QD2 and QD23 of the Brighton & Hove Local Plan.

Note 1: Councillors Carden, Davey, Hamilton, Kemble, McCaffery, Fallon-Khan, Steedman and Mrs Theobald voted that prior approval is required and that prior approval is refused. Councillor Cobb voted against the proposal that prior approval is required and prior approval is refused. Councillors Hyde, Alford and Kennedy abstained from voting.

- (C) **Application BH2010/03428, Land Adjacent to 1, Warmdene Way, Brighton –** Application for removal of condition 11 of application BH2008/03475, (Demolition of existing garage and construction of a bungalow) which states that no development shall take place until details of a scheme to provide sustainable transport infrastructure to support the demand for travel generated by the development has been submitted and approved in writing by the Local Planning Authority.
- (1) The East Senior Planning Officer introduced the application and gave a brief presentation. The scheme in accordance with BH2008/03475 was currently under construction. The main considerations in the determination of this application were highways issues, specifically the need for a financial contribution towards sustainable transport measures.
- (2) The applicant sought to discharge condition no. 11 of BH2008/03475 by completing a unilateral undertaking to pay the required £2000.00 as per the original consent. They were then advised that due to and in accordance with the temporary measures to assist the development industry they should apply to have the condition removed rather than pay the financial contribution.

#### **Questions/Matters on Which Clarification was Sought**

- (3) Councillor Hamilton noted that there appeared to be only one letter of objection which was signed by seven occupiers of Warmdene Way and 11 Dale Crescent. He stated that he understood that council policy stated that minor applications should only be submitted to the Committee if 5 letters of objection were received with the exception of the Rottingdean Preservation Society. This application should not have been submitted to the Committee. The Chairman concurred and thanked Councillor Hamilton for pointing this out. The Deputy Development Control Officer said he would check the policy. It was agreed that the Committee would be informed of the policy in relation to this matter in due course.
- (4) Councillor Steedman asked the Senior Lawyer for her advice about the retrospective removal of the condition. The Senior Lawyer explained that it was perfectly legal to apply for the removal of a planning condition.

#### **Debate and Decision Making Process**

- (5) Councillor Davey expressed concern that the Committee would see more people applying for the return of Section 106 contributions. He could not support the application. The Deputy Development Control Manager stated that there had been a number of applications submitted to remove conditions as a result of the temporary measures. The comment from a neighbour referred to another condition, relating to improvement works to the driveway. That condition was being re-imposed in the recommendation as Condition 11. Improvements to the driveway would be required.
- (6) Councillor Mrs Theobald stated that she was glad the application had been submitted to the Committee. She was concerned that it was dangerous crossing into the driveway. The drive was water logged and the applicant should make a contribution. The money was for yellow lines and a sign stating no through road. The Deputy Development Control Manager stated that these works and drainage would

be required under proposed condition 11. Councillor Mrs Theobald replied that she hoped that this would be enforced as the driveway was in a bad state.

- (7) The East Senior Planning Officer stated that officers were in negotiations with the applicant. They were re-working the scheme and there was a requirement to carry out works before they could occupy the bungalow.
- (8) A vote was taken and on a vote of 3 for, 6 against and 1 abstention the recommendation to grant planning permission was lost.
- (9) Councillor Mrs Theobald proposed an alternative recommendation for approval and Councillor Kennedy seconded this.
- (10) A second recorded vote was taken and on a vote of 8 for and 2 against planning permission was Minded to Grant the application subject to Section 106 contribution.

218.12 **RESOLVED** – That the Committee has taken into consideration and does not agree with the reasons for the recommendation set out in the report and resolves that it is Minded to Grant the application subject to a Section 106 to secure a contribution of £2,000.00 to provide sustainable transport infrastructure, and subject to the conditions as set out in report.

Amend Informative 1. (ii) to read:

The proposed development would have a satisfactory appearance and would have no adverse impact on the character and visual amenity of the area. There would be no material detriment to the amenities of adjoining and nearby residential occupiers. The potential increase in the intensity of use of the access road has been acknowledged, however the Sustainable Transport Team have indicated that this would be satisfactorily ameliorated by the proposed access improvement works.

Note 1: Councillors Hyde, Alford, Cobb, Davey, Kennedy, McCaffery, Steedman and Mrs Theobald voted for the proposal to be minded to approve. Councillors Carden and Hamilton voted against the proposal to be minded to approve.

Note 2: Councillors Fallon-Khan and Kemble were not present during the debate and voting on this item.

**(D) Application BH2010/03547, Flat 1, 100 St Georges Road, Brighton –**  
Replacement of existing front window with double doors to create access to flat roof incorporating installation of steel railings to form roof terrace at first floor level (Retrospective).

