

**BRIGHTON & HOVE CITY COUNCIL**

**PLANNING COMMITTEE**

**2.00pm 25 NOVEMBER 2009**

**COUNCIL CHAMBER, HOVE TOWN HALL**

**MINUTES**

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

**Co-opted Members** Mr. J Small (CAG Representative)

**Officers in attendance:** Paul Vidler (Deputy Development Control Manager), Hamish Walke (Area Planning Manager (East)), Rob Fraser (Head of Planning Strategy), Zachary Ellwood (Interim Senior Team Planner), Steve Reeves (Principal Transport Planning Officer), Hilary Woodward (Senior Lawyer) and Penny Jennings (Senior Democratic Services Officer)

**PART ONE**

**149. PROCEDURAL BUSINESS**

**149A Declaration of Substitutes**

149.1 There were none.

**149B Declarations of Interest**

149.2 The Chairman declared a personal and prejudicial interest in relation to Application BH2009/01845, Land adjacent to 9 Challoners Close. On the previous occasion when an application for that site had been considered the Chairman had recently sold her previous home to one of the main objectors and had declared an interest. In order to be consistent she was declaring an interest in the same terms and would vacate the Chair and leave the meeting during its consideration and would take no part in the discussion or voting thereon. Councillor Wells, the Deputy Chairman would take the Chair during her absence.

149.3 Councillor Steedman declared a personal and prejudicial interest in respect of Application BH2008/01052, 169 -174 Western Road Brighton. Although he remained of a neutral mind he was aware that his employer was a neighbouring objector. He would therefore leave the meeting during consideration of the application and would take no part in the discussion or voting thereon.

**149C Exclusion of the Press and Public**

149.4 In accordance with Section 100A of the Local Government Act 1972 (“The Act”), the Planning Committee considered whether the public should be excluded from the meeting during consideration of any item of business on the grounds that it is likely in 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 of them of confidential information as defined in Section 100A (3) of (The Act).

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

**150. MINUTES OF THE PREVIOUS MEETING**

150.1 **RESOLVED** – That the Chairman be authorised to sign the minutes of the meeting held on 4 November 2009 as a correct record.

**151. CHAIRMAN'S COMMUNICATIONS**

**Web casting**

151.1 The Chairman explained that afternoon’s meeting of Planning Committee was being web cast. Members were reminded to speak directly into the microphones and to switch them off when they had finished speaking in order to ensure that they could be heard clearly.

**South Downs National Park**

151.2 The Head of Planning Strategy, Mr Fraser explained that the boundaries of the National Park had been confirmed by the Secretary of State on 12 November 2009. The National Park would come into being on 31 March 2010 and the South Downs Area of Outstanding Natural Beauty would be revoked. The Local Authority had requested that three additional areas be included within its boundaries, Green Ridge, Patcham Recreation Ground and a small area of land behind Roedean Crescent. He was pleased to be able to report that all of these areas did now fall within the national park’s boundaries. Members were pleased to note this successful outcome and Councillor C Theobald stated that she particularly welcomed the inclusion of Patcham Recreation Ground.

151.3 **RESOLVED** – That the position be noted.

**152. PETITIONS**

152.1 The Senior Democratic Services Officer, Ms Jennings explained that although a petition had been received from the “Friends of Old London Road Station” (FLORA) they had requested that consideration of their petition take place at the next scheduled meeting of the Committee on 16 December 2009 when they could combine it with a deputation in relation to the same matters.

152.2 **RESOLVED** - That the position be noted.

**153. PUBLIC QUESTIONS**

153.1 The Chairman explained that notification had been received from Mr Pennington, the author of the public question that he wished to withdraw it.

153.2 **RESOLVED** – That the position be noted.

**154. FUTURE INVOLVEMENT AND PARTICIPATION ON PLANNING COMMITTEE BY BRIGHTON & HOVE FEDERATION OF DISABLED PEOPLE**

154.1 Dr Hastie was present representing the Brighton and Hove Federation of Disabled People. He explained that although representatives of the Federation had not formally attended meetings of the Committee for some time they had a “Get Involved” team who had been proactively liaising with officers from City Planning NHS partners and others. This had proved to be very productive as it had enabled a broad group of individuals to have input, particularly in relation to major developments at an early pre-application stage. All parties had found this approach to be beneficial.

154.2 Dr Hastie stated that it was intended that a Federation representative would attend and speak at Planning Committee meetings when the Federation considered it appropriate to do so, rather than attending every meeting.

154.3 Councillors Carden, C Theobald and Wells welcomed that approach that had been adopted and the Chairman commented that this early input had proved very productive.

154.4 **RESOLVED** - That the position be noted.

**155. DEPUTATIONS**

155.1 The Senior Democratic Services Officer, Ms Jennings explained that a deputation had been received from the Friends of London Road Station (FLORA). However, it had not been in the correct form. It would therefore be considered at the next scheduled meeting of the Committee on 16 December 2009 in concert with the petition referred to at para 152 above.

