



**Brighton & Hove
City Council**

Planning Committee

Title:	Planning Committee
Date:	10 June 2009
Time:	2.00pm
Venue	Council Chamber, Hove Town Hall
Members:	Councillors: Hyde (Chairman), Wells (Deputy Chairman), Carden (Opposition Spokesperson), Davey, Hamilton, Kennedy, McCaffery, Smart, Steedman, C Theobald, Mrs Cobb and Caulfield Co-opted Members: Mr J Small (CAG Representative)
Contact:	Penny Jennings Senior Democratic Services Officer 01273 291065 penny.jennings@brighton-hove.gov.uk

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AGENDA

17. PROCEDURAL BUSINESS

- (a) Declaration of Substitutes - Where Councillors are unable to attend a meeting, a substitute Member from the same Political Group may attend, speak and vote in their place for that meeting.
- (b) Declarations of Interest by all Members present of any personal interests in matters on the agenda, the nature of any interest and whether the Members regard the interest as prejudicial under the terms of the Code of Conduct.
- (c) Exclusion of Press and Public - To consider whether, in view of the nature of the business to be transacted, or the nature of the proceedings, the press and public should be excluded from the meeting when any of the following items are under consideration.

NOTE: Any item appearing in Part 2 of the Agenda states in its heading the category under which the information disclosed in the report is exempt from disclosure and therefore not available to the public.

A list and description of the exempt categories is available for public inspection at Brighton and Hove Town Halls.

18. MINUTES OF THE PREVIOUS MEETING

1 - 16

Minutes of the meeting held on 20 May 2009 (copy attached).

19. CHAIRMAN'S COMMUNICATIONS

20. PETITIONS

No petitions had been received by the date of publication of the agenda.

21. PUBLIC QUESTIONS

(The closing date for receipt of public questions is 12 noon on 3 June 2009).

No public questions received by date of publication.

22. DEPUTATIONS

(The closing date for receipt of deputations is 12 noon on 3 June 2009).

No deputations received by date of publication.

PLANNING COMMITTEE

23. WRITTEN QUESTIONS FROM COUNCILLORS

No written questions have been received.

24. LETTERS FROM COUNCILLORS

No letters have been received.

25. NOTICES OF MOTION REFERRED FROM COUNCIL

No Notices of Motion have been referred.

26. APPEAL DECISIONS

17 - 34

(copy attached).

27. LIST OF NEW APPEALS LODGED WITH THE PLANNING INSPECTORATE

35 - 36

(copy attached).

28. INFORMATION ON INFORMAL HEARINGS/PUBLIC INQUIRIES

37 - 40

(copy attached).

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

30. TO CONSIDER AND DETERMINE PLANNING APPLICATIONS ON THE PLANS LIST:10 JUNE 2009

(copy circulated separately).

31. 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

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

Members are asked to note that officers will be available in the Council Chamber 30 minutes prior to the meeting if Members wish to consult the plans for any applications included in the Plans List.

PLANNING COMMITTEE

The City Council actively welcomes members of the public and the press to attend its meetings and holds as many of its meetings as possible in public. Provision is also made on the agendas for public questions to committees and details of how questions can be raised can be found on the website and/or on agendas for the meetings.

The closing date for receipt of public questions and deputations for the next meeting is 12 noon on the fifth working day before the meeting.

Agendas and minutes are published on the council's website www.brighton-hove.gov.uk. Agendas are available to view five working days prior to the meeting date.

Meeting papers can be provided, on request, in large print, in Braille, on audio tape or on disc, or translated into any other language as requested.

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If you have any queries regarding this, please contact the Head of Democratic Services or the designated Democratic Services Officer listed on the agenda.

For further details and general enquiries about this meeting contact Penny Jennings, (01273 291065), email penny.jennings@brighton-hove.gov.uk or email democratic.services@brighton-hove.gov.uk.

Date of Publication - Tuesday, 2 June 2009

PLANNING COMMITTEE	Agenda Item 18 Brighton & Hove City Council
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BRIGHTON & HOVE CITY COUNCIL

PLANNING COMMITTEE

2.00pm 20 MAY 2009

COUNCIL CHAMBER, HOVE TOWN HALL

MINUTES

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

Co-opted Members Mr J Small (CAG Representative)

Officers in attendance: Paul Vidler, (Deputy Development Control Manager), Mike Holford (Strategic Planning and Monitoring Manager), Hamish Walke (Area Planning Manager (East)), Steve Reeves (Principal Transport Planner), Nicola Hurley (Senior Planning Officer), Mick Anson (Major Projects Officer), Alison Gatherer (Lawyer) and Penny Jennings (Senior Democratic Services Officer)

PART ONE

1. PROCEDURAL BUSINESS

1A Declaration of Substitutes

1.1 Councillor Kemble was in attendance in substitution for Councillor Caulfield.

1B Declarations of Interest

1.2 Councillor Hamilton declared a personal and prejudicial interest in application BH2008/03644, 6-8 Foredown Drive, arising from his involvement with objectors to the scheme. He stated that he would speak to the application as a Ward Councillor, would then leave the meeting and would take no part in the discussion or voting thereon.

1C Exclusion of the Press and Public

1.3 In accordance with Section 100A of the Local Government Act 1972 ("The Act"), the Planning Committee considered whether the press and public should be excluded from the meeting during an item of business on the grounds that it was likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if

members of the press or public were present during it, there would be disclosure to them of confidential information (as defined in section 100A(3) of the Act).

- 1.4 **RESOLVED** – That the press and public be not excluded from the meeting during consideration of any item on the agenda.

2. MINUTES OF THE PREVIOUS MEETING

- 2.1 It was explained that the minutes prepared for signature by the Chairman and posted on the Council's website and referring to comments received from English Heritage (4th paragraph (2), Page 5) had been amended to read as follows:

“English Heritage did not object to the principle of further extension to the Old Market, however it was opposed to the current design solution because of the harm that would be caused to the Grade II listed building and the wider townscape.”

- 2.2 **RESOLVED** – That subject to the above amendment the Chairman be authorised to sign the minutes of the meeting held on 29 April 2009 as a correct record.

3. CHAIRMAN'S COMMUNICATIONS

Web casting

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

Planning Strategy for the South East

- 3.2 The Strategic Planning and Monitoring Manager, Mr Holford was in attendance at the invitation of the Chairman in order to brief the Committee in respect of this matter.
- 3.3 Mr Holford explained that the South East Plan had been published on 6 May 2009. It replaced Regional Planning Guidance for the South East (RPG9) and the East Sussex and Brighton & Hove Structure Plan which was now part of the statutory development plan and with the Brighton & Hove Local Plan was a key document when considering planning applications. These needed to be determined in line with the South East Plan where relevant. The Council's planning policy documents (Local Development Framework) e.g. Core Strategy had to be produced in accordance with the South East Plan.

Main Implications for Brighton & Hove:

Housing Targets

- 3.4 The housing allocation for Brighton & Hove was 570 houses/flats per annum (total 2006 to 2026 is 11,400). This was lower than the Secretary of State's proposed changes (620 pa totalling 12,400) but higher than in the draft Plan (550 pa, totalling

11,000) and the figure suggested in the Council's response to consultation last year (520 pa totalling 10,400).

Shoreham Harbour

- 3.5 Shoreham Harbour continued to be identified as one of seven Strategic Development Areas in the South East. The proposal for 10,000 homes at Shoreham was an interim figure in addition to the target for the rest of the City and would also have to be met.

Waste

- 3.6 The requirement to provide for a proportion of London's Waste remained. This had now been qualified by the need for local testing of figures through the development plan documents where there was more recent data with which to assess and plan for capacity.
- 3.7 **RESOLVED** – That the position be noted.

4. PETITIONS

- 4.1 Councillor Fryer presented the following petition containing 69 signatures:

“Proposed 3G Mobile Phone Mast: BT Telephone Exchange, Freshfield Road:
We the undersigned call on Brighton and Hove City Council to immediately open discussions with the applicants about proposals to install a 3G mast at the BT Telephone Exchange, at the junction of Freshfield Road and Southdown Mews. The site, which is in a residential area and within 100 metres of one primary school and two nurseries, is totally unsuitable and presents a potential health risk to children and adults alike. Furthermore, it has been chosen without any consultation with the community.

