

BRIGHTON & HOVE CITY COUNCIL

PLANNING COMMITTEE

2.00pm 16 MARCH 2011

COUNCIL CHAMBER, HOVE TOWN HALL

MINUTES

Present: Councillors Hyde (Chairman), C Theobald (Deputy Chairman), Carden (Opposition Spokesperson), Alford, Allen, Barnett, Cobb, Davey, Kemble, Kennedy, McCaffery and Steedman

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

Officers in attendance: Jeanette Walsh (Head of Development Control), Hilary Woodward (Senior Lawyer), Claire Burnett (Area Planning Manager (East)), Steve Walker (Senior Team Planner), Annie Sparks (Environmental Health Manager), Steve Reeves (Principal Transport Planner), Pete Tolson (Principal Transport Planner) and Jane Clarke (Senior Democratic Services Officer)

PART ONE

238. PROCEDURAL BUSINESS

238a Declarations of Substitutes

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

238.2 Councillor Barnett declared that she was substituting for Councillor Simson.

238b Declarations of Interests

238.3 There were no Member interests.

238.4 The Senior Lawyer, Ms Woodward, advised that she was connected with the Scout Hut forming part of planning application BH2010/03540, Land west of Redhill Close, Withdean, and that she would be unable to advise the Committee in relation to this.

238c Exclusion of the Press and Public

238.5 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.

238.6 **RESOLVED** - That the public be excluded from the meeting during consideration of item 249 on the agenda.

239. MINUTES OF THE PREVIOUS MEETING

239.1 **RESOLVED** – That the Chairman be authorised to sign the minutes of the meeting held on 23 February 2011 as a correct record with the following amendments:

A. Application BH2010/03744, Open Market

(42) A vote was taken and on a unanimous vote minded to grant planning permission was granted subject to the conditions and informatives listed in the report, and two extra informatives.

D. Application BH2010/03379, Royal Alexandra Hospital

(18) Councillor Cobb asked if the restoration work could be done first and whether the refuse collection was accessible. Mr Everest replied that a condition was included to ensure there was no occupation of the residential units until the full development was completed, which was considered adequate. Regarding refuse collection the development incorporated dedicated refuse storage for each block at basement level. This would be collected by City Clean from the rear service road via a refuse hoist.

(29) A vote was taken and on a unanimous vote minded to grant planning permission was granted subject to the applicant entering into a Section 106 Agreement, the conditions and informatives listed in the report, an additional condition and amendments to conditions 11 and 12.

E. Application BH2010/03380, Royal Alexandra Hospital

(2) A vote was taken and on a unanimous vote minded to grant conservation area consent was given subject to the issue of planning permission in respect of application BH2010/03379 and the conditions and informatives listed in the report.

F. Application BH2010/03714, 88 – 92 Queens Road and 4 Frederick Place

(2) A vote was taken and on a unanimous vote minded to grant planning permission was granted subject to the applicant entering into a Section 106 Agreement and the conditions and informatives listed in the report.

G. Application BH2010/03547, Flat 1, 100 St Georges Road

(11) A vote was taken and on a vote of 6 for, 2 against and 4 abstentions, planning permission was refused for the reasons given in the report.

H. Application BH2010/03279, Former Connaught House site

- (3) A vote was taken and on a vote of 9 for, 0 against and 3 abstentions minded to grant planning permission was granted subject to the applicant entering into a Section 106 Agreement and the conditions and informatives listed in the report.

I. Application BH2010/03968, 13-15 Old Steine

- (2) A vote was taken and on a vote of 9 for, 2 against and 1 abstention planning permission was granted subject to the conditions and informatives listed in the report.

L. Application BH2010/03947, 5 Chailey Avenue

- (4) A vote was taken and on a unanimous vote planning permission was granted subject to the conditions and informatives listed in the report, and an additional condition.

Note: Councillor Hyde declared a personal and prejudicial interest and left the room during consideration of this item. She did not take part in the discussion and voting thereon.

240. CHAIRMAN'S COMMUNICATIONS

- 240.1 There were none.

241. APPEAL DECISIONS

- 241.1 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.

242. LIST OF NEW APPEALS LODGED WITH THE PLANNING INSPECTORATE

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

243. INFORMATION ON INFORMAL HEARINGS/PUBLIC INQUIRIES

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

244. INFORMATION ON PRE APPLICATION PRESENTATIONS AND REQUESTS

- 244.1 The Committee noted the position regarding information on pre application presentations and requests.

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

- 245.1 There were none.

246. TO CONSIDER AND DETERMINE PLANNING APPLICATIONS ON THE PLANS LIST**(i) TREES**

246.1 There were none.

(ii) SUBSTANTIAL OR CONTROVERSIAL DEVELOPMENT OR DEPARTURES FROM POLICY

A. Application BH2010/00692, Land West of Redhill Close, Westdene, Brighton – Outline application for 31 dwellings (0.62 ha) with public open space (2.11 ha) and approval of reserved matters for layout, access and landscaping.

(1) This application was the subject of a site visit.