155.2 **RESOLVED** - That the position be noted.

**156. WRITTEN QUESTIONS FROM COUNCILLORS**

156.1 There were none.

**157. LETTERS FROM COUNCILLORS**

157.1 There were none.

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

158.1 There were none.

**159. APPEAL DECISIONS**

159.1 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.

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

160.1 The Committee noted the list of Planning Appeals which had been lodged as set out in the agenda.

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

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

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

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

Application:	Site Visit Requested by:
BH2009/02331, Land East of West Pier, Esplanade, King's Road, Brighton (Brighton "O" Wheel)	Deputy Development Control Manager
BH2009/00054 & BH2009/00055, St Augustine's Church, Stanford Ave, Brighton	Deputy Development Control Manager
BH2008/02170 & BH2008/02172, 2 Ashdown Road, Brighton	Councillor Hyde
Land adjacent 9 Challoners Close, Rottingdean	Councillor C Theobald

**163. TO CONSIDER AND DETERMINE PLANNING APPLICATIONS ON THE PLANS LIST; 25 NOVEMBER 2009**

**(i) TREES**

163.1 **RESOLVED** - That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in Paragraph 7 of the report and resolves to grant consent to fell the tree which is the subject of this application subject to the conditions set out in the report.

Application BH2009/002686, 3 The Green, Hove

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

163.2 There were none.

**(iii) MINOR APPLICATIONS****A Application BH2009/01489, Ocean Heights, Roedean Road, Rottingdean – Demolition of existing dwelling and construction of 7 residential apartments (part retrospective)**

- (1) It was noted that this application had formed the subject of a site visit prior to the meeting.
- (2) The Area Planning Manager (East) gave a detailed presentation and explained that the scheme was largely complete but had not been built in accordance with the 2007 planning permission. He set out the main differences between the permission granted and the scheme as built. A number of complaints had been made by local residents and had been investigated. The principle of erecting a block of flats on the site had been established by the earlier permission. Whilst marginally higher and notwithstanding the other changes made, it was not considered to be so visually intrusive as to warrant refusal.
- (3) Mrs Colverd spoke on behalf of the Roedean Residents' Association and neighbouring objectors. They considered the applicant had shown a cavalier attitude, the development as built represented a gross overdevelopment which towered above the neighbouring residential dwellings which were of more modest height and proportions. The development was not in keeping with the prevailing street scene. The roots of a number of the screening trees and those adjacent to the driveway which had been tarmaced over had been undermined and overall the development was contrary to a number of the Council's policies, namely QD1, QD2 and QD14.
- (4) Mr Theobald spoke on behalf of the applicants in support of their application. He explained that advice had been sought from the Council's arboriculturist, who had indicated that the flank wall had undermined the roots of a number of trees making them unstable. These had been removed and had been replaced by planting of similar species elsewhere on the site. The scheme represented an innovative development which had attracted a great deal of media interest and provided a contemporary sustainable building.

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

- (5) Councillor Steedman and Mr Small, (CAG) enquired of the applicant regarding the charges effected to the front elevation of the building which now had contrasting cladding which was of a significantly different appearance than that shown on the plans as originally submitted. Councillor Kennedy also sought clarification in respect of this matter. The applicant's representative explained that given the nature of this innovative scheme it had proved necessary to make some adjustments as the scheme had progressed.

- (6) Councillor Cobb asked to see drawings showing the approved and amended building lines and floor plans. She enquired whether the development had been built forward of the building line and whether the buildings had been set down further into the site. It was confirmed that they had not.
- (7) Councillor C Theobald also enquired regarding configuration of the building within the site and whether a boundary fence had been removed.
- (8) Councillor Hyde, the Chairman referred to the terraces/balconies to the rear enquiring whether they were of sufficient width to be used as a sitting out area. It was confirmed that these had been reduced in width in order to reduce any overlooking.
- (9) Councillor Smart enquired regarding the width and height of the screens provided to the top rear balconies enquiring as to their height. The Area Planning Manager (East) explained that the height of the screens (which could be increased) and use of opaque or other glazing materials if considered appropriate could be controlled by condition. Conditions relating to finishes/cladding could be problematic given that part of the construction process had been completed.
- (10) Councillor Smart also enquired whether removal of a number of trees on site and removal of the original retaining wall had formed part of the original planning permission. The applicant's representative confirmed that it had always been intended that the wall would be removed. Councillor Caulfield enquired whether it was intended that the wall would be replaced.
- (11) Councillor Hamilton enquired whether a condition had been added to control the removal /replacement of trees.