We also call on Brighton and Hove City Council to urge the Government to:

- Ensure the concerns of local communities about health and amenity issues are fully considered at each stage of the planning process;
- Commission independent research, paid for by a levy on telecommunications companies, into the health risks of masts.”

- 4.2 **RESOLVED** - That the contents of the petition be received and noted.

5. PUBLIC QUESTIONS

- 5.1 There were none.

6. DEPUTATIONS

- 6.1 There were none.

7. WRITTEN QUESTIONS FROM COUNCILLORS

7.1 There were none.

8. LETTERS FROM COUNCILLORS

8.1 There were none.

9. NOTICES OF MOTIONS REFERRED FROM COUNCIL

9.1 There were none.

10. APPEAL DECISIONS

10.1 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.

11. LIST OF NEW APPEALS LODGED WITH THE PLANNING INSPECTORATE

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

12. INFORMATION ON INFORMAL HEARINGS/PUBLIC INQUIRIES

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

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

13.1 **RESOLVED** - That the following site visits be undertaken by the Committee prior to determination:

Application:	Site visit requested by:
BH2008/03475, 1 Warmdene Way	Councillor Mrs Theobald
BH2008/03523, Land R/o 6 & 8 Kelly Road	Councillor Hyde, the Chairman
BH2009/00461, 94-96 Reigate Road	Councillor McCaffery

14. TO CONSIDER AND DETERMINE PLANNING APPLICATIONS ON THE PLANS LIST:20 MAY 2009**(i) SUBSTANTIAL OR CONTROVERSIAL APPLICATIONS ON THE PLANS LIST: 20 MAY 2009****A. Application BH2008/02303, Elmhurst, Warren Road, Woodingdean – Proposed 80 bed care home for the elderly with associated facilities, with 23 parking spaces, landscaped grounds and landscaped roof terrace.**

- (1) The Area Planning Manager (East), Mr Walke gave a detailed presentation in respect of the scheme. He explained that planning permission had previously been granted for a 75 bed nursing home with 19 car parking spaces. The internal layout of the individual bed sitting units with en-suite facilities remained unaltered as the additional units and parking spaces proposed had been achieved by configuring the buildings differently within the site.
- (2) Councillor Wells enquired regarding traffic calming measures proposed and it was explained road humps and dropped kerbs would be incorporated within the scheme.
- (3) In answer to questions by Councillor Smart as to whether in view of the topography of the site, it was intended to provide dedicated motorcycle parking, it was explained that no specific provision had been made.
- (4) Councillor Kemble referred to cladding materials to be and enquired regarding the type of timber to be used and surface treatment proposed. He referred to timber cladding used in the New England Quarter of the Brighton Station development and elsewhere across the City which had weathered poorly. Councillor Kemble and Mr Small, CAG were in agreement that often it was the finish used that gave rise to problems. The Area Planning Manager (East) stated that it was understood that Cedar would be used and that this required minimal treatment.
- (5) Councillor McCaffery enquired regarding any advantages accruing from use of timber cladding and it was explained that use of this material was very popular currently.
- (6) Councillor Mrs Theobald referred to the level of on site parking proposed seeking confirmation regarding the numbers of staff likely to be on site at any given time. The Area Planning Manager, (East) explained that the staff would work on a shift pattern and that residents parking would to be provided on a ratio of one to every four bed spaces. A staff travel plan would be required as a condition of planning permission being granted.
- (7) Mr Small, CAG enquired regarding the finishes proposed particularly the timber cladding, stating that it would be beneficial if the Committee could be provided with a briefing note updating Members regarding roofing materials, finishes and surface treatments currently being put forward by applicants.

- (8) Councillor Hyde, (the Chairman) and Councillor Mrs Theobald stated that whilst considering the scheme to be acceptable, they had some concerns regarding adequacy of the level of parking proposed and overflow arrangements given the high level of parking required throughout the day at the neighbouring Nuffield Hospital site.
- (9) A vote was taken and Members voted unanimously that minded to grant planning permission be agreed.
- 14.1 **RESOLVED** - That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in Paragraph 9 of the report and agrees that it is minded to grant planning permission subject to a Section 106 Obligation in the terms recommended and to the conditions and informatives set out in the report.
- B. Application BH2009/00174, Copse Car Park, University of Brighton** – replacement car parking comprising 61 spaces adjacent (west) to existing copse car park.
- (1) The Major Projects Officer, Mr Anson, gave a detailed presentation explaining that that extension to the car park was required in order to reinstate 61 car parking spaces which would be lost on campus as a result of the community stadium development. The existing car parking spaces were located adjacent to a road known as Turnpike Piece, (in the University's ownership) this ran along the eastern boundary of the University adjacent to land north of Village Way (the stadium site). The University had an agreement in place with the football club that the replacement parking spaces must be constructed prior to the hand over of the University's land to the club on 28 September 2009 in order to construct the North and West stands.
- (2) In answer to questions, the Major Projects Officer explained that changes were proposed to informatives (1) and (2) to reflect amendments which had been made to the submitted plans and replacement South East Plan policies for the Structure Plan policies referred to in the report.
- (3) Councillor Smart enquired whether lamp standards/lighting were proposed. The Major Projects Officer explained that some additional lighting would be required, details of which would need to be submitted to the planning authority.
- (4) Councillor Kennedy sought clarification as to whether or not concerns expressed by the Council's Ecologist had been addressed. It was explained that they had and that a triangle of land affected by the proposals was not ancient woodland.
- (5) A vote was taken and Members voted unanimously that planning permission be granted.
- 14.2 **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 subject to conditions and informatives also set out in the report.

- C. Application BH2008/02490, Mill House, Overhill Drive, Patcham** – Erection of 3 detached two-storey dwellings and a single detached bungalow.
- (1) The Area Planning Manager (East) explained that the application had been placed before the Committee in order for Members to record what their decision would have been had an appeal against non-determination not been lodged. This information would be included with the submission forwarded to the Planning Inspectorate.
 - (2) Mrs Matthews spoke on behalf of neighbouring objectors stating that in their view none of the earlier reasons for refusal had been addressed. Access/egress to the site was considered hazardous particularly given that the pedestrian right of way which ran across the site was in daily use by those attending the nearby infant school.
 - (3) Mr Folkes spoke on behalf of the applicant in support of his scheme, stating that the scheme had undergone significant amendment in order to address previous concerns including re-routing the right of way across part of the site.
 - (4) Councillor Pidgeon spoke in his capacity as a Local Ward Councillor setting out his objections to the scheme and those of his ward colleague Councillor G Theobald. The merging of the public footpath into vehicular access was considered dangerous. There were also concerns regarding overlooking and surface water drainage given the site's location in area prone to flooding.

Questions/Matters on Which Clarification was Sought

- (5) Councillor Smart sought clarification regarding the location of bin storage arrangements and in respect of whether or not there was sufficient turning space for refuse vehicles to enter the site.
- (6) Councillor Smart also sought clarification of the Principal Transport Planner, Mr Reeves regarding access/egress arrangements from the site onto the adjacent highway. Mr Reeves explained the standard arrangements used to demarcate a public footpath from the carriageway in a shared surface were proposed.
- (7) Councillor Kemble enquired why a dedicated cycle parking area was required to be provided, it was explained that this would be applied as a standard condition in view of the size of the development.
- (8) Councillors McCaffery and Mrs Theobald enquired whether a response had been received from Southern Water regarding susceptibility of the area to flooding and potential impact of the proposed development on surface water drainage and were informed that no response appeared to have been received. Councillor Mrs Theobald considered that as this part of Patcham was known to be at risk of flooding a response from Southern Water was essential.

Debate and Decision Making Process

- (9) Councillor Mrs Theobald expressed her dissatisfaction that the application had not come before the Committee at an earlier date, the matter would now be rushed as a consequence of the appeal against non-determination being made and there was no

opportunity for the Committee to carry out a further visit. It was also possible that Southern Water had been given insufficient time to provide a response. She had grave concerns regarding the safety of the proposed shared access arrangements, and considered that element of the scheme to be wholly unacceptable. The entranceway was far too narrow. She was also of the view that the scheme would result in overlooking and loss of amenity to neighbouring dwellings.