(2) The Senior Planning Officer, Mr Walker, introduced the application and presented plans, photos and elevation drawings. The application was for outline planning permission and as such the Committee were only required to consider details of layout, access and landscaping. The land was currently privately owned and the main issue was loss of open space as its usage had been established as open space. Policy QD20 resisted the loss of open spaces and policy SR20 protected outdoor recreational space. The Brighton & Hove Outdoor Space Survey, Planning Policy Statement 3 and the South East Plan supported open space provision as well. Whilst the application would contribute to the housing stock of the city, this did not outweigh the open space policies.

However, there were clear benefits to the site from this application and the additional housing provision was a material consideration. The amount of housing had been reduced to enhance the space and the main concern was to bring the area back into public open space use. Separation distances between the houses were around 40 metres, and because of the gradients on the site officers did not want houses to be built closer than this. There was very good parking provision and the Traffic Manager had deemed the site acceptable, but had asked for a sustainable transport contribution under the Section 106 agreement. A five year management plan for the on site ecology had been provided. As the site was considered green-field land, the Planning Authority was asking for Code Level 5 for Sustainable Homes to be reached. Extensive work had been done with the District Valuer and it was concluded the Code Level 5 was achievable. The application was recommended for approval subject to the conditions and informatives, and the Section 106 agreement.

Mr Walker added that an additional representation had been received from Mr Gower, who lived on Redhill Drive, regarding objections to the application around exacerbation of traffic problems in the Close on evenings and weekends and a reduction in amenity for current occupiers, pollution problems and the issue of private covenants remaining on the land.

Questions/matters on which clarification was sought

- (3) Councillor Kemble drew attention to an error in the report which stated that there would be 112 units on site. Mr Walker confirmed this was a typographical error and it should read 12 affordable units.
- (4) Councillor Steedman asked if the District Valuer was asked to consider what would be the minimum number of units of site that would be profitable, or just the scheme that was before Members. The Head of Development Control, Ms Walsh, stated that the application was policy compliant due to very full and in depth discussions that had taken place with the District Valuer. It was considered that the scheme would be profitable, and the Authority needed to allow a reasonable profit to the developer whilst still ensuring policy compliance.
- (5) Councillor Allen noted that the affordable homes provision only reached 38.7% of the scheme, and asked whether an extra affordable home could be built to move the scheme into 40% provision. Mr Walker stated that it was not possible for this particular scheme. There would be substantial community benefit in terms of the open space provision already with this scheme. Ms Walsh added that as it would be ½ of a dwelling to reach 40% the scheme balance was right in this particular case.
- (6) Councillor Alford asked if there was any access for the public onto the site. Mr Walker confirmed that the site was privately owned. Although the public did use the site there were no rights of access.
- (7) Councillor Alford asked if the developer would try to increase the housing provision on site. Mr Walker replied that this could always be the case with any application, as applicants were free to apply for whatever schemes they wished. Regarding this scheme the Section 106 Agreement would bind the applicants to the scheme agreed by Members. Ms Walsh reminded Members that this scheme would return two thirds of the land back to the community into the ownership of the City Council and with infrastructure provided.
- (8) Councillor Mrs Theobald highlighted the concerns of the East Sussex Fire and Rescue Service and of Southern Water in the report and asked if these had been dealt with. She asked whether any money for maintenance of the land would be provided, how many Tree Preservation Order trees would be removed and if there were badgers on site. Mr Walker replied that the concerns of the East Sussex Fire and Rescue Service could be dealt with by informatives and building regulations, and although Southern Water had raised a concern, they had stated that this could be achieved if further work was conducted. There were trees indicated on the site plan, which suggested they would be retained where possible. The trees had value as a group, but not individually. There was no evidence of badgers on site.
- (9) The Senior Solicitor to the Committee, Ms Woodward, stated that the ability of the Council to fund maintenance of the public space was not a material planning consideration and should not be taken into account by Members.

- (10) Councillor Alford asked when the open space would be delivered to the public. Ms Walsh replied that conditions ensured that the open space would be available before first occupation of the houses.
- (11) Councillor Cobb asked whether the public could be prevented from using the land and Ms Walsh agreed, stating it was private land not designated as public open space.
- (12) Councillor Kemble asked if there had been any nature designation given to this site. Ms Walsh replied that the land was not a designated site either as a SNCI (Site of Nature Conservation Interest) or as an SSSI (Site of Special Scientific Interest). Whilst the Council's Ecologist was conducting survey work throughout the city there was no designation or special protection for this site.