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

- (12) Councillor Cobb stated that she had grave reservations regarding the scheme which did not reflect that for which permission had been given.
- (13) Councillor Caulfield stated that in her view given, that what had been built was so significantly different from the approved scheme, she had concerns whether the applicant would comply with this permission if granted.
- (14) Councillor C Theobald considered it regrettable that much of the screening had been removed from the site. The building was far higher than it should be and overlooked its neighbours. Notwithstanding that it had been reported that a number of the pines and other trees had been in poor condition it would have been preferable for them to be replaced with more mature specimens than appeared to be the case.
- (15) Councillor Smart referred to the sparseness of planting on the eastern boundary, although it was noted that replacement trees had been provided on site, in his view more were needed.
- (16) Mr Small (CAG) referred to the changes made to the front elevation which were dramatic and included a significant increase in the amount of weatherboarding used.

He referred to the fact that timber cladding had been used at various locations across the city with variable success depending on the materials used and whether/how the timber had been treated. The applicant's representative stated that sustainable softwood had been used which had been treated to ensure it was water tight. Mr Small stated that locally sourced coppiced chestnut had been used effectively at other locations, it weathered naturally and its appearance improved over time. If a coating of white/pale grey was used, he considered this could improve the appearance of the existing cladding.

- (17) Councillor Smart considered it was unrealistic to seek demolition/partial demolition of the building and that discussions should take place to ensure that balconies were increased in height and additional screening was provided as appropriate to address any overlooking.
- (18) Councillor Hyde, the Chairman considered that the placing of fixed/partially fixed obscure glazed windows to the east and west elevations in line with the original permission should be pursued.
- (19) Councillors Caulfield and C Theobald re-iterated that they felt unable to support the application. Councillor C Theobald queried whether the application should be treated as a new application.
- (20) The Deputy Development Control Manager, Mr Vidler explained that this was a new application, the previous permission was however, a material consideration. Members needed to focus on the changes between the two schemes. It would be possible for Members to impose additional conditions, to these. Members were considering the new application and not possible enforcement action, should the application be refused.
- (21) Councillor Kennedy considered that the applicant's representative had given logical reasons for the changes made between the two schemes, although it was unfortunate that the need for these changes to be made had not been identified earlier.
- (22) Councillor Steedman concurred with the views expressed by Councillor Kennedy and queried whether it would be appropriate to defer consideration of the application in order to enable officers to negotiate with the applicants further to address the outstanding matters raised, especially in relation to the frontage of the building. The original scheme had been characterised by smaller more discrete panels which were lighter in appearance. Use of a finish which was lighter in colour to give the frontage a less dominant appearance would in his view be preferable.
- (23) The Area Planning Manager (East) explained that all of the issues raised could be addressed by authorising Officers to enter into further negotiations with the applicants.
- (24) A vote was taken, with the outcome that 4 Members voted for grant, 4 Members voted that the application be refused and 4 Members including the Chairman abstained. The Chairman stressed that she was not minded to use her casting vote for either approval or refusal of the application. The Solicitor to the Committee stated that in her view by failing to reach a definitive decision, planning permission had failed to be granted and

the outcome of that vote was therefore, deemed refusal. A short recess was then granted in order to seek clarification from the Head of Law.

- (25) Following the recess, the Solicitor to the Committee confirmed that the earlier vote had resulted in a deemed refusal. However, a decision was not ultimately considered to have been made until such time as the decision letter was issued. Therefore, if Members were minded to do so they could re-visit their earlier vote and defer determination of the application to enable officers to negotiate further with the applicants in relations to the matters raised.
- (26) Councillor Steedman formally proposed that the application be deferred and this was seconded by Councillor Carden.
- (27) A further vote was taken and on a vote of 7 to 4 with 1 abstention Members agreed that the application be deferred.

- 163.3 **RESOLVED** – That the above application be deferred pending the outcome of further negotiations by Officers in relation to:
- The front elevation (paragraphs (16) and (22) above refer);
  - The provision of screening to the rear balconies;
  - The proposed screening to front balconies;
  - The screening provided by planting along the east boundary of the site; and
  - The obscure glazing and fixing of the windows to the east and west side elevations.

**Note:** On the second substantive vote Councillors Caulfield, Cobb, C Theobald and Wells voted that the application be refused. Councillor Hyde, the Chairman abstained. Therefore on a vote of 7 to 4 with 1 abstention consideration of the application was deferred.

- B. Application BH2009/01360, 133 Westbourne Street and 75 Montgomery Street, Hove** – Demolition of existing office and store building and erection of 2, 2 storey buildings comprising 4 new residential units (2X2 bed flat and 2x1 bed flats).

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

- (1) Councillor Cobb stated that it was frustrating to find that within the same ward and in quick succession, applications had been put forward removing office use which was subsequently provided elsewhere within the same locality. In her view it called into question the accuracy of the levels of reported demand.
- (2) The Deputy Development Control Manager explained the rationale for the request set out in this application which dovetailed with Application BH2009/01361, 175–177 Westbourne Street, set out elsewhere on the Plans List.
- (3) A vote was taken and on a vote of 11 with 1 abstention planning permission was granted.