- (10) Councillor Smart considered that the proposed exiting arrangements onto Overhill Drive were hazardous for pedestrians and vehicles as was the proposal that the carriageway be shared without any physical barrier being in place, the proposal would also result in traffic congestion at the nearby roundabout. The existing bridleway should be respected. Councillors Kemble and Wells concurred in that view.
- (11) Councillor Davey expressed concern that a site visit would not be possible bearing in mind the complexity of the site due to its gradient and differing ground levels. He was also concerned that matters relating to drainage did not appear to have been addressed and at the potential loss of the existing "green lung provided by the site."
- (12) Councillor Hyde, (the Chairman) echoed the concerns expressed by other Members of the Committee.
- (13) A vote was taken. On a recorded vote of 6 to 2 with 4 abstentions planning permission was refused.

14.3 **RESOLVED** - That the Committee resolves that it would have been minded to refuse planning permission had an appeal against non-determination been lodged on the following grounds:

1. The proposed development would result in overlooking of 17Audrey Close and 61A Overhill Drive to the detriment of the amenity of the occupiers of those properties contrary to Policy QD27 of the Brighton & Hove Local Plan.
2. The proposed development, by virtue of the width of the access and it being a shared pedestrian and vehicular access, together with the arrangement of the junction of the access with Overhill Drive and the proximity to a school, would be detrimental to highway safety, contrary to Policy TR7 of the Brighton & Hove Local Plan.
3. The proposed development would result in the loss of green space and existing trees on the site covered by Tree Preservation Order (No2) 2004, contrary to Policies QD2 and QD 16 of the Brighton & Hove Local Plan.
4. The applicant has failed to demonstrate that the proposed development would not increase the risk of flooding, contrary to Policy SU4 of the Brighton & Hove Local Plan.

Note 1: Councillor Smart proposed that the Committee would have been minded to refuse planning permission; this was seconded by Councillor Mrs Theobald.

Note 2: Councillors Hyde, the Chairman, Cobb, Davey, Kemble, Smart and Mrs Theobald voted for refusal. Councillors Carden and Hamilton voted that the Committee

would have been minded to grant the application. Councillors Kennedy, McCaffery Steedman and Wells abstained.

D. Application BH2008/03475, 1 Warmdene Way, Patcham – Demolition of existing garage and construction of a bungalow.

14.4 **RESOLVED** – That consideration of the above application be deferred pending a site visit.

E. Application BH2009/00509, Windlesham School, 180 Dyke Road, Brighton - 1 new classroom with new recreation fencing.

- (1) The Area Planning Manager (East), Mr Walke gave a detailed presentation explaining that permission was sought to remove two sheds from the southeast corner of the site and to replace them with a single timber-framed classroom providing 35sqm of gross floor space on one level. This was required in order to provide much needed teaching space prior to completion of the gymnasium and classroom block for which planning permission had been given in July 2008. Reference was made to a letter of objection received from Councillor Allen after completion of the "Late Representations List".
- (2) Mrs Barry spoke on behalf of neighbouring objectors to the scheme. A tree which provided screening between the site and neighbouring residential properties had been removed. The replacement fencing proposed was considered to be more prominent than the existing, as was the proposed building which in the view of objectors would be more dominant and overbearing.
- (3) Mr Turner spoke on behalf of the applicants in support of their application. He confirmed in answer to questions that the building was to be used during completion of the other building works referred to and would cease to be used as a class room following their completion. The building would not be used outside school hours and there were no plans to increase the number of pupils attending the school.

Questions/Matters on which Clarification was Sought

- (4) Councillor Wells sought clarification regarding the time of day at which photographs displayed by the objectors had been taken. Councillor Smart sought clarification as to the location they had been taken from. Details of the height and appearance of the new fencing to be provided was also sought.
- (5) The Area Planning Manager explained that although the space between the back of the proposed temporary classroom and the retaining walls of properties in Porthall Street might be insufficient to replant a tree, alternative screening measures could be sought by the Committee.
- (6) Councillor Smart sought confirmation that the classroom would be retained as storage space following completion of the works and would not continue to be used as a classroom. It was explained that planning permission would be required for any use other than storage following completion of the works.

- (7) In answer to questions of Mr Small, CAG it was explained that a matt mid/dark grey non-reflective finish would be used for the metal roof of the structure.

Debate and Decision Making Process

- (8) Councillor Smart having sought clarification regarding the location of trees which would be affected by the proposals, stated that he considered the proposals to be acceptable. However, he considered that it would be appropriate to add a condition to ensure that suitable landscaping/screening was provided on completion of the works.
- (9) Councillor Davey considered that the new fencing proposed would appear taller and more intrusive than the existing when viewed from the rear gardens of properties in Porthall Street.
- (10) Councillor McCaffery considered that this structure would tower above the neighbouring properties and would result in loss of light and loss of amenity. Councillor McCaffery also expressed concern that this application had been submitted now as a stand alone application rather than as part of the earlier one.
- (11) Members referred to the proposed rooflights and discussed whether it would be appropriate for blinds to be fitted. However, on balance they decided that as the classroom would only be in use during the school day, that the provision of blinds would create a more intrusive feature and that it would therefore be inappropriate to condition their provision.
- (12) A vote was taken and on a vote of 8 to 2 planning permission was granted. Councillors Carden and Kennedy were not present when the vote was taken.

- 14.5 **RESOLVED** - That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in Paragraph 8 of this report and resolves to grant planning permission subject to the conditions and informatives set out in the report and to an additional condition requiring suitable landscaping being provided on completion of the works.

Note: Councillors Davey and McCaffery voted that planning permission be refused.

F. Application BH2009/00720, 64 St James's Street, Brighton – Change of use from A1 retail to A2 Professional Office (Retrospective).

- (1) The Area Planning Manager (East), Mr Walke gave a detailed presentation setting out the rationale for the recommendation that the application be refused on the grounds that the applicant had failed to demonstrate that the unit was no longer viable as a Class A1 (retail) unit and also, that the proposed use would result in an unacceptable break in the existing retail frontage. As such it would fail to maintain and enhance the St. George's Local Centre and would be contrary to criteria a) and e) of Policy SR6 of the Brighton & Hove Local Plan.
- (2) The Deputy Development Control Manager referred to the appeal which was currently pending in respect of unauthorised change of use at "Starbucks" coffee bar, also in St James' Street and to the need for the local planning authority to be seen to apply its policies consistently.

- (3) Ms Cattell spoke on behalf of the applicant in support of their application. She referred to the history of the application site which had been built originally for use as a Police Station. Notwithstanding the buildings designated use class, it had been used for that purpose for a short space of time (1 year) that use having ceased due to non-viability.

Questions/Matters on which Clarification was Sought

- (4) Councillor Wells sought confirmation regarding legitimacy of the current use and it was explained that it was unauthorised.
- (5) Councillor Kemble sought clarification regarding the current status of the Brighton & Hove Local Plan which was set to expire shortly. The Area Planning Manager (East) explained that policies in the Local Plan were saved until superseded by the Local Development Framework.
- (6) Councillor Smart enquired whether if permission were to be granted the applicant would use the entire building. It was explained however, that the premises to which the application related were located at ground floor level only.

Debate and Decision Making Process

- (7) Councillor Steedman stated that in his view the character of this part of St James' Street was such that this use would not be detrimental either to the general character of the area, nor to occupiers of nearby residential properties.
- (8) Councillor Kemble concurred referring to the policy of the Council to support small businesses. The current use was clearly a flourishing small business and the Council needed to have the ability to apply its policies flexibly. Furthermore, he did not consider the use was contrary to policy and that it would not have any detrimental impact. Given that the previous retail use had ceased due to non-viability, this use was preferable to the premises sitting vacant.
- (9) Councillors Wells and Smart concurred in that view as did Councillor Mrs Theobald considering that this shopping area was sufficiently distant from the shopping areas to the east and west that it would not be detrimental. The current use provided local employment opportunities and was beneficial.
- (10) A vote was taken and on a vote of 5 with 5 abstentions planning permission was granted. Councillors Carden and Kennedy were not present when the vote was taken.