Representations from Public Speakers

- (13) Mr Nemeth began his representation and stated that he was speaking on behalf of local residents who opposed the scheme. The area of land was known locally as Redhill field and whilst it was privately owned, it was amenity space used by local residents on a regular basis. Local children had unrestricted access to this land and it was a safe area as access by car was difficult. Residents were concerned about parking issues that would arise if the site was more formally accessible as open space. The original use of the site was undeniable and was an area for nature conservation. The site should be protected above all considerations and should stay as a local park that did not include dwellings on site.
- (14) Councillor Davey asked in what capacity Mr Nemeth was speaking. Mr Nemeth replied that he was speaking on behalf of local residents who objected to the scheme, and in particular Mr Tony White, who had raised objections to the scheme.
- (15) Mr Paul White, agent to the applicant, spoke in favour of the scheme and stated that the site had been in private ownership since the 1930s and public access rights had been removed in 1992. Previous planning applications had proposed a much higher density of housing, but through extensive work with officers and the District Valuer, the current scheme had been brought forward to provide a high community benefit also. Mr White noted that the site had been referred to as a sports field, but in fact it was not designated as such by Sports England.
- (16) Mr Whitty, Chairman of the Westdene and Withdean Community Association addressed the Committee and stated that he felt the scheme was viable and provided a high benefit to the community. The site was currently waste shrub land and he believed the community should take the opportunity to bring the majority of the site back into community use. The scheme was considered at a meeting of the Community Association where 70% of members had attended, and it had been approved at that meeting. The community did not want the site to be developed any further and he asked that the playing field provided by the scheme be gifted by the Council to the Fields in Trust organisation, to secure the use.
- (17) Councillor Davey asked if the applicant could stop members of the public using the land. Mr White replied that the site was dangerous and un-maintained. Access rights

had been removed in 1992 after problems with travellers on the site. It was currently private land only accessible if the public trespassed. The scheme would return much of the site to community use.

- (18) Councillor Mrs Theobald asked if the scheme would be three storeys high. Mr White replied that this was an outline scheme where only siting and layout would be considered. The intention by the applicant was to sell the land with planning permission to a developer, who could then put in a reserved matters application.

Debate and decision making process

- (19) Councillor Kennedy queried whether the Section 106 Agreement could deal with the request from the speaker regarding gifting the land to the Fields in Trust organisation. Ms Woodward replied that any obligation included in the Section 106 would need to be deemed as necessary to the application. The question of whether the Council could gift the land to the Fields in Trust organisation could be dealt with separately following planning approval.
- (20) Councillor Barnett felt that this application was excellent and welcomed the inclusion of so much community space.
- (21) Councillor Allen said there was a long history to the site with a great deal of involvement from the community. He felt that this application made the best of the situation and he would be supporting it.
- (22) Councillor McCaffery raised concerns over the access arrangements on site, and how many cars could pass along the access route. The Senior Transport Planner, Mr Tolson, replied that the site access was 5 meters in width and this would reduce car speeds to below 20mph.
- (23) Councillor Alford believed this was a sensible planning application and he would be supporting it.
- (24) Councillor Carden did not believe there were badgers on site as he had seen no evidence of this on the site visit. He also supported the application.
- (25) Councillor Mrs Theobald highlighted that there were 32 letters of objection from residents living around the site. She felt that the land could be used as a conservation area and the Close where the access would be sited was currently very quiet, and could become busy if this application was approved. She did not believe that £25,000 would be enough to improve the Scout's hut and felt that the whole land should be reserved for community use as the covenants on the site stated.
- (26) The Chairman of the Conservation Advisory Group (CAG), Mr Andrews, addressed the Committee and stated that whilst this application was in outline, the height of the buildings would be substantial because of the terraced layout.
- (27) Ms Walsh addressed the Committee and stated that the site was protected by policy QD20 Urban Open Space, whether it was publicly owned or privately owned. There had been a number of cases in the past where the Local Planning Authority had

sought to protect sites under this policy without going rigorously through the policy exception tests. As a consequence Planning Inspectors had been critical of the Authority's approach. In this instance therefore the policy had been explored.

- (28) Ms Woodward noted that there were various private covenants on site that were nothing to do with the Council, and these would be a private matter for the applicant to deal with. However there were covenants to restrict the site to open space contained in the planning agreements drawn up in the 1930s. These were a matter for the council as a local planning authority and could be released by the Council under the proposed Section 106 Agreement.
- (29) Councillor Alford queried how much land would be allocated to housing and open space. Mr Walker replied that 5.3 hectares would be open space and 2.3 hectares would be housing.
- (30) A vote was taken and on a vote of 11 for and 1 against, minded to grant planning permission was granted subject to a Section 106 Agreement, and the conditions and informatives listed in the report.
- 246.2 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in paragraph 8 of the report and resolves it is minded to grant planning permission subject to a S106 Agreement and the conditions and informatives listed in the report.

B. Application BH2010/03540, Former Flexer Sacks Site, Wellington Road, Portslade – Change of use of all floors to mixed use development comprising ground floor - leisure (D2) first floor – part leisure (D2) part offices (B1) part parking area. Second floor offices (B1) and second floor extension to south section comprising vertical circulation core ground to second floors with lift motor room at roof level. Also, external refurbishment and alterations to all elevations.

(1) This application was deferred from this agenda.

C. Application BH2010/03791, Saunders Glassworks, Sussex Place, Brighton – Application to extend time limit for implementation of previous approval BH2005/00343/FP for the demolition of existing former glassworks. Erection of a five storey block of flats, 2 bungalows and 1 house comprising a total of 50 units, including 20 affordable units. Creation of 3 on-site disabled car parking spaces.