- 163.4 **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 that they are minded to grant planning permission subject to the applicant entering into a



satisfactory agreement under Section 106 of the Town & Country Planning Act 1990, as amended, and subject to the conditions and informatives set out in the report.

**Note:** Councillor Cobb abstained from voting in respect of the above application.

**C. Application BH2009/01361, 175-177 Westbourne Street, Hove** – Part extension of ground floor and conversion of storage areas, workshop and garage to create 6 new offices at ground floor. Erection of bridge-link extension between 175-177 Westbourne Street and 173 Westbourne Street and conversion of void first floor area of workshop to create 4 new offices including associated ancillary works.

(1) A vote was taken and members voted unanimously that planning permission be granted.

163.5 **RESOLVED** - That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in paragraph 8 of the report and resolves that it is minded to grant planning permission subject to the applicant entering into a satisfactory agreement under Section 106 of the Town and Country Planning Act 1990, as amended, and subject to the conditions and informatives set out in the report.

**D. Application BH2008/03628, Rear of 4-34 Kimberley Road, Brighton** – Demolition of Existing garages and construction of 4 two storey dwellings with off-street parking, associated landscaping works and resurfacing of access road,

(1) The Area Planning Manager (East), Mr Walke gave a presentation detailing the scheme by reference to elevational drawings and photographs. He explained that ten further letters in support of the application had been received and that it was understood that the applicant was in discussion with officers of the Fire and Rescue Service in relation to their objections to the proposed scheme.

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

(2) Councillor Caulfield noted the concerns of the Fire and Rescue Service and sought confirmation (in view of the size of vehicle used) regarding proposed refuse collection arrangements. It was explained that they would not access the site and that refuse and recycling would be collected from the access road onto the site. Councillor Caulfield considered that this would result in residents needing to carry refuse some distance.

(3) Councillor Smart sought clarification as to the precise location of the refuse collection point and was informed that it would be close to Kimberley Road. He noted that the refuse collection point would be closer to other people's homes than those of residents of the proposed new development.

(4) Councillor C Theobald enquired whether any of the garages were still in use as such. It was explained that with the exception of a few which were in unauthorised use, they were not. Councillor Theobald stated that in her view, if large vehicles were unable to access the site (emergency vehicles, refuse vehicles), difficulties could be experienced in delivering building materials and removing construction waste from the site during the development process.

- (5) Councillor Davey queried why the traffic engineer had raised objections in relation to the previous scheme, but not the current one. The Principal Transport Planning Officer, Mr Reeves explained that since the first application further information had been received about the use of the site. As the existing garages were considered redundant and the number of vehicles associated with the proposed development would be fewer in number, the scheme was considered to be acceptable in traffic management terms.
- (6) Councillor Caulfield sought confirmation of the location of the allocated parking spaces associated with each unit. The Principal Transport Planning Officer was able to confirm that he seen plans indicating the location of 4 individual allocated parking spaces.

**Debate and Decision Making Process**

- (7) Councillor C Theobald stated that in her view the proposed scheme represented an unacceptable backland development which she was unable to support. It was disappointing that the existing garages had not been upgraded as she considered there would be demand for them at that location.
- (8) Councillor McCaffery stated that she had reservations regarding the scheme in view of the concerns put forward by the Fire and Rescue Service.
- (9) Councillor Caulfield stated that she felt unable to support the application in view of the proposed waste collection measures which she considered to be ill thought out and also in view of the concerns of the emergency services.
- (10) The legal adviser to the Committee explained that emergency access/fire access arrangements did not fall within the remit of the Planning Committee but would need to be addressed in order to meet Building Control requirements.
- (11) A vote was taken and on a vote of 5 to 3 with 4 abstentions planning permission was granted.

163.6 **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 that it is minded to grant planning permission subject to the applicant entering into a Section 106 Obligation to secure a contribution of £6,000 towards sustainable transport infrastructure within the vicinity of the site and subject to the conditions and informatives set out in the report.

**Note:** Councillors Caulfield, Cobb and C Theobald voted that the application be refused. Councillors Hyde, Chairman, Kennedy, McCaffery and Smart abstained.

**Application BH2009/01186, Land Adjoining Badgers Walk, Ovingdean Road, Brighton** – Erection of buildings to provide 2 loose boxes, a hay store and a tack room, with enclosing fence and yard.

- (1) It was noted that this application had formed the subject of a site visit prior to the meeting.

(2) The Chairman enquired whether of approval of these works could set a precedent by establishing this land for building purposes. It was confirmed however that this was not the case given the site's location within the SNCI and outside the boundary of the built up area as defined in the Local Plan.