- 14.6 **RESOLVED** – That the Committee resolves to grant unconditional planning permission on the grounds that continuation of the A2 professional office use of the property would attract pedestrian activity, would not be detrimental to the amenities of occupiers of nearby residential properties or the general character of the area and would be beneficial to the local economy and would maintain and enhance this part of the St George's Road Local Centre.

Informatives:

1. This decision is based on drawing nos. 1, 2, 20, and Biodiversity Checklist submitted on 26.03.09.
2. This decision to grant planning permission has been taken:
 - (i) Having regard to the policies and proposals in the Brighton & Hove Local Plan set out below:
Brighton & Hove Local Plan:
 TR1 Development and the demand for travel
 QD27 Protection of amenity
 SR6 Local centres
 HE6 Development within or affecting the setting of conservation areas.

Note: Councillors Cobb, Kemble, Smart, Mrs Theobald and Wells voted that planning permission be granted. Councillor Hyde, the Chairman, Davey, Hamilton, McCaffery and Steedman abstained.

G. Application BH2009/00481, Telephone Exchange, Freshfield Road, Brighton –
 Installation of 3 panel antennas and an equipment cabinet on roof.

- (1) The Area Planning Manager (East) Mr Walke, explained that the equipment proposed on site was not considered to harm the appearance or character of the area. The application was accompanied by a valid ICNIRP certificate confirming that the installation would fall within current exposure guidelines. Coverage information had been included with the supporting materials submitted, this installation would improve coverage across that area of the city.
- (2) Councillor Fryer spoke in her capacity as a Local Ward Councillor setting out her objections to the proposal setting out the concerns of local residents regarding potential health risks arising from the proposals, bearing in mind the close proximity of a school, nursery school and neighbouring residential dwellings. As this was the first 3G mast proposed in the area, its cumulative effect both aesthetically and in terms of emissions should be considered. Councillor Fryer also referred to the resolution passed recently at Council in respect of the placing of telecommunications masts on buildings and to the recent refusal of a 3G application by Cheshire County Council which had been upheld on appeal.

Questions/Matters on which Clarification was Sought

- (3) Councillors McCaffery and Smart enquired regarding the implications of the resolution passed at Council. Councillor Smart also enquired regarding the most up to date advice available. The Deputy Development Control Manager stated that the resolution of Council related to placement of masts on its own land. This building was in the ownership of BT. The Legal Adviser to the Committee confirmed that this was the case and went on to explain that whilst Government Guidance recommended a precautionary approach, relevant health concerns were considered to have been

addressed in the event a valid ICNIRP certificate was submitted accompanying an application.

- (4) Councillor McCaffery enquired regarding radius of the beam of maximum intensity. Although this was not known, it was confirmed that both schools were located lower than the proposed equipment.
- (5) Councillor Mrs Theobald enquired regarding the outcome of a planning appeal relating to a site adjacent to Patcham bypass which had been refused by the Committee among other reasons by virtue of its close proximity to a special school and residential dwellings. The Deputy Development Control Manager explained that the appeal had been allowed.
- (6) A vote was taken and on a vote of 4 to 3 with 4 abstentions planning permission was granted. Councillor Carden was not present when the vote was taken.

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

Note: Councillors Davey, McCaffery and Wells voted that the application be refused. Councillors Hyde, (Chairman), Kemble, Kennedy and Steedman abstained from voting.

H. Application BH2008/03331, St Catherine’s Lodge Hotel, Kingsway, Hove – Temporary change of use to hostel for families for 2 years.

- (1) A vote was taken and the 10 Members present voted unanimously that planning permission be refused. Councillors Carden and Kennedy were not present when the vote was taken.

14.8 **RESOLVED** – That the Committee has taken into consideration and agrees with the recommendation and resolves to refuse planning permission for the reasons and subject to the informative set out in the report.

I. Application BH2008/03644, 6 to 8 Foredown Drive, Portslade – Installation of new window to front elevation and new fire escape door to rear elevation.

- (1) The Senior Planning Officer, Mrs Hurley gave a presentation detailing the proposals and indicating the location of the proposed fire door. No objections had been received in respect of the proposed replacement front window.
- (2) Mrs England spoke on behalf of neighbouring objectors referring to current abuses in their view by the applicant and their concerns that the fire door would be used for access / egress rather than for emergency use. The wall to be broken through and essential for the works to be carried out was not in the applicant’s ownership. Research indicated that it appeared to be owned as crown estate.

- (3) Mr Daughtrey, the applicant, spoke in support of his application explaining that the existing site evacuation arrangements had been required to cease as current legislation did not permit any business to exit across a neighbouring site as part of its emergency escape arrangements, as had previously been the case. It was intended that the fire exit would be used only in the event of an emergency or for annual fire drills.
- (4) Councillor Hamilton spoke in his capacity as a Local Ward Councillor (this item only) echoing the concerns of objectors to the scheme. Should permission be granted he was anxious that appropriate enforcement action be taken in the event that any infringement occurred. Having spoken, Councillor Hamilton then withdrew from the meeting and took no part in the discussion or voting thereon.

Questions/Matters on Which Clarification was Sought

- (5) Councillor Kemble enquired why the applicant was averse to a sprinkler system being fitted and he responded that for a small company, albeit one providing fire safety equipment, the cost would be prohibitive.
- (6) Councillors Smart and Steedman enquired regarding the relevance (if any) of ownership of the land by the Crown or any other party. The Senior Planning Officer explained that ownership was not a relevant planning consideration provided an applicant had met statutory requirements by placing advertisements seeking to establish ownership.
- (7) Councillor Smart also sought clarification regarding the distance from the tree located at the rear of the building and the proposed fire door.
- (8) Councillors Kemble and Steedman sought clarification that matters relating to use of the fire exit in the event of an emergency/drill only, could be enforced and it was confirmed that they could.
- (9) Councillor Hyde, (the Chairman) stated that the Committees' concerns focused around appropriate use by enforcement if necessary to ensure the fire door was not in everyday use for access/egress. The applicant agreed that an alarm could be fitted to the door which would go off when it was opened. It was confirmed that the door would be fitted with signage indicating that it was a designated fire door.
- (10) A vote was taken and on a vote of 6 to 4 with 1 abstention planning permission was granted. Councillor Hamilton was not present when the vote was taken.

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

Note 1: Having declared a personal and prejudicial interest in the above application once he had spoken in his capacity as a Local Ward Councillor, Councillor Hamilton left the meeting and took no part in the discussion or voting thereon.

Note 2: Councillors Cobb, Kennedy, McCaffery and Smart voted that permission be refused. Councillor Kemble abstained.

J. Application BH2008/03523, Land R/o 6 & 8 Kelly Road - Erection of two-storey dwelling on land rear of 6 and 8 Kelly Road.

14.10 **RESOLVED** - That consideration of the above application be deferred pending a site visit.

K. Application BH2009/00461, 94–96 Reigate Road, Brighton – construction of new 3 bedroom semi-detached house.

14.11 **RESOLVED** - That consideration of the above application be deferred pending a site visit.

15. 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

15.1 **RESOLVED** - That the following site visits be undertaken by the Committee prior to determination.

Application:	Site visit requested by:
BH2008/03475, 1 Warmdene Way	Councillor Mrs Theobald
BH2008/03523, Land R/o 6 & 8 Kelly Road	Councillor Hyde, the Chairman
BH2009/00461, 94-96 Reigate Road	Councillor McCaffery

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

DECISIONS ON APPLICATIONS DELEGATED TO THE DIRECTOR OF ENVIRONMENT

16.1 **RESOLVED** - That those details of applications determined by the Director of Environment under delegated powers be noted.

Note 1: All decisions recorded in this list are subject to certain conditions and reasons recorded in the Planning Register maintained by the Director of Environment. The register complies with legislative requirements.

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

Committee. This is in accordance with Resolution 147.2 of the then Sub Committee on 23 February 2005.