(1) The Area Planning Manager (East), Ms Burnett introduced the application and noted an additional consultation response had been received from the Housing Team, which was available as part of the Late List. The scheme was unchanged from the original scheme, although a change to policy had occurred regarding SPD08 that required the scheme to reach Code Level 4 for Sustainable Homes. This could be secured by condition.

Debate and decision making process

- (2) A vote was taken and on a vote of 10 for and 2 abstentions minded to grant planning permission was granted subject to a Section 106 Agreement, and the conditions and informatives listed in the report.

246.3 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in paragraph 8 of the report and resolves that it is 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.

D. Application BH2011/00255, Woodingdean Business Park, Sea View Way, Bexhill Road, Woodingdean - Erection of industrial and storage buildings with associated offices and a wind turbine together with provision for access, servicing, parking and landscaping.

- (1) Ms Burnett introduced the application and highlighted that this followed on from phase 5 of the application that had been agreed in August 2010. This applicant sought to reposition block 1 and this was considered a minor amendment. The application was otherwise identical to the scheme already approved.

Debate and decision making process

- (2) A vote was taken and on a unanimous vote planning permission was granted subject to the conditions and informatives listed in the report.

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

(iii) MINOR APPLICATIONS

E. Application BH2010/03911, 52 Downland Road, Brighton – Hip to gable loft extension with front and rear dormers and rooflights to front elevation (part retrospective).

- (1) This application was the subject of a site visit.
- (2) Ms Burnett introduced the application and presented plans, photos and elevational drawings. There was a complex plan history, including an original application for a hip to gable roof extension. The current application was part retrospective. A certificate of lawfulness had been refused in 2010 for part of the work completed, and a concurrent planning application had also been refused as the dormer failed to meet 5 key areas of design. It was also felt that the plans for the current application were incorrect and the arrangement was an undesirable layout. There would be visual clutter to the roof and the application would be detrimental to the street scene and overly bulky.

Questions/matters on which clarification was sought

- (3) Councillor Cobb noted that the pictures used in the presentation were different to what was in existence on site. Ms Burnett replied that the approved application had been for a hip to gable roof extension and small dormer with fenestration. Evidently building work had been completed that did not match the approved application.
- (4) Ms Walsh added that partial permission had been implemented and extra works also undertaken on site. The plans submitted for this application were also different to the existing situation on site, and this could be added as another reason for refusal.
- (5) Councillor Carden asked if the patio terrace required planning permission and Ms Walsh replied that this would depend on the depth of a patio. For this application it was deemed that this structure did require planning permission.

Representations from Public Speakers

- (6) Mr Bean, the applicant, addressed the Committee and stated that he had purchased the building in April 2010 to convert into a four bedroom family home. He had not believed this would be a problem due to the prevalence of large dormer extensions in the surrounding area. He had not intended to circumvent planning permission and this was not done for financial gain but to provide a home for his family. Advice from the planning department had been that Mr Bean could secure planning permission by doing part of the works through permitted development rights, and then securing planning permission for the rest of the works. He had completed part of the works under permitted development, and was now seeking authorisation for the rest of the works via planning permission. Mr Bean added that there had been several letters of support and no objections to his planning application.
- (7) Councillor Cobb recognised that Mr Bean had encountered difficulties with the planning regime, but noted that the works on site were still different to what was being applied for today. Mr Bean replied that he had been given advice to do works under permitted development, and then apply for planning permission to make the building symmetrical. He had currently undertaken part of the works.
- (8) The Chairman reminded Members that they needed to decide on the plans they had before them.
- (9) Councillor Steedman asked why Mr Bean had not constructed his home according to the approved planning permission. Mr Bean replied that he had needed to start work quickly, and so although the dormer had not been approved he had been told he was allowed to do this under permitted development rights.
- (10) Ms Woodward asked if Members were clear on what they would be voting for or against. Members indicated they were concerned about aspects of the application.
- (11) Councillor Mrs Theobald noted that the application showed the dormer at its full width, whereas the pictures showed a dormer that had not been built to the full width. Mr Bean replied that he could only build as far as he had under permitted

development rights, but he would like to take the dormer further out to balance the building.

- (12) Councillor Kemble felt that there were contrary views as to the advice that had been given to the applicant. Ms Walsh replied that all correspondence with applicants was available as part of the case file. Plans and detailed drawings were available on the website and when Member briefings were given these files were available for Members to scrutinise. Ms Burnett added that the applicant had been advised that the works were at risk because they did not have planning permission.
- (13) Councillor Steedman asked if the work to the hip to gable roof extension had been carried out under permitted development rights, would a full dormer then be permissible under the permitted development rights of the new building design. Ms Burnett replied that it would have to be measured before a decision could be reached, but this had not been what was applied for under the certificate. A front dormer had also been included in the planning application before Members.