- (1) The East Area Planning Manager introduced the application and presented plans and elevational drawings. 21 letters of support had been received. The main consideration had been the impact of the development on the special architectural character of the area. The Conservation and Design Team stated that the significance of the East Cliff Conservation Area lies in its surviving intactness as Regency and early Victorian development. The application site was an early Victorian building, which occupied a prominent corner site. The resubmission had been amended to remove the bamboo screening positioned behind the railings along

the front of the terrace, resulting in the galvanised steel railings being even more visually prominent. Overlooking would not cause significant harm but the proposal would be out of character with the street scene and would involve the loss of an historic sash window. The use of the roof terrace would lead to clutter in the street scene.

(2) Councillor Kemble proposed a site visit.

218.13 **RESOLVED** – That the application be deferred for a site visit.

**(E) Application BH2010/03684, Kipling Cottage, The Green, Rottingdean –**  
Proposed dormer with French doors and balcony erected over part of existing glazed canopy roof.

(1) The East Area Planning Manager introduced the application and presented plans and elevational drawings. Four letters of support had been received from neighbours. An email of support was received from Councillor Smith. The main issue was the impact of the application on the character and appearance of the property, the conservation area and neighbouring properties. The property had planning consent for the enlargement of the first floor window to incorporate part of the eaves, with a gable formed above. This proposal was not implemented and had lapsed. Since the permission lapsed, the council had adopted the Brighton & Hove Local Plan. The concerns previously addressed had not been significantly addressed in the current application.

(2) The proposed French Doors and balcony were not in keeping with the style of the property or the surrounding area. A balcony and an opening of this size at first floor level were out of keeping with the domestic character of the building and the character of the conservation area. Weatherboarding above the French Doors was an inappropriate feature. Furthermore, the relationship between the proposed balcony and glazed extension below was awkward. The balcony was clearly visible in relation to the listed flint wall, and had an overbearing impact on its setting. The balcony eroded the sense of enclosure and the clear distinction between public and private space which made flint walls such a significant feature of the conservation area.

(3) Mr Harris the applicant, spoke in favour of the application and stated that he lived at the cottage. He had a small patio garden and received the sun in the late morning to late afternoon. There was a high flint wall. A balcony would receive more sunlight and he would be in a position to keep an eye on the croquet lawn where there had been problems with youths. His architect had said there were similar balconies in the area. The balcony would overlook a private space. It would not overlook gardens. The weatherboarding could be changed if necessary. The double door could be a single door. The balcony could not be seen from Dean Court Road and could just be seen from the Falmer Road. Mr Harris considered the proposal a very attractive design and asked for it to be approved.

**Questions/Matters on Which Clarification was Sought**

- (4) Councillor Hamilton asked about the relationship between the cottage and the croquet club. The Chairman replied that the proposal overlooked the croquet club where there had been problems with vandalism.
- (5) The Chairman asked if Rottingdean Parish Council/Rottingdean Preservation Society had been informed. The East Area Planning Manager replied that Rottingdean Parish Council were consulted and had not commented.
- (6) Councillor McCaffery asked for confirmation that there were no houses facing the development and only the croquet ground. The Chairman confirmed this was so.
- (7) Councillor Kemble noted that there were no letters of objection and only letters of support. The proposal would have no adverse effect on neighbouring properties. He asked if it would be possible for the applicant to come to an agreement with the officers to accommodate the proposal in a sympathetic manner. The East Area Planning Manager explained that in terms of residential amenity it was not a matter of concern. From a Conservation and Design Team point of view it did affect the character of the conservation area and the building itself. Officers had made suggestions to the applicant about the design of the proposal.
- (8) Councillor Kennedy asked why the Conservation Advisory Group had not been consulted, as the application was in a conservation area. Mr Andrews stated that he was surprised to see the application and did not have a problem with it. The Deputy Development Control Manager stated that only significant applications would be submitted to the Conservation Advisory Group. It had been submitted to the Committee as it had received 5 letters of support.

**Debate and Decision Making Process**

- (9) Councillor Kennedy asked Mr Andrews for his thoughts on the proposal. She suggested a half dormer with an eyebrow would be acceptable.
- (10) Mr Andrews considered the proposal quite innocuous and in character. When he looked at the large scale drawings he had seen acres of space. This was a minor incident in the townscape and would not be harmful. He supported the application.
- (11) Councillor Kennedy thanked Mr Andrews for his comments. She had concerns about the details of the proposal. She suggested issues relating to weatherboarding and fenestration form part of a condition. The Deputy Development Control Manager explained that as these details were an integral part of the application they could not be amended by a condition and the application should be determined as presented.
- (12) Councillor Mrs Theobald considered the proposal an attractive design and noted it was not overlooking any properties. She would vote to support the application.
- (13) A vote was taken and on a vote of 3 for, 6 against and 2 abstentions the recommendation to refuse planning permission was lost.