The meeting concluded at 6.20pm

Signed

Chairman

Dated this

day of

APPEAL DECISIONS

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A. ROTTINGDEAN COASTAL WARD	
Application BH2008/02748, 7 Arundel Mews, Brighton. Appeal against refusal to grant retrospective planning permission for installation of ventilation ducting from ground floor premises to above the first floor. (Delegated Decision) APPEAL ALLOWED (copy of the letter from the Planning Inspectorate attached).	19
B. REGENCY WARD	
Application BH2007/00696 (A), 5 Powis Villas & BH2007/00700 (B), 6 & 7 Powis Villas, Brighton. Appeal against grant of planning permission with conditions for conversion of two dwelling houses including new lightwells (Committee Decision) APPEALS ALLOWED (copy of the letter from the Planning Inspectorate attached).	23
C. WITHDEAN WARD	
Application BH2008/00483, 31 Maldon Road, Brighton. Appeal against refusal to grant planning permission for an extension to provide two flats at second floor level to replace flat roof.(Committee Decision) APPEAL DISMISSED (copy of the letter from the Planning Inspectorate attached).	27
D. PATCHAM WARD	
Application BH2008/02762, Patcham By Pass, Brighton. Appeal against refusal to grant planning permission for installation of a 10m high monopole, incorporating 3 shrouded antennas, a radio equipment housing and development ancillary thereto. (Committee Decision) APPEAL ALLOWED (copy of the letter from the Planning Inspectorate attached).	29
E. HANGLETON & KNOLL WARD	
Application BH2008/0i721, 26 Moyne Close, Hove Appeal against refusal to grant planning permission erection of single storey rear addition in order to provide ground floor bedroom and bathroom facilities for a disabled occupant. (Committee Decision) APPEAL ALLOWED (copy of the letter from the Planning Inspectorate attached).	33



Appeal Decision

Site visit made on 7 April 2009

by **John Millard DipArch RIBA FCI Arb**

an Inspector appointed by the Secretary of State
for Communities and Local Government

The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

☎ 0117 372 6372
email: enquiries@pins.gsi.gov.uk

Decision date:
8 May 2009

Appeal Ref: APP/Q1445/A/09/2093969 **7 Arundel Mews, Brighton, East Sussex BN2 1GG**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Timothy Hume against the decision of Brighton & Hove City Council.
- The application (Ref: BH2008/02748) dated 15 August 2008 was refused by notice dated 25 November 2008.
- The development carried out is the installation of ventilation ducting from ground floor premises to above the first floor.

Decision

1. I allow the appeal and grant retrospective planning permission for the installation of ventilation ducting from ground floor premises to above the first floor at 7 Arundel Mews, Brighton BN2 1GG, in accordance with the terms of the application Ref: BH2008/02748 dated 15 August 2008 and the plans submitted therewith.

Main Issues

2. The main issues in this appeal are the effect of the installation on, firstly, the character and appearance of the area and, secondly, the living condition of neighbouring occupiers, with particular reference to noise and odours.

Reasons

3. Arundel Mews is a small enclave of 2-storey commercial premises within a densely developed area of mixed character, including a number of residential properties nearby. The appeal property is a tiny ground floor unit at the end of the mews, tucked largely out of sight behind its immediate neighbour, a car repair workshop that has a much deeper floor plan. It is used for the small scale roasting of coffee beans and, in this connection, has a flue that has been erected on the external face of the building without the benefit of planning permission.
4. The flue is a simple stainless steel tube of about 300mm diameter that leaves the building at high level on the ground floor and rises vertically to about 1m above the eaves with just a single offset around the overhanging eaves. It is the kind of installation routinely seen throughout the country on commercial premises where fume or odour extraction is needed. In my opinion, and, although it can be seen from some residential properties beyond the mews itself, especially those in Lewes Mews, the flue does not look out of place within its commercial setting.

5. Policy QD14 of the adopted Brighton & Hove Local Plan 2005 (LP) seeks to ensure that extensions and alterations to existing buildings are well designed within their context. The installation in this case, whilst unashamedly utilitarian in appearance, is neat in its design, fabrication and installation, and appropriate to its function. Accordingly, I conclude on the first main issue that the flue represents good design, in its widest sense, causes no harm to the character and appearance of the area and accords with QD14 Policy objectives.
6. The flue is the final component in a comprehensive extraction system that is designed to operate quietly and to prevent the discharge of odours and fumes into the atmosphere. From what I saw at the site visit and the limited technical information before me it appears to be a modern 'state-of-the-art' system which, properly installed, operated and maintained, should create little or no noise disturbance. Furthermore, because it incorporates the latest odour control technology, its discharge should be nothing more than hot air.
7. The system appears to have been in operation since about February 2008, but the Council's Environmental Health Officer reports that there is no record of the system causing statutory noise or odour nuisance, although some local residents do appear to be experiencing unpleasant smells. Whilst the appellant acknowledges that there may have been teething troubles in the early days, I have no reason to doubt that system is currently working as it should. In any event, the effective operation of the system is a matter for control under environmental health legislation and is not a function of the planning system.
8. Notwithstanding the Council's and local residents' concerns, I am satisfied that the extraction system installed is capable of effectively removing most of the fumes and odours arising from the coffee roasting process carried out at the premises. I am also satisfied that it can do so without creating undue air-borne or structure-borne noise.
9. LP Policies QD27, SU9 and SU10 seek to protect the amenities of neighbouring occupiers, and to control pollution and noise nuisance, and it is my opinion that the installed system accords with these Policies. I therefore conclude, on the second main issue, that the subject flue causes no material harm to the living conditions of neighbouring occupiers, with particular reference to noise and odours, and is acceptable.
10. I have noted references by some local residents to 'black soot' or 'bonfire-like ash' discharging from the flue. While coffee roasting was not in progress during my site visit, I saw no evidence of a discharge of solid particles of any description in the vicinity of the flue. In any event, it is my experience that the coffee roasting process does not normally result in the discharge of any solid matter and I consider it more likely that any soot or ash-like substance experienced by neighbours emanated from a source other than the appeal property.
11. I have considered all other matters raised but found nothing that changes the balance of my decision that the appeal should be allowed and planning permission granted.
12. The Council has suggested that, if I allow the appeal and grant planning permission to retain the flue, conditions should be imposed requiring the

fitting of odour and noise control equipment to the installation in accordance with details that have first been approved by the Council. In view of my conclusion that the system is acceptable as installed, and in the absence of evidence that the present installation causes or is likely to cause material harm by reason of odours and noise, I consider that the suggested conditions would fail the first of the six test of validity set out in paragraph 14 of DoE Circular 11/95 – *The Use of Conditions in Planning Permissions*.

13. I therefore conclude that the suggested conditions are unacceptable and that, as the system is fully installed and operational, and is acceptable in its current form, no conditions are necessary.

John G Millard

INSPECTOR



Appeal Decisions

Site visit made on 20 April 2009

by **John Papworth DipArch(Glos) RIBA**

an Inspector appointed by the Secretary of State
for Communities and Local Government

The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

☎ 0117 372 6372
email: enquiries@pins.gsi.gov.uk

Decision date:
30 April 2009

Appeal A: APP/Q1445/A/07/2054442 **6 & 7 Powis Villas, Brighton BN1 3HD**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
- The appeal is made by Mr Ray Charmak against the decision of Brighton & Hove City Council.
- The application Ref BH2007/00700, dated 8 February 2007, was approved on 5 July 2007 and planning permission was granted subject to conditions.
- The development permitted is the conversion to two dwelling houses including new lightwells.
- The condition in dispute is No 2 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 and to remain genuinely car-free at all times has been submitted to and approved in writing by the Local Planning Authority. This shall include a timetable for the provision to be made and shall be carried out in accordance with the approved details.
- The reason given for the condition is: To ensure that the proposed development does not put undue pressure on existing on-street car parking in the city and to comply with policies HO7 and SU15 of the Brighton & Hove Local Plan.
- This decision supersedes that issued on 18 March 2008. That decision on the appeal was quashed by order of the High Court.