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

163.7 **RESOLVED** - 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 and to the amendment of informative 3 (ii) to read:

“Subject to the compliance with the attached conditions it is considered that the proposed development will not be of detriment to the visual amenities of the existing property or the setting of the Sussex Downs Area of Outstanding Natural Beauty and the South Downs National Park, in addition to not having any adverse impacts upon the visual amenities and conservation of the Wanderdown Road Open Space Site of Nature Conservation Importance. Furthermore it is not considered that the proposal will have a significant adverse impact on the amenities of neighbouring properties.”

**Note:** Councillor Hyde, the Chairman abstained from voting in respect of the above application.

**F. Application BH2009/01793, 11 Albert Mews, Hove** - External alterations to form new door, stairs and gateway access from basement workshop to footpath.

(1) It was noted that this application had formed the subject of a site visit prior to the meeting.

(2) The Interim Senior Team Planner, Mr Elwood gave a presentation detailing the proposal to create a new access from the existing basement level workshop to the footpath which ran along Grand Avenue to provide an alternative access to the lower ground floor workshop area.

(3) Mrs Millar spoke on behalf of neighbouring objectors. This was the sole commercial use within an imposing Victorian Mansion block and the proposals were completely out of keeping with it and would result in those using the access way being able to look into flats on the ground floor as well as loss of privacy and amenity for those living at basement level who had sole access to that area at present, this could also result in residents being at greater risk of crime. The premises had steel grilled windows, the residential accommodation did not.

(4) Mr Field spoke on behalf of the applicant in support of their application. He explained that this unit had an established B1 use having been provided originally as storage space for the flats above. it had been used as storage space by various businesses since that time, most recently for storage of computer parts. The applicants wished to upgrade the space to provide a wc and further access which could also be used as means of escape in the event of fire.

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

- (5) Councillor Steedman sought confirmation that there was an existing business use on site as this speaker had queried this. It was confirmed that this was the case.
- (6) Councillor Cobb sought confirmation that the only access point to the premises was currently from Albert Mews and it was confirmed that this was so. She also referred to the other points at which the front wall of Grand Avenue had been broken through and it was confirmed that as well as giving access to properties at basement level the amenity of residences below was protected by a screen wall. The Applicants representative confirmed that applicant would be prepared to erect a further screen wall in this instance.
- (7) Councillor Smart enquired regarding the proposed internal layout of the unit as plans indicating a flat, as well as a business use had been shown during the site visit the previous afternoon. It was confirmed that the application before the Committee related to the current business use.
- (8) The Interim Senior Team Planner confirmed that due to the height and position of the windows at first floor level those using the steps to access the basement level would not be able to see into them.

**Debate and Decision Making Process**

- (9) Councillor C Theobald stated that she considered the new access arrangements to be unacceptable as they would be detrimental to the privacy of existing residents.
- (10) Councillor Cobb stated that she did not see why these alterations were now required to meet fire regulations and considered it would be more appropriate for alterations to be made to the glazing bars to enable them to open. She saw no good reason to change the existing entrance/exit arrangements.
- (11) Councillor Mrs Theobald also referred to the comments received that the freehold owner of the block was not prepared to give their consent for the works and that such works were therefore illegal. It was explained that this did not constitute a planning consideration although all necessary permissions would need to be put in place to enable the works to be proceed. The applicants had indicated that they could carry out the work within the terms of their existing lease.
- (12) Councillor Smart also queried whether it was necessary to change the existing arrangements.
- (13) Councillor McCaffery expressed concern regarding the proposed arrangements considering that she would support conditions regarding when this entrance could be used.
- (14) Councillor Carden supported the proposal as he considered it was very important that adequate safety measures were in place to allow individuals to exit safely in the event of a fire.

- (15) The Chairman proposed that a condition be applied that the new access be used as an emergency access only. Councillor Carden seconded the proposal. On a vote of 6 to 6 she used her casting vote to require a condition to that effect to be added.
- (16) The substantive vote was then taken and on a vote of 7 to 4 with 1 abstention planning permission was granted.

163.8 **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, to the addition of SU10 relating to noise nuisance to informative 2 (i) and to the following additional condition:

The new external door hereby approved shall only be opened for emergencies and maintenance and for no other purpose whatsoever.

**Reason:** To safeguard the amenities of the occupiers of neighbouring properties and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.

**Note:** Councillors Caulfield, Cobb, Smart and C Theobald voted that planning permission be refused, Councillor McCaffery abstained.

G. **Application BH2009/01845, Land Adjacent to 9 Challoners Close, Rottingdean** – Erection of 2 storey detached dwelling house and partial demolition of garage at 9 Challoners Close.

- (1) Members considered that it would be beneficial to carry out a site visit prior to determining the application.

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

H. **Application BH2009/02179, 18 Honey Croft, Hove** - Erection of a 3 storey ground floor, first floor and roof extension to side including roof lights.