Debate and decision making process

- (14) Councillor Kemble felt that the surrounding properties had various sizes and styles of gables and dormers and could not see a problem with this application.
- (15) Councillor Carden felt that the building works needed completing to make the building look better and felt he should support the application to achieve this.
- (16) A vote was taken and on a vote of 3 for, 8 against and 1 abstention the resolution to refuse planning permission was not carried.
- (17) A second recorded vote was taken and on a vote of 8 for, 3 against and 1 abstention minded to grant planning permission was granted subject to the conditions and informative listed below.

246.5 **RESOLVED** – That the Committee has taken into consideration and does not agree with the reasons for the recommendation set out in paragraph 8 of the report and resolves to delegate to the Head of Development Control authority to grant planning permission subject to such conditions as she considers appropriate for the reason that the scheme complied with policy QD14 of the Brighton & Hove Local Plan and would not detrimentally affect visual amenity and the street scene.

Note: Councillors Hyde, Alford, Carden, Cobb, Allen, Kemble, Barnett and Theobald voted for the proposal. Councillors Davey, Kennedy and Steedman voted against the proposal. Councillor McCaffery abstained from voting.

F. Application BH2010/03843, Amber Court, 38 Salisbury Road, Hove – Creation of additional floor at fourth floor level to form 2no two bedroom flats with terraces to rear.

- (1) Mr Walker introduced the application and presented plans, photos and elevational drawings. There had been a previous refusal on the grounds of height and the design of the windows. The application was determined on appeal and the Inspector had not agreed that the height would have a detrimental affect on amenity. Therefore the only grounds that the Committee could consider for the new application were the design details regarding fenestration. Extra information had also been submitted by the applicant to show there was not a great affect on amenity or overlooking.

Questions/matters on which clarification was sought

- (2) Councillor Mrs Theobald asked if there was a lift to access the top floor and Mr Walker replied there would be a stairwell.
- (3) Councillor Cobb asked why the windows were not symmetrical for the proposed new floor and Mr Walker replied that it was deemed better to have a general mirroring of the windows that were already in existence, but not exact replicas of what were there already.

Debate and decision making process

- (4) Councillor Mrs Theobald did not like the application and felt it would be a great upheaval for the people living in the building. There would be no extra car parking provided and no lift provision and she felt that this was inappropriate.
- (5) A vote was taken and on a vote of 7 for, 1 against and 4 abstentions planning permission was granted subject to the conditions and informatives listed in the report.

246.6 **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.

G. Application BH2011/00083, 5-6 Western Road, Hove – Application for removal of condition 1 of BH2007/02454 (Part retrospective application for the erection of a four storey building over an existing basement level nightclub, comprising a ground floor bar (A4) and six flats over the floors above, and including alterations to existing elevations) which states that the ground floor bar hereby permitted shall not be used in connection with the basement nightclub at any time.

- (1) Mr Walker introduced the application and presented plans, photos and elevational drawings. During refurbishment of the site the building had started to collapse and enforcement action had been taken. In 2008 an application had been approved and the works for that application had been almost completed. Part of the permission had included an agreement not to use the ground floor in conjunction with the basement

floor, to prevent the premises becoming a large nightclub. Permission was sought for ground floor changes to allow access to the basement. This was perhaps a sensible solution to noise complaints in the area, but the Local Plan prohibited the establishment of large nightclubs within 400 metres of a similar establishment and residential properties. The site also lay within the Special Stress Area that was an area of special attention where problems of noise and anti-social behaviour had been recognised. The Environmental Health Team had received several noise complaints since 2010.

Questions/matters on which clarification was sought

- (2) Councillor Kemble asked how many noise complaints had been received and Mr Walker replied that there had been five since 2010.
- (3) Councillor McCaffery asked if a condition could be imposed so that each floor was open and closed at a separate time to prevent the establishment being used as a large nightclub and Mr Walker replied that this would not be possible.

Representations from Public Speakers

- (4) Mr Turner, agent to the applicant, spoke in favour of the application and stated that the bar operated on two levels with similar uses for each bar. Private functions could take place in one or both bars, but customers had to go outside to access the basement bar. This caused problems with noise and disturbance and the inclusion of a door between the floors would alleviate this situation. It was also recognised by the Environmental Health Team that this situation would be alleviated by the inclusion of a door between the floors. The Police objected to the creation of a large nightclub, which was defined at 150 square metres. The premises including the two bars would be only 157square meters, and if bar space and associated chairs and tables etc were removed from the calculation it would in fact be on 145 square metres. As such, Mr Turner questioned whether the policy should be applied to this premises. There were many letters of support for this proposal from local residents and the only result would be a potential benefit to the area. He suggested that a temporary permission might be possible to ensure that no problems ensued.

Questions/matters on which clarification was sought

- (5) Councillor Mrs Theobald asked how many customers were allowed in the premises. Mr Turner replied that it was currently 350.

Debate and decision making process

- (6) Councillor Kennedy stated that she would be supporting the officer's recommendation. She was concerned that this application would turn this establishment into a large nightclub, and this would set a precedent for the area. The area was very sensitive to anti-social behaviour and she believed the application might exacerbate this.