- (14) Councillor Kemble proposed an alternative recommendation for approval and Councillor Mrs Theobald seconded this.
- (15) A second recorded vote was taken and on a vote of 6 for, 3 against and 2 abstentions planning permission was granted subject to conditions.
- 218.14 **RESOLVED** – That the Committee has taken into consideration and does not agree with the reasons for the recommendation set out in the report and resolves to grant planning permission subject to the following conditions:
1. The development hereby permitted shall be carried out in accordance with the approved drawing nos. 01, 02, 03, 04, 05A & 06A submitted on 25th November 2010.  
**Reason:** For the avoidance of doubt and in the interests of proper planning.
  2. The development hereby permitted shall be commenced before the expiration of three years from the date of this permission.  
**Reason:** To ensure that the Local Planning Authority retains the right to review unimplemented permissions.
  3. No development shall take place until joinery details and samples of the materials (including colour of render, paintwork and colourwash) to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.  
**Reason:** To ensure a satisfactory appearance to the development and to comply with policy HE6 of the Brighton & Hove Local Plan.  
**Reason for Granting:**  
The proposed French doors and balcony are sympathetic and not incongruous features that would be out of keeping with the traditional character of the existing house and would not detract from the character and appearance of the Rottingdean Conservation Area.
- Note 1: Councillors Hyde, Alford, Cobb, Kemble, McCaffery and Mrs Theobald voted for the proposal to grant. Councillors Davey, Hamilton and Steedman voted against the proposal to grant. Councillors Carden and Kennedy abstained from voting.
- Note 2: Councillor Fallon-Khan was not present during the debate and voting on this item.
- (F) **Application BH2010/03512, Land to rear of 21 & 23 St Aubyns, Hove –**  
Demolition of existing garages and erection of 3no terraced four storey houses with amenity space at front and rear.
- (1) The officer's presentation for this application was taken together with application BH2010/03513. The additional representations list reported that a Design Stage Report and Certificate had been submitted to the satisfaction of the Sustainability Officer and Condition 14 was no longer required.

- (2) The Senior Team Planner introduced the application and presented plans and elevational drawings. The application related to a garage compound located to the rear of Nos. 21 & 23 St Aubyns, Hove, a residential building with the Old Hove Conservation Area. The compound was formed of two blocks of three garages and was accessed from Seafield Road. An older detached house lay adjacent to the north of the terrace, with more open land beyond separated from the street by a line of trees. Properties on the eastern side of Seafield Road lay within the Cliftonville Conservation Area. Application BH2010/03513 requesting Conservation Area Consent for the demolition of existing garages was also on the agenda. The demolition of garages and erection of 3 new residential units with garages was approved in 2003. This was an important factor in the determination of this application.
- (3) 17 letters of objection had been received to the application. There were no internal objections to the application on design and conservation grounds. There were no objections from Sustainable Transport. It was not considered that the building would result in any significant loss of amenity towards the occupiers of the rear of the site, within Nos 21-25 St Aubyns. The basement flats would be most impacted.
- (4) An additional condition was recommended. Downpipes and rainwater goods shall be of cast iron and painted to match the walls of the new dwellings.

#### **Questions/Matters on Which Clarification was Sought**

- (5) Councillor Kennedy referred to a right of way issue that had arisen when application BH2002/02510/FP had been considered in 2003. She asked if this had been resolved. Councillor McCaffery also asked about this issue. The Senior Team Planner replied that he had been assured it had been resolved. This was not a matter that could be secured by planning permission and was an issue that the applicants should discuss with the neighbours. It was up to the people of St Aubyns to pursue access rights through common law.
- (6) Councillor Kemble referred to the 2003 application, in relation to the right of way/fire escape. The elevation showed a door on the right hand side fire exit. If it was made into a wall there would be no means of escape. He also asked about car parking space in the development. The Senior Team Planner replied that due to changed circumstances, the applicants were no longer proposing to provide parking on site. The most that could be done in relation to the right of way was to place an informative on any consent.
- (7) Councillor Mrs Theobald and Councillor Cobb asked about the distance between the development and the existing houses. The Senior Team Planner replied that the distance would be 9m to the closest point of the building, but around 12m to the substantial part of the elevation.
- (8) Councillor Fallon Khan raised concerns about overshadowing and loss of light. He asked about the aspect from the basements in St Aubyns. The Chairman also asked about loss of light. The Senior Team Planner explained that there was sufficient distance between the development and the existing buildings for there to be no appreciative loss of light to the flats in St Aubyns. The basements were the



only flats that would be affected. The removal of the garages would lessen the sense of enclosure. Within a high density area the proposals were broadly acceptable. Light would not be blocked to the basement flats but light would be reduced. The proposals would not cause a significant loss of light.