Appeal B: APP/Q1445/A/07/2054441 **5 Powis Villas, Brighton BN1 3HD**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
- The appeal is made by Mr Ray Charmak against the decision of Brighton & Hove City Council.
- The application Ref BH2007/00696, dated 2 February 2007, was approved on 5 July 2007 and planning permission was granted subject to conditions.
- The development permitted is a conversion to a single family dwellinghouse including new light wells.
- The condition in dispute is No 2 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 and to remain genuinely car-free at all times has been submitted to and approved in writing by the Local Planning Authority. This shall include a timetable for the provision to be made and shall be carried out in accordance with the approved details.
- The reason given for the condition is: To ensure that the proposed development does not put undue pressure on existing on-street car parking in the city and to comply with policies HO7 and SU15 of the Brighton & Hove Local Plan.
- This decision supersedes that issued on 18 March 2008. That decision on the appeal was quashed by order of the High Court.

Decision Appeal A

1. I allow this appeal and vary the planning permission Ref BH2007/00700 for the conversion to two dwelling houses including new lightwells granted on 8 February 2007 by the Brighton & Hove City Council by deleting condition 2).

Decision Appeal B

2. I allow this appeal and vary the planning permission Ref BH2007/00696 for a conversion to a single family dwellinghouse including new light wells granted on 2 February 2007 by Brighton & Hove City Council by deleting condition 2).

Main Issue

3. I consider the main issue in both appeals to be whether the condition is reasonable and necessary in the context of the proposed development.

Reasons

4. There are two parts to the disputed conditions, which although connected with transport matters, may be dealt with separately. The first is the requirement for a scheme to provide sustainable transport infrastructure to support the demand for travel generated by the development. Policy TR1 requires development to provide for the demand for travel that they create and Policy HO7 states that a contribution from the developer will be sought to improve public transport facilities among other matters. In response to this the appellant has presented a unilateral undertaking, providing £2,000 in respect of 5 Powis Villas and £4,000 in respect of 6 and 7 Powis Villas. I attach significant weight to this undertaking as I consider it satisfies the tests in Circular 5/05 "*Planning Obligations*". As a result I consider it right to remove the reference in Condition 2), in both permissions, to a requirement for a scheme to provide sustainable transport infrastructure to support the demand for travel generated by the development, as that wording is no longer necessary with the existence of the undertaking, whether originally justified or not.
5. The second part also concerns Policy HO7 and the proposals being car free. The appeal schemes as originally permitted did not provide parking on site. Policy HO7 is phrased positively to encourage car-free housing where it can be demonstrated that the proposed development will remain genuinely car-free over the long term. The method of achieving this is stated in the supporting text as either by way of legal agreement or a lease/tenancy agreement. Where the site is within a resident's parking zone, the relevant Traffic Regulation Order will ensure residents of the car-free development do not have access to permits. This last course of action would be funded by a contribution which the Council seeks but the appellant is resisting. I understand that the rules of the parking scheme are that residents without on-site parking may apply, but the number of permits is regulated. The appellant considers the parking demands of the new development less than was previously the case and that with a short waiting time for a permit the new occupiers should be able to apply.
6. I am advised that planning permission and listed building consent have now been granted to provide a front area parking space to number 5 and this is a material consideration in my determination of the appeal. That being the case,

number 5 cannot now be said to be 'car-free' and the remaining part of the disputed condition in Appeal B is redundant.

7. The other two properties, 6 and 7 Powis Villas, would remain without on-site parking and these properties would normally therefore be eligible for a permit, or at least to be placed on the waiting list. The site is within reasonable walking distance of Brighton Station, the town centre and other facilities, transport and services. I consider it possible to live here without a car. However I also consider it reasonable to have access to a car provided this new development does not adversely affect the balance of parking provision in the area for existing residents or displace it to areas of pressure. In that respect the short waiting time for a permit indicates that the demand can reasonably be met and control in the wider area would prevent harmful displacement.
8. This development is not 'car-free' for the usual reasons referred to in the policy; to make better use of land and hence increase the density of occupiers. In this case the reason is to preserve the architectural and historic interest and there would not appear to be a greater density of use than has previously been the case. These are listed buildings built as dwellings but which have, until recently, been in what I consider inappropriate uses which severely detracted from their architectural or historic interest and hence that of the conservation area. Their return to residential use and the significant improvements that this brings to their character and appearance are of very great weight in my judgement. The lack of parking on site for these two houses is warranted by reason of possible harm to their heritage interest, in pursuance of Sections 16(2), 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.
9. In conclusion with respect to numbers 6 and 7 I consider that there are substantial planning and conservation benefits accruing from the grant of permission for renewed residential use and the physical works that this will bring, which far outweigh the policy objections to the development not providing on-site parking. Seeking to make the scheme truly car-free by restricting the issue of permits in this case is not reasonably necessary within the broader aims of the Development Plan and listed building and conservation area statutory requirements, and could jeopardise the heritage benefits. I can identify no harm that outweighs these benefits. I consider therefore that in both appeals Condition 2) is unnecessary or not reasonable having mind to the merits of the proposal and therefore does not satisfy tests in Circular 11/95 "*The Use of Conditions in Planning Permissions*". For the reasons given above I conclude that both appeals should succeed. I vary each planning permission by deleting the disputed condition.

S J Papworth

INSPECTOR



Appeal Decision

Site visit made on 2 April 2009

by **C J Leigh BSc(Hons) MPhil(Dist) MRTPI**

**an Inspector appointed by the Secretary of State
for Communities and Local Government**

The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

☎ 0117 372 6372
email: enquiries@pins.gsi.gov.uk

**Decision date:
13 May 2009**

Appeal Ref: APP/Q1445/A/08/2089852

31 Maldon Road, Brighton, East Sussex, BN1 5BD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr & Mrs J Hillman against the decision of Brighton & Hove City Council.
- The application Ref. BH2008/00483 was dated 4 February 2008 and was refused by notice dated 17 June 2008.
- The development proposed is an extension to provide two flats at second floor level to replace flat roof.

Decision

1. I dismiss the appeal.

Reasons

2. The appeal property is a relatively modern block of flats that is of limited architectural merit, being flat-roofed and very different in character and appearance from the wider residential area. Although there are also modern properties immediately to the south, the character of Maldon Road predominantly arises from the Victorian terraced properties. The flat roof to No. 31 creates a rather truncated appearance to the building, which is emphasised by the building being notably lower in height than the adjoining Victorian terrace, with its steeply pitched roofs.
3. The proposed development would see an additional storey on the block of flats, designed with sloping mansard roofs at the front and rear. I agree with the appellants that this would enhance the design of the building by providing a better resolved appearance to its elevations; the sloping, slate mansard roofs with projecting dormers would create a more balanced and architecturally complete building than the existing flat roof to the two storeys. The slope of the new roof would also relate better to the pitched roofs on either side of No. 31, and the increased height would make the building a more appropriate visual link between the still higher Victorian terrace and the lower bungalow; I think there would not be any visual dominance over that bungalow.
4. I therefore consider no harm would be caused to the character and appearance of the surrounding area from the proposed development, and so it would comply with Policies QD1, QD2 and QD14 of the Brighton & Hove Local Plan 2005 insofar as they seek to ensure a high standard of design in all new development that enhances the quality of the surrounding area.
5. I do, though, share the Council's concerns regarding the effect of the additional storey on the adjoining property to the north, No. 39. I viewed the appeal site

from within that house and from the garden, and my site visit was undertaken with the benefit of a sunny day. In my judgement, the height and depth of the proposed extension would lead to a material loss of light to both the garden and to the internal rooms of No. 39; in particular to the ground floor rooms, where the window on the side elevation serves a kitchen/diner, and where there I think there would be an appreciable loss of natural light. I further consider that the increased building mass would be readily apparent from the house and garden of No. 39, where it would impose to an unacceptable degree upon the outlook from that property.