- (7) Councillor Kemble felt that this was already a large premises and the Committee could consider giving a temporary permission to ensure there were no problems as a result of the application.
- (8) Ms Woodward advised that a temporary permission could be considered by the Committee for this application, but it was prudent to deal with the officer's recommendation first.
- (9) A vote was taken and on a vote of 8 for, 1 against and 3 abstentions planning permission was refused for the reason given in the report.

246.7 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in the report and resolves to refuse planning permission for the following reason:

1. Policy SR12 of the Brighton & Hove Local Plan seeks to resist the formation of large A4 drinking establishments where the premises would be within 400m of another establishment falling into the above category; the premises would operate within, or abutting, premises containing residential accommodation; or where the use would cause nuisance or an increase in disturbance to nearby residents by reason of noise either from within the premises or as a result of people leaving the premises late at night. Policies SU10 and QD27 seek to protect the amenities of residential occupiers from noise disturbance. The proposed removal of the condition and the installation of an internal door to connect the two units would result in the creation of a single large drinking establishment in close proximity to an existing large drinking establishment, thereby significantly harming the amenities of adjacent residents by way of late night noise disturbance in an area identified as being prone to late night disturbance and anti-social behaviour, contrary to the above policies.

Informatives:

1. This decision is based on the site plan, block plan and drawing nos. TA570/1 & TA570/10 received on the 11th January 2011.

H. Application BH2010/03648, 149-151 Kingsway, Hove – Demolition of 2no semi detached houses and erection of 4no 3 bed apartments and 1no 2 bed apartments with basement car park.

- (1) This application was taken together with conservation area consent application BH2010/03649, 149-151 Kingsway, Hove.
- (2) Mr Walker introduced the application and presented plans, photos and elevation drawings. He highlighted that the relationship with Viceroy Court was of most concern. Planning permission had been refused on this site and was the subject of an appeal. At the appeal the Inspector agreed that there would be a poor outlook for Viceroy Lodge, but did not agree with the Authority that there would be a detrimental impact caused by overshadowing. The new application was slightly lower in height with concrete cladding and balconies or winter gardens. The building was 1 metre further away from neighbours compared with the previous application and 15 metres away from the boundary. It was recognised that seafront buildings are generally

higher and so the height was acceptable, and it was difficult to refuse the principle of flats on the seafront. There were five car parking spaces and one disabled car parking space provided with the flats.

Questions/matters on which clarification was sought

- (3) Councillor Kennedy asked for more information regarding the materials proposed for the scheme and Mr Walker replied that it would be predominantly concrete cladding and glass. There were no suggested details available for the render. The glazing to the rear rooms, which were kitchens, would be obscured.
- (4) Councillor Kemble asked if this site was the subject of enforcement following a fire and Mr Walker confirmed this.
- (5) Councillor Kemble asked why cycle storage was necessary and only five parking spaces provided with the scheme. He also asked about the contributions to tactile paving, which he did not feel would be enough to lay paving on both sides of the road. Mr Walker suggested that this site would be ideal for those wishing to use bicycles and the parking was deemed adequate. Ms Walsh responded that a recent paper had been agreed at Cabinet regarding "Interim Developer Contribution Guidance on 17 February and the level of contribution was in accordance with that guidance. The Senior Transport Planner, Mr Reeves, added that the contributions were based on the impact of extra traffic in the area generated by the scheme. The developer then paid a proportion towards mitigating this impact. The contributions from all the schemes in an area would be used for mitigation measures.
- (6) Councillor McCaffery raised concerns over the scheme, which she felt was particularly difficult to envisage. She felt the visuals were not coherent. The Chairman suggested that officers would agree the final finish of the scheme.
- (7) Councillor Steedman agreed that the application was difficult to understand. He suggested deferring the application to wait for more details of the design to be submitted by the applicants.
- (8) Mr Andrews agreed and stated that CAG also felt it was difficult to interpret the plans, especially in terms of the relationship between the solid and void parts of the building. He accepted the height, mass and scale, but believed that more details were needed regarding design.
- (9) Councillor Mrs Theobald requested a sample board to be submitted, and for details as to whether the lift could accommodate wheelchair users.
- (10) A vote was taken and on a vote of 9 for, 0 against and 3 abstentions the application was deferred for more information.

I. Application BH2010/03649, 149-151 Kingsway Hove – Demolition of 2no semi detached houses.

- (1) This application was taken together with application BH2010/03648, 149-151 Kingsways Hove.
- (2) A vote was taken and on a vote of 9 for, 0 against and 3 abstentions the application was deferred for more information.

J. Application BH2010/00529, 68 Western Road, Brighton - Demolition of existing rear three storey section of the property and erection of 1 no four storey residential block (4 residential units) fronting onto & with access via Stone Street. Refurbishment of existing retail unit and refurbishment of residential unit above.