- (1) The Interim Senior Team Planner, Mr Ellwood explained that a letter of support had been received from Councillor Barnett who had requested that the application be determined by Committee. He referred to the extant permission which had already been granted explaining that there was no in principle objection to the development. It was considered however that the current proposal would be bulky in relation to the host dwelling and would result in a terracing effect and a development which would be contrary to policies QD2 and QD14 of the Brighton & Hove Local Plan.
- (2) Mrs Deuk, the applicant spoke in support of her application. She stated that their agent had liaised with the Planning Department and had sought to provide a form of development which met their needs and was of an acceptable design. They thought this had been achieved but had been advised subsequently that this was not the case. The form of development which would be permitted would not meet their needs as a family with four children living in three bedroom house. Mrs Deuk displayed photographs of similar developments to that proposed which had already been built in the vicinity.

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

- (3) Councillor C Theobald sought confirmation of the distance between the proposed development and the neighbouring garage. The applicant explained in answer to further questions that their existing garage was to be converted into a den/playroom ancillary to the main house
- (4) In answer to questions by Councillor Cobb it was explained that the remaining driveway would be sufficient for vehicle parking. Councillor Cobb also sought confirmation of the differences between the previously approved scheme and the current one.
- (5) In answer to further questions the Interim Senior Team Planner explained that it was good planning practice for side extensions to be set back in line with the earlier approval. The other extensions referred to had been built some 20 years earlier and would not be considered acceptable now.

**Debate and Decision Making Process**

- (6) Councillor Smart stated that he considered the proposal to be acceptable and would be voting in support of it.
- (7) Councillor Wells concurred, stating that he did not consider the proposed form of development to be out of keeping or a variance with the appearance of the prevailing street scene, nor would have it have a negative impact on neighbouring amenity.
- (8) A vote was taken and on a vote of 6 to 5 with 1 abstention planning permission was granted.

163.10 **RESOLVED** - That the Committee agrees that planning permission be granted subject to the following conditions:

- 1. The development hereby permitted shall be commenced before the expiration of three years from the date of this Permission.  
**Reason:** To ensure that the local planning authority retains the right to review unimplemented measures.
- 2. The external finishes of the development hereby permitted shall match in material, colour, style, bonding and texture those of the existing building.  
**Reason:** To ensure a satisfactory appearance to the development in the interests of the visual amenities of the area and to comply with policies QD1 and QD14 of the Brighton & Hove Local Plan.
- 3. Notwithstanding the provisions of the Town & Country Planning (General Permitted Development) Order 1995 (or any revoking and re-enacting of that order with or without modification), no windows or doors shall be constructed in the south side elevation of the extension hereby permitted without planning permission obtained from the Local Planning Authority.

**Reason:** To safeguard the amenities of the occupiers of nearby properties and to comply with policies QD14 and QD27 of the Brighton & Hove Local Plan.

**Note:** Councillor Wells proposed that planning permission be granted. This was seconded by Councillor Smart. A recorded vote was then taken. Councillors Caulfield, Cobb, Hyde, Chairman, Smart, C Theobald and Wells voted that planning permission be granted. Councillors Carden, Davey, Kennedy, McCaffery and Steedman voted that planning permission be refused. Councillor Hamilton abstained. Therefore on a vote of 6 to 5 with 1 abstention planning permission was granted.

- I. **Application BH2008/01052, 169–174 Western Road, Brighton** - Erection of part second/third floor extension to incorporate storage space and staff facilities (retrospective).
- (1) The Interim Senior Team Planner, Mr Ellwood gave a presentation detailing what was sought as part of the current retrospective application. He explained that amendments had been made to the proposed conditions and informatives as set out in the circulated report and referred to the amendments which had been circulated separately (for copy see minute book). He explained that the conditions as now circulated represented a “tidying up” exercise which would supersede certain pre-commencement conditions which had now been met whilst also seeking to ensure that any conditions now applied (e.g. new Condition 5) were consistent with the decisions of the Planning Inspector.
  - (2) Mr Naylor-Smith spoke on behalf of neighbouring objectors. He showed photographs which in his view illustrated the obstruction, noise and nuisance caused by vehicles seeking to make deliveries from Crown Street. In view of the size of vehicles used and time which deliveries took to unload, several vehicles often queued in Crown Street at the same time. In addition to the noise associated with the vehicles themselves, goods were loaded into metal cages which were then wheeled across a concrete yard, resulting in further noise nuisance. Approaches to the store to seek to remedy these issues had gone un-headed.
  - (3) Ms Collins spoke on behalf of the applicant in support of the application. She explained that additional works had been undertaken to address issues arising from the inspector’s decision. Councillor Kennedy enquired why “Primark” could not receive all of their deliveries through the front of the store in common with the other large stores fronting Western Road. It was explained that this would result in stock having to be transported across the length of the store to the rear impeding customer movements within the store en-route. Ms Collins undertook to refer the concerns raised back to the store manager.
  - (4) Councillor Kitcat spoke in his capacity as a Local Ward Councillor. He reiterated and amplified the points made by Mr Naylor-Smith. He expressed concern that the conditions now being placed before the Committee for its consideration differed from those previously circulated and queried whether this was legal/enforceable. He stressed that neighbouring residents had suffered greatly in consequence of “Primark’s un-neighbourly attitude and un-willingness to meet with them or listen to their concerns. The tracking records used and cited in relation to the number of deliveries etc did not reflect the reality of the situation. Residents wanted all deliveries to take place from Western Road and for that to be enforced. The Solicitor to the Committee