- (9) Councillor Cobb stated that she was disappointed that parking would not be included in the scheme, as there were parking places in the wider zone. She asked how far the zone extended. Councillor Kemble replied that the zone extended from Hove Street to Grand Avenue.
- (10) Councillor Kemble stated that he could see the benefit of the application but had some concerns. He asked if the Committee's concerns regarding the right of way could be raised in the recommendations, if approved. The Deputy Development Control Manager replied that Informative 4 dealt with this issue. Councillor Kemble asked if there could be a specific note of the loss of the right of way to the fire escape. The Deputy Development Control Manager replied that the wording of the Informative could be changed to express the Committee's particular concern about this issue.

### **Debate and Decision Making Process**

- (11) Councillor Cobb informed the Committee that she was still not satisfied that the development would be in keeping with the area. The window linage did not match existing properties. The proposal was bulky in depth. The fence at the back would be removed and replaced by a brick wall. This could appear more evasive and solid to residents. She had concerns about parking and the right of way.
- (12) Councillor Mrs Theobald was disappointed to lose the car parking spaces. Spaces in the parking zone could be quite a long walk away. She preferred the 2003 scheme. Councillor Mrs Theobald had concerns about loss of light and considered that the proposal looked bulky and was too big a development.
- (13) A vote was taken and on a vote of 7 for, 2 against and 3 abstentions planning permission was granted subject to the conditions and informatives listed in the report as amended below.

218.15 **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 listed in the report as amended below:

#### **Delete Condition 14**

#### **Add further condition:**

Notwithstanding the details of plan reference 3057/06 rev A, unless otherwise agreed in writing by the Local Planning Authority, the downpipes and rainwater goods shall be of cast iron and painted to match the walls of the new dwellings.

**Reason:** To ensure a satisfactory appearance to the development and to comply with policy HE6 of the Brighton & Hove Local Plan.

**Amend Informative 4 to read:**

The applicant is advised that consultees notified of the planning application have drawn attention to a 'right of way' across the site from a gate to the rear of 23 St. Aubyns to be used as an emergency escape in the case of fire. In granting this Permission, Members of Planning Committee strongly urge the applicant to establish the presence or otherwise of such an access, and, in the event of such an access being confirmed, to assess the safety implications of its removal, and to take appropriate alternative measures to ensure the adequate protection of neighbouring residents.

**(G) Application BH2010/03513, Land to rear of 21 & 23 St Aubyns, Hove – Conservation Area Consent for the demolition of existing garages.**

(1) This application was considered with application BH2010/03512 above.

(2) A vote was taken and on a vote of 8 for, 2 against and 2 abstentions conservation area consent was granted subject to the conditions and informatives listed in the report.

218.16 **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 conservation area consent, subject to the conditions and informatives listed in the report.

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

219.1 **RESOLVED** – That those details of applications determined by the Strategic Director of Place under delegated powers be noted.

[Note 1: All decisions recorded in this list are subject to certain conditions and reasons recorded in the planning register maintained by the Strategic Director of Place. The register complies with legislative requirements.]

[Note 2: A list of representations received by the Council after the Plans List reports had been submitted for printing was circulated to Members on the Friday preceding the meeting. Where representations are received after that time they should be reported to the Chairman and Deputy Chairman and it would be at their discretion whether they should in exceptional circumstances be reported to the Committee. This is in accordance with Resolution 147.2 of the then Sub Committee on 23 February 2006.]

**220. 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**

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

Application:	Requested by:
BH2010/03547 - Flat 1, 100 St Georges Road, Brighton	Councillor Kemble
BH2010/03324, BH2010/03325, Bh2010/03379 & BH2010/03380 – Royal Alexandra Hospital, 57 Dyke Road, Brighton	Deputy Development Control Manager
BH2010/03744 – Open Market, Marshalls Row & Francis Street, Brighton	Deputy Development Control Manager
BH2010/03759 & BH2010/03760 – The Astoria, 10-14 Gloucester Place, Brighton	Deputy Development Control Manager

The meeting concluded at 5.45pm

Signed

Chairman

Dated this

day of