- (1) Mr Walker introduced the application and presented plans, photos and elevational drawings. The building dated from the 19th century and had been much altered and built upwards over the intervening period. The current dwelling did not contribute to the street scene. The application sought to reduce the storage area and slightly increase the shop area and this was deemed acceptable. Comments received from CAG expressed disappointment that there was a lack of upgrading to the Western Road frontage and that the pace and light provided for the residential element was substandard. Mr Walker agreed that the mix within the building was not ideal, but the space was narrow and so there was a limited amount of provision. The scheme would meet Code Level 3 for Sustainable Homes and there were no traffic contributions requested. Additional information was also included on the Late List.

Questions/matters on which clarification was sought

- (3) Councillor Mrs Theobald asked if the application was taller than the existing building and Mr Walker confirmed this, but added that the top was set back.
- (4) Councillor Mrs Theobald asked if an informative could be added to ask the applicant to improve the Western Road frontage. Ms Walsh replied that informatives were usually included to provide the applicant with useful information, and the Committee would need to think carefully about why this informative was necessary.
- (5) Councillor Kemble asked if CAG were allowed to request that an application be considered at Committee. Ms Walsh replied that as a non-voting advisory group, CAG had the same rights to request that an application be considered at Committee as a Ward Member.
- (6) Mr Andrews asked if the front space of the building indicated on the plans was the living/dining/kitchen space, and asked for the width of this. Mr Walker replied that it was, and the dimensions were 4.5 metres by 2.5 metres.

Debate and decision making process

- (7) Mr Andrews was very concerned about the living space provided with the accommodation, which he felt was exceptionally narrow. He was also disappointed

with the summary of the comments from CAG that officers had provided to the Committee, which he felt did not express their concerns accurately. Ms Walsh replied that the officers had a duty to summarise the comments from CAG and provide this to Members. She indicated that if CAG wished to provide their own summary for the report she would include this.

- (8) Councillor Barnett felt it was ludicrous to expect someone to live in such a limited space. The accommodation provided was far too small.
- (9) Ms Walsh addressed Members and stated that schemes had come before Committee in the past that had provided 16 square metres of living space. This application provided 35 square metres and so was generous in that respect. She added that there were no minimum space standards.
- (10) Councillor Barnett felt that the width of the premises was the main concern.
- (11) Councillor Cobb asked if the scheme met with lifetime homes standards and Mr Walker replied that it did.
- (12) Mr Andrews still felt that 35 square metres was very minimal living space, and much of it would need to be dedicated to circulation space. He did not believe it was adequate for lifetime homes standards and was appalled that the application was recommended for approval.
- (13) A vote was taken and on a vote of 0 for, 6 against and 6 abstentions the recommendation to approve planning permission was not agreed.
- (14) Councillor Mrs Theobald proposed to refuse the application and Councillor Cobb seconded this proposal.
- (15) A second recorded vote was taken and on a vote of 8 for, 0 against and 3 abstentions planning permission was refused for the reasons given below.

246.8 **RESOLVED** – That the Committee has 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 scheme as currently proposed by reason of the narrow layout and limited size of the lower ground floor unit and the second floor unit would result in a cramped scheme having an adverse impact on the amenity of the potential occupiers contrary to policy QD27 of the Brighton and Hove Local plan 2005.

Note 1: Councillors Hyde, Alford, Carden, Cobb, Allen, Kennedy, Barnett and Theobald voted for the proposal. Councillors Davey, Kemble and Steedman abstained from voting.

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

K. Application BH2010/00530, 68 Western Road, Brighton – Demolition of rear 3 storey section of property facing Stone Street.

(1) This application was taken together with application BH2010/00529, 68 Western Road, Brighton.

Debate and decision making process

(2) A vote was taken and on a vote of 0 for, 9 against and 2 abstentions Conservation Area Consent was not granted.

246.9 **RESOLVED** – That the Committee has 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 Conservation Area Consent for the reasons given below:

1. Policy HE8 of the Brighton & Hove Local Plan states that where demolition of buildings within a conservation area are proposed, the redevelopment of the site should preserve the character or appearance of the Conservation Area. The existing rear three storey section of the property is not of merit, however to allow the demolition where no acceptable replacement building or boundary treatments have been identified would have a negative impact on the character and appearance of the Regency Square Conservation Area. The proposal is therefore considered to be contrary to Policy HE8 of the Brighton & Hove Local Plan.

L. Application BH2011/00248, 36 Hollingdean Terrace, Brighton – Replacement and enlargement of timber platform incorporating steps and glazed screens (part retrospective).

(1) Ms Burnett introduced the application and presented plans, photos and elevational drawings. The main concerns were overlooking of number 34 that this application would afford.

Questions/matters on which clarification was sought

(2) Councillor Kemble asked if there were terraces on either side and Ms Burnett replied that there were enclosed structures on either side, but they did not have planning permission. They did not set a precedent for this application.

Debate and decision making process

(3) A vote was taken and on a unanimous vote planning permission was refused for the reasons given in the report.