explained that it was in order for amended/additional conditions to be discussed and voted on the meeting.

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

- (5) Councillor Smart queried whether there was sufficient room for vehicles to manoeuvre in Crown Street and sought clarification as to whether Marlborough Street was wider. Councillor Cobb raised the same query. It was explained that the Planning Inspector had carefully considered vehicular access to the site resulting in the conditions imposed on the previous planning permission.
- (6) Councillor Smart also enquired whether it would be possible to compel "Primark" to ensure that all lorries actually entered the rear yard and that all deliveries took place there. It was explained that these issues were covered by proposed Condition 4.
- (7) Councillor Mrs Theobald enquired regarding the number of deliveries per day. When the site had been occupied by "Littlewoods" there had been two per day, the current figure appeared to be more than that.
- (8) Councillor Davey enquired regarding the comments made by the Environmental Health Officer and it was confirmed that these had related to Marlborough Street rather than Crown Street.
- (9) Councillor Hamilton enquired whether it would be possible for deliveries to be made using a circular movement e.g., in via Crown Street and exiting through Marlborough Street.
- (10) Councillor Cobb enquired whether Marlborough Street rather than Crown Street could be used for deliveries. It was explained in answer to both Councillors' questions that use of Marlborough Street was not an option given its narrower width and the fact that it was already in use by other stores for delivery purposes.
- (11) Councillor Smart enquired whether deliveries were taken from all of the side roads adjacent to Western Road. It was confirmed that the majority of stores fronting Western Road took their deliveries in through the front of the store.

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

- (12) Councillor Carden whilst supporting the application in view of the economically priced clothing and goods it provided for families, and considered it was very important that the store behaved as a responsible neighbour. He considered it would be beneficial if the store appointed a member of its staff to act as a Liaison Officer with local residents.
- (13) Councillor Smart also considered that it was important that "Primark" did not abuse use of its delivery yard and listened to the concerns of its residential neighbours.
- (14) Councillor Davey enquired regarding measures which could be invoked in relation to noise nuisance, which although difficult to quantify was clearly a problem. The Deputy Development Control Manager stated that he would bring the matter to the attention of



the Environmental Health Department as it was clear that assessments had not been taken from all neighbouring properties.

- (15) Councillors Davey and McCaffery enquired regarding implementation and control of cycle parking. Councillor Davey raised the matter of access to cycle parking (photos of the cycle racks were shown surrounded by refuse bins). It was confirmed that this condition (now no 8) would require these to be accessible and free from obstruction.
- (16) Councillor Kennedy stated that she had no confidence that the store would take account of the legitimate concerns of neighbouring residents or that it would begin to act as a "good neighbour". All direct approaches to the store to date had been ignored. Permission would not be given for a rear goods yard now; in addition to the disruption caused by deliveries themselves, unacceptable noise was generated by goods being moved around the yard and the noise of staff using the yard area. She felt unable to support the application unless additional conditions were applied to ameliorate some of the nuisance currently suffered by those living in Crown Street.
- (17) Councillor Kennedy suggested that:
- All deliveries take place from Western Road;
  - The rear yard be re-surfaced with a rubberised material to deaden noise;
  - Bins and cages used in the yard area be fitted with rubber wheels (also to deaden noise).
- (18) The Interim Senior Team Planner, explained that the principle of the use was already established. The current application had been submitted because pre-commencement conditions relating to sustainability, cycle parking and access gates had not been complied with. Members should be focussing their consideration on these issues. Use of the rear service yard had always been integral to the business use and was unfettered and it would not be appropriate to seek to address the current problems by adding conditions which fell outside or were not consistent with the decisions of the Planning Inspectorate. Effective enforcement of any conditions imposed was the appropriate way to deal with these matters.
- (19) A vote was taken and on a vote of 8 to 2 with 1 abstention planning permission was granted.

163.11 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons set out in the recommendation set out in the report and resolves to grant planning permission subject to the revised conditions and informatives set out below:

Grant subject to the following conditions:

1. All air handling units and plant located on the roof of the premises shall not operate between the hours of 23.00 and 0.700.

**Reason:** To safeguard the amenities of neighbouring residential occupiers and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.