6. I saw at my site visit that No. 23 to the south is set far back into its plot and consequently has a small rear garden area, entirely behind the rear elevation of No. 31. Windows in that property are also orientated away from No. 31. Due to these facts, and the location of No. 23 to the south of No. 31, I consider the proposed development would not lead to an appreciable change to the outlook from No. 23 or to the levels of light received. However, despite this finding, it is my overall conclusion that the harm to the living conditions of No. 39 would lead to a conflict with Policies QD14 and QD27 of the Local Plan, which seek to protect such a matter.
7. No parking is proposed for the additional dwellings. Concerns have been expressed regarding the consequent effect upon the demand for on-street parking in the area, and the Council have requested a contribution towards sustainable transport infrastructure in the area. I saw at my site visit that on-street car parking is prevalent, and submissions by local residents confirm this. The supporting text to Policy TR1 of the Local Plan states that all new development should be designed to promote the use of sustainable modes of transport. On the basis of the information before me, I think in this instance that the absence of any additional car parking with no associated provision for other measures to improve sustainable transport infrastructure is likely to lead to an appreciable increase in demand for on-street car parking, which would exacerbate existing parking pressures in the area and unacceptably inconvenience existing residents. Thus, the proposed development would conflict with Policy TR1.
8. I note the requirements of Policy SU2 of the Local Plan that a high standard of efficiency in the use of energy will be required in new developments, and that no information has been submitted to demonstrate how this would be achieved in the proposed development. Thus, the proposed development conflicts with this Policy.
9. Although I have found in favour of the proposed development in a number of respects, it is my overall conclusion that the conflict with the policies of the Local Plan that I have identified justify the withholding of planning permission. Therefore, for the reasons given and having regard to all other matters raised, I have dismissed the appeal.

C J Leigh
INSPECTOR



Appeal Decision

Site visit made on 14 April 2009

by **John Millard DipArch RIBA FCI Arb**

an Inspector appointed by the Secretary of State
for Communities and Local Government

The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

☎ 0117 372 6372
email: enquiries@pins.gov.uk

Decision date:
5 May 2009

Appeal Ref: APP/Q1445/A/08/2091388 Patcham By Pass, Brighton, East Sussex BN1 8YB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under a development order.
- The appeal is made by Telefónica O₂ UK Limited against the decision of Brighton and Hove City Council.
- The application (Ref. BH2008/02762), dated 18 August 2008, was refused by notice dated 6 October 2008.
- The development proposed is the installation of a 10m high monopole, incorporating 3 shrouded antennas, a radio equipment housing and development ancillary thereto.

Decision

1. I allow the appeal and grant prior approval under the provisions of Part 24 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 (as amended) in respect of development by a telecommunications code system operator for the siting and appearance of a radio base station comprising a 10m high monopole, incorporating 3 shrouded antennas, a radio equipment housing and development ancillary thereto on the public footway of Patcham By Pass, Brighton, East Sussex BN1 8YB in accordance with the terms of the application Ref BH2008/02762, dated 18 August 2008, and the plans submitted therewith, subject to the condition that the development hereby approved shall begin before the expiration of 3 years from the date of this decision.

Main Issue

2. The main issue in this appeal is the effect of the proposal on the living conditions of local residents and visitors, with particular reference to health and safety.

Reasons

3. Patcham By Pass is a busy trunk road (A23) and one of the principal routes into Brighton from the north. In the vicinity of the proposed installation there is a public park to the east of the road and housing, in an elevated position and separated from the road by a wide grass verge, to the west. The area is spacious in character with an abundance of trees and other foliage along the edge of the park on the eastern side of the road and more sporadic younger trees within the grass verge on the western side.
4. Planning Policy Guidance Note 8 – *Telecommunications* (PPG8) sets out the Government's policy for facilitating the growth of both new and existing

- telecommunications systems. From the evidence before me (including a previous appeal decision Ref: APP/Q1445/A/04/1152646 which granted prior approval for a similar proposal nearby that has not been implemented) I am satisfied that there is a genuine need for the installation, in order to fill a gap in 3G coverage in this area. I am also satisfied that the general location chosen would satisfy the technical requirements and that the appellant's attempts to identify a more appropriate site have been unsuccessful.
5. The proposed installation constitutes permitted development and prior approval is required only to the siting and appearance of the installation. In the location proposed, I consider that the visual impact of both the monopole and the equipment cabinet would be minimal and the Council has raised no concerns with this aspect of the proposal. Accordingly, I am satisfied that the installation would have no adverse effect on the character or appearance of the area and that it would accord with the objectives of criterion (c) of Policy QD23 of the adopted Brighton & Hove Local Plan 2005 (LP).
 6. The Council is, however, concerned about the siting of the mast because of its proximity to the public park and to a school for children with special needs. It is considered that, in this location, the installation would pose an unacceptable perceived health risk to, in particular, children and young people using the park or attending the special needs school.
 7. This is a concern shared by many local residents who have written to express their opposition to the proposal. Whilst I fully accept that these concerns are material to my decision, there is little objective evidence before me to support them. I must also give full weight to scientific and technical advice on the subject and to established Government policy based on that advice.
 8. PPG8 states that the planning system is not the place for determining health safeguards and that, if a proposed mobile phone base station meets the guidelines for public exposure to radio waves issued by the International Commission on Non-Ionizing Radiation Protection (ICNIRP), it should not be necessary to consider further the health aspects of the development and concerns about them.
 9. The appellant has certified that the installation in this case would be well within the ICNIRP guidelines. These are, in themselves, precautionary and were introduced by the Government in 2000 in the light of research findings and recommendations contained in the report of the Independent Expert Group on Mobile Phones (the *Stewart Report*).
 10. There is nothing before me to suggest that children and young people are more vulnerable to radio waves than anyone else. On this basis, I can find nothing unusual about this proposal either technically or in its siting in relation to its surroundings. There is nothing to indicate that there would be an actual risk to health, nor evidence sufficient to outweigh the PPG8 advice on health considerations. I am therefore led to the conclusion that the health fears of local residents do not weigh sufficiently against the development to justify dismissing the appeal.
 11. The Council is also concerned that the siting of the equipment cabin within the width of the footway would represent a potential hazard to pedestrians,

particularly those with sight or other disabilities. From what I saw at the site visit, I gained the impression that this particular footway is not heavily used. I also satisfied myself that the residual footway, after installation of the cabinet, would remain in excess of 2.0m and, in these circumstances, I consider that the Council's concerns are unfounded.

12. LP Policy QD27 advises that planning permission will not be granted for development that is liable to cause harm to human health. For the reasons I have outlined above, it is my conclusion that the proposal in this case would cause no material harm to the living conditions of local residents or visitors, with particular reference to health and safety, and that the objectives of LP Policy QD27 would be satisfied.
13. I have considered all other matters raised but have found nothing that changes the balance of my decision that the appeal should be allowed and prior consent granted.
14. The Council has made no suggestions as to conditions it would like to see imposed in the event that I allow the appeal and I consider that none, apart from the statutory time limit, is required.

John G Millard

INSPECTOR



Appeal Decision

Site visit made on 14 April 2009

by **Elizabeth Lawrence BTP MRTPI**

an Inspector appointed by the Secretary of
State for Communities and Local Government

The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

☎ 0117 372 6372
email: enquiries@pins.gsi.gov.uk

Decision date:
29 April 2009

Appeal Ref: APP/Q1445/A/08/2091962/WF 26 Moyne Close, Hove, East Sussex, BN3 7JX.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice, within the prescribed period, of a decision on an application for planning permission.
- The appeal is made by Mr I Kane against Brighton & Hove City Council.
- The application (Ref BH2008/01721) is dated 15 May 2008.
- The development proposed is described as single storey rear addition in order to provide ground floor bedroom and bathroom facilities for a disabled occupant.

Decision

1. I allow the appeal and grant planning permission for a single storey rear addition in order to provide ground floor bedroom and bathroom facilities for a disabled occupant, at 26 Moyne Close, Hove, East Sussex, BN3 7JX, in accordance with the terms of the application [Ref. BH2008/01721] dated 15 May 2008 and the plans submitted therewith, subject to the following conditions:
 - 1) The development hereby permitted shall begin before the expiration of three years from the date of this decision.
 - 2) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the extension hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details unless variation is otherwise agreed in writing by the local planning authority.

Main issue

2. The main issue is the effect of the proposal on the living conditions of the occupants of 25 Moyne Close with particular regard to visual impact and daylight/sunlight.