246.10 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in the report and resolves to refuse planning permission for the following reasons:

1. Policy QD14 of the Brighton & Hove Local Plan requires that all extensions and alterations are well designed, sited and detailed in relation to the property to be extended, adjoining properties and to the surrounding area. The raised decked

structure and proposed contrived screening option is an inappropriate addition to the rear garden area by reason of its highly prominent and incongruous appearance, resulting in a detrimental impact on the character and appearance of the existing building and a dominant and overbearing visual impact on the residents of neighbouring properties. The scheme is therefore contrary to policy QD14 of the Brighton & Hove Local Plan.

2. Policies QD14 and QD27 state that planning permission will not be granted for alterations which would cause material nuisance and loss of amenity to existing / future residents. Use of the raised terrace area would result in unacceptable levels of overlooking of neighbouring gardens and the rear elevations of neighbouring dwellings, causing significant harm to the privacy of neighbouring residents. The scheme is therefore contrary to policies QD14 and QD27 of the Brighton & Hove Local Plan.

Informative:

1. This decision is based on drawing nos. OS/01, 01, 02, 03, 04, 05revA, 06revA received on the 27th January 2011.

M. Application BH2010/03477, 42 George Street, Brighton - Addition of second floor and internal and external alterations to first floor to create student accommodation (Sui-generis) and retention of 160sqm of Retail (A1) to ground floor together with cycle and bin storage.

- (1) Ms Burnett introduced the application and presented plans, photos and elevational drawings. The site had previously been student accommodation and was in a mixed residential and commercial area. Letters of objection had been received regarding overlooking to the rear. There was a separation distance of around 9 metres from the properties opposite the proposal. No off street parking was provided with the development, but secure cycle storage was available. The development would reach Code Level 3 for Sustainable Homes and a BREEAM rating of very good.

Questions/matters on which clarification was sought

- (2) The Chairman asked how many students currently lived in the dwelling and Ms Burnett believed there were five.
- (3) Councillor Kemble asked about parking permits and Ms Burnett replied that the site was in zone C parking with 168 available permits.
- (4) Councillor Cobb asked if there was potential for noise disturbance from the balconies and Ms Burnett agreed that there might be.
- (5) Councillor Mrs Theobald asked if there was any other amenity space provided with the application and Ms Burnett replied that there was a communal kitchen on each floor.

Debate and decision making process

(6) A vote was taken and on a vote of 8 for, 0 against and 3 abstentions planning permission was granted subject to the conditions and informatives listed in the report.

246.11 **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.

N. Application BH2010/01338, 5 Steine Street, Brighton – Alterations to frontage (retrospective).

(1) Ms Burnett introduced the application and stated that it had previously been considered at Committee on 22 September 2010, where it was deferred for further information from Environmental Health and the applicants regarding acoustic glazing.

The area was mixed use and an application had been refused in 2008 due to noise concerns. No other objections had been received since this time. A noise limiter was reviewed in 2010 and a recent meeting with residents had confirmed that there had been a great improvement following the installation of sealed glazing units. The Environmental Health Team was now satisfied with the noise limiting device and the design of the units had overcome the design concerns.

Questions/matters on which clarification was sought

(2) Councillor Steedman asked if the letters of objection had been received before or after the residents meeting. Ms Burnett replied that they had been received as part of the original application that had been before the meeting.

(3) The Chairman noted that the residents had requested for glazing to be sound proof up to 84 decibels, or 10 decibels higher than the sound limiter. The Environmental Health Manager, Ms Sparks, noted that historically complaints had been regarding people and music noise. There were a number of different ways in which this noise could be managed, and at a residents meeting on 29 November 2010 it was agreed that the situation had much improved. There was a lack of further complaints and so it was concluded that further attenuation was not necessary. For the current use of the building further glazing was not necessary.

(4) Councillor Mrs Theobald asked if there was an internal lobby door, as had been recommended and Ms Burnett agreed that this was shown on the plans.

(5) Councillor Steedman asked if the issues around overlooking had been addressed and Ms Burnett agreed, but stated that this had not been a significant issue or a reason for refusal.

Debate and decision making process

- (6) A vote was taken and on a vote of 9 for, 2 against and 1 abstention planning permission was granted for the reasons given in the report.
- 246.12 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation and resolves to grant unconditional planning permission for the reasons given in the report.
- 247. TO CONSIDER AND NOTE THE CONTENT OF THE REPORT DETAILING DECISIONS DETERMINED BY OFFICERS UNDER DELEGATED AUTHORITY**
- 247.1 **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.]

- 248. 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**
- 248.1 There were none.
- 249. VARIATION OF A SECTION 106 AGREEMENT - EXEMPT CATEGORY 5**
- 249.1 The Committee considered a report from the Monitoring Officer regarding variation of a Section 106 Agreement.
- 249.2 Ms Woodward gave legal advice in respect of the agreement, and the Area Planning Manager (West), Ms Hurley, updated Members as to the planning history of the site.
- 249.3 **RESOLVED** – That the recommendations at paragraphs 2.1 and 2.2 of the report are agreed.
- 250. PART TWO ITEMS**
- 250.1 **RESOLVED** – That business and decisions under item 249 of the agenda remain exempt from disclosure to members of the press and public.

The meeting concluded at 6.30pm

Signed

Chair

Dated this

day of