2. Noise associated with plant and machinery incorporated within the development shall be controlled such that the rating level, measured and calculated at 1 metre from the façade of the nearest noise sensitive premises shall not exceed a level of 5dB

below the existing LA90 background noise level. Rating level and existing background noise levels to be determined as per the guidance provided in BS 4142:1997.

**Reason:** To safeguard the amenities of neighbouring occupiers and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.

3. No vehicle movements nor any loading or unloading of vehicles shall take place between the hours of 20.00 to 0.800.

**Reason:** To safeguard the amenities of neighbouring occupiers and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.

4. No deliveries, including the collection of refuse and recyclable materials, shall be taken at or dispatched from the site except from either the service yard to the rear of the application site accessed from Crown Street only or the front of the site along the designated section of footway in Western Road.

**Reason:** To safeguard traffic flows along Crown Street and Marlborough Street and not to prejudice highway safety in accordance with policies TR1 and TR7 of the Brighton & Hove Local Plan.

5. No deliveries or unloading of vehicles shall take place on Sundays or Bank or other Public Holidays except using the designated section of footway in Western Road.

**Reason:** To safeguard the amenities of neighbouring occupiers and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.

6. The refuse and recycling storage facilities hereby approved shall be retained for use at all times.

**Reason:** To ensure the retention of satisfactory facilities for the storage of refuse and recycling and to comply with policies SU2 and QD27 of the Brighton & Hove Local Plan.

7. BH02.09 Flat roofed extensions.

8. The cycle parking hereby approved shall remain accessible and free from obstruction, and retained for use at all times.

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

**Additional Informative:**

The applicant is advised that the Planning Committee is of the view that effective engagement and communication should take place with the local community regarding the operation of the store.

**Note 1:** Having declared an interest Councillor Steedman left the meeting during consideration of the above application and took no part in the discussion or voting thereon.

**Note 2:** Councillors Davey and Kennedy voted that the application be refused. Councillor C Theobald abstained.

**J. Application BH2009/02047, 77 Grand Parade, Brighton – Change of use from office (B1) to sauna/ solarium (sui generis).**

- (1) The Area Planning Manager (East), Mr Walke gave a presentation detailing the constituent elements of the application. He explained that since the previous refusal, the applicant had provided supporting evidence which demonstrated that the office use was genuinely redundant and that the previous reasons for refusal had been overcome. The proposal was now considered to be in accordance with development plan policies.

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

- (2) Councillor Kennedy enquired whether the cumulative impact of such establishments (there were several nearby) constituted a planning consideration. The Area Planning Manager confirmed that there was no policy basis to apply criteria relating to cumulative effects although factors such as potential noise, loss of amenity, etc were taken account of.
- (3) Councillor Smart enquired whether the top floor of the building would be enclosed and it was confirmed that it would. However, the designated smoking area would be outside and in consequence conditions would be applied regarding the hours during which this area could be used.
- (4) A vote was taken and on a vote of 10 to 1 with 1 abstention planning permission was granted.

163.12 **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. Condition 4 to be amended to read:

“...The hours of 08.00 and 02.00 hours the following day Monday to Sunday.”

**Note:** Councillor Smart voted that the application be refused. Councillor Kennedy abstained.

**K. Application BH2008/02170, 2 Ashdown Road, Brighton – Conversion of existing dwelling to form 3 self contained flats. Demolition of 11 rear garages and erection of 2 new houses.**

- (1) Members considered that it would be beneficial to carry out a site visit prior to determining the application.

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

**L. Application BH2008/02172, 2 Ashdown Road, Brighton- Demolition of 11 garages (Conservation Area Consent).**

- (1) Members considered that it would be beneficial to carry out a site visit prior to determining the application.

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

**M Application BH2009/01986, 12 York Place, Brighton** - Installation of new shop front to ground floor and alterations to first and second floors to the front façade. Change of use of upper floors to form 2 two bedroom flats and 1 one bedroom flat, incorporating rear dormer to third floor .

- (1) It was noted that as the one objection received from a Local Ward Councillor had been withdrawn from the agenda as a result of amendments made to the submitted scheme by the applicants, the application had been able to be granted under officers' delegated powers.

163.15 **RESOLVED** – That the position be noted.

**164. 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**

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

Application:	Site Visit Requested by:
BH2009/02331, Land East of West Pier, Lower Esplanade, King's Road, Brighton (Brighton "O" Wheel)	Deputy Development Control Manager
BH2009/00054 & BH2009/00055, St Augustine's Church, Stanford Avenue, Brighton	Deputy Development Control Manager
BH2009/01845, Land Adjacent, 9 Challoners Close, Rottingdean	Councillor C Theobald
BH2009/02170 & BH2009/02172, 2 Ashdown Road, Brighton	Councillor Hyde (Chairman)

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

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

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

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

The meeting concluded at 6.15pm

Signed

Chair

Dated this

day of