Reasons

3. The proposed extension would be sited at the rear of the property where it would not be dominant when viewed from the rear access and would not be visible in the street scene. As such it would not have a material impact on the character and appearance of the surrounding area. This is provided the external materials used match those of the existing dwelling, which is something that I have dealt with by the imposition of a condition.
4. There is already a strong sense of enclosure within the garden to No.25 which is due to the alignment of No.24, the nature of the side boundary fences, the

existence of a tall conifer tree and the narrow width of the garden. Due to its depth and height the proposal would add to this sense of enclosure. At the same time it would add to the sense of privacy within the garden and provide a favourable south-facing wall within that garden.

5. As the extension would be located to the north of No.25 it would not result in any material loss of sunlight either within the rear rooms or the garden area to that property. In addition, given its restricted roof height the proposed extension would be likely to have only a minimal impact on natural light within and outlook from the dwelling at No.25 and its rear garden area.
6. Finally I give some weight to the personal circumstances of the occupants of No.26 and their need for ground floor bedroom and bathroom accommodation. I also note that the occupants of No.25 have not objected to the proposal and that the owners of No.25, who also own the appeal property, support the scheme.
7. I conclude that the proposed extension would not materially harm the living conditions of the occupants of No.25 with regard to visual impact, loss of daylight or sunlight. Accordingly the scheme would comply with policies QD1, QD2, QD14 and QD27 of the Brighton & Hove Local Plan 2005. Collectively and amongst other things these policies seek to ensure that new developments relate satisfactorily to their surroundings and do not harm the living conditions of local residents.

Elizabeth Lawrence

INSPECTOR

NEW APPEALS RECEIVED

WARD

APPLICATION NUMBER

ADDRESS

DEVELOPMENT DESCRIPTION

APPEAL STATUS

APPEAL RECEIVED DATE

APPLICATION DECISION LEVEL

PATCHAM

BH2008/00716

162 Carden Hill, Hollingbury, Brighton

Demolition of existing house and erection of new residential unit.

APPEAL LODGED

05/05/2009

Delegated

WARD

APPLICATION NUMBER

ADDRESS

DEVELOPMENT DESCRIPTION

APPEAL STATUS

APPEAL RECEIVED DATE

APPLICATION DECISION LEVEL

HANGLETON & KNOLL

BH2008/03276

8 West Way, Hove

Additional storey above existing single-storey building to form 4 self-contained flats.

APPEAL LODGED

15/05/2009

Delegated

WARD

APPLICATION NUMBER

ADDRESS

DEVELOPMENT DESCRIPTION

APPEAL STATUS

APPEAL RECEIVED DATE

APPLICATION DECISION LEVEL

CENTRAL HOVE

BH2008/02242

Texaco Service Station, Kingsway, Hove

Advertisement consent for two internally illuminated, single sided, free standing advertisement display units (retrospective).

APPEAL LODGED

11/05/2009

Delegated

WARD

APPLICATION NUMBER

ADDRESS

DEVELOPMENT DESCRIPTION

APPEAL STATUS

APPEAL RECEIVED DATE

APPLICATION DECISION LEVEL

WITHDEAN

BH2008/02625

2 Croft Road, Brighton

Demolition of existing 3 storey house and erection of 2 new 3 storey dwellings.

APPEAL LODGED

19/05/2009

Delegated



**Brighton & Hove
City Council**

INFORMATION ON HEARINGS / PUBLIC INQUIRIES
10th June 2009

This is a note of the current position regarding Planning Inquiries and Hearings

PLANNING & ENFORCEMENT APPEAL: Starbucks Coffee Co. (UK) Ltd, 115 St James's Street, Brighton

Planning application no: • BH2008/01039
Enforcement no: • 2008/0250
Details of application: • Change of use from use class A1 (retail) to mixed A1/A3 coffee
Details of enforcement: shop
• Alleged unauthorised change of use to mixed A1/A3 use.
Planning Decision: Delegated
Type of appeal: Public Inquiry
Date: 10-12th June 2009
Location: Council Chamber, Brighton Town Hall

ENFORCEMENT APPEAL 14 Richmond Place

Enforcement no: BH2007/02515
Details: UPVC windows installed in the front and rear. BH2002/01062/FP was granted at appeal for residential conversion, but the materials condition was never discharged. The site is in the Valley Gardens Conservation Area, and faces St Peters Church, where UPVC is unacceptable.
Decision: N/A
Type of appeal: Inquiry
Date: 23rd June 2009
Location: Council Chamber, Brighton Town Hall

8 Wivelsfield Road, Saltdean

Planning application no: BH2009/00063
Description: Extensions and additional storey to property.
Decision: Delegated
Type of appeal: Informal Hearing
Date: 24th June 2009
Location: Hove Town Hall

23A & E Coleridge Street, Hove

Planning application no: BH2008/03041
Description: Change of use from B1 offices to 6 no. self-contained flats.
Decision: Delegated
Type of appeal: Informal Hearing
Date: 30th June 2009
Location: Council Chamber, Brighton Town Hall

Gala Bingo Hall & Adjacent Carpark, 193 Portland Road, Hove

Planning application no: BH2008/02586
Description: Demolition of existing building. Redevelopment of site to provide new GP surgery at part ground, part first floor, new D1/D2 unit at ground floor and 38 residential units above in part 3, part 4 and part 5 storey building, including 16 affordable units (40%). Surface car parking and landscaping at rear. (Resubmission of withdrawn application BH2008/00600).
Decision: Committee
Type of appeal: Informal Hearing
Date: 1st & 2nd July 2009
Location: Council Chamber, Brighton Town Hall

9 Benfield Close, Portslade

Planning application no: BH2008/01110
Description: Single storey rear extension (retrospective).
Decision: Delegated
Type of appeal: Informal Hearing
Date: 7th July 2009
Location: Brighton Town Hall

17-19 Duke Street, Brighton

Planning application no: BH2008/02993
Description: Replacement of existing roof with Mansard roof extension to create additional storey.
Decision: Delegated
Type of appeal: Informal Hearing
Date: 15th July 2009
Location: Hove Town Hall

46 Dyke Road, Brighton

Planning application no: BH2007/04469
Description: Partial demolition and alterations to existing house and erection of a two storey detached house to the rear.
Decision: Committee
Type of appeal: Hearing
Date: 28th July 2009
Location: Hove Town Hall

107 Boundary Road, Hove & Land to rear 107 Boundary Road, Portslade

Planning application no:

- BH2008/03442
- BH2008/03449

Description:

- Demolition of existing house and construction of 2-storey building with pitched roof and lightwell to form 7 flats. (Amended Description).
- Construction of new partially sunken 3 bedroom single storey dwelling with flat roof and rooflights.

Decision: Committee
Type of appeal: Informal Hearing
Date: 4th August 2009
Location: Hove Town Hall

Land at Brighton Marina

Planning application no: BH2007/03454

Description: Demolition of Asda superstore to create 3 -10 storey building with enlarged store (3112 sqm increase) and 2,025 sqm of other Class A1-A5 (retail/restaurant/drinking) uses on ground floor with 779 residential units above and community hall and new pedestrian/cyclist bridge link from cliff to roof of building and associated engineering works. Demolition of petrol filling station to create 28 storey building with 182 sqm of Class A uses at ground floor and 148 residential units above. Demolition of McDonalds restaurant to create 5 - 16 storey building with enlarged drive-thru restaurant (285 sqm increase) and 131sqm of other Class A uses and 222 residential units above. Demolition of estates office to create 3-4 storey building of 35 residential units. Demolition of western end of multi-storey car park to create 6-11 storey building adjacent to western breakwater of 117 residential units with stair access from breakwater to Park Square. Demolition of part of the eastern end of multi-storey car park to create single storey petrol filling station, pedestrian footbridge and new lift and stair access. Total: 1301 residential units. Associated car parking spaces (805 residential, 666 commercial), cycle parking (1907 residential, 314 in public realm), servicing, plant, refuse, CHP unit, public and private amenity space, hard & soft landscaping and outdoor recreation areas. Change of use of two A1 retail units (524 sqm) within Octagon to medical use (Class D1). Alterations to vehicular, pedestrian and cyclist access and circulation, including new roundabout and transport interchange behind Waterfront.

Decision: Committee
Type of appeal: Public Inquiry
Date:
Location:

