





**Brighton & Hove  
City Council**

# Planning Committee

Title:	<b>Planning Committee</b>
Date:	<b>25 November 2009</b>
Time:	<b>2.00pm</b>
Venue	<b>Council Chamber, Hove Town Hall</b>
Members:	<b>Councillors:</b> Hyde (Chairman), Wells (Deputy Chairman), Carden (Opposition Spokesperson), Caulfield, Cobb, Davey, Hamilton, Kennedy, McCaffery, Smart, Steedman and C Theobald  <b>Co-opted Members:</b> Mr J Small (CAG Representative)
Contact:	<b>Penny Jennings</b> Senior Democratic Services Officer 01273 291065 penny.jennings@brighton-hove.gov.uk

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## AGENDA

### 149. 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.*

### 150. MINUTES OF THE PREVIOUS MEETING

1 - 16

Minutes of the meeting held on 4 November 2009 (copy attached).

### 151. CHAIRMAN'S COMMUNICATIONS

### 152. PETITIONS

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

### 153. PUBLIC QUESTIONS

(The closing date for receipt of public questions is 12 noon on 19 November 2009)

At the date of publication the following question has been received from Mr R Pennington:

“Given that the Federation of Disabled People no longer attend the Planning Committee, what steps have the Planning Committee taken to ensure that disabled people have a meaningful voice at every Planning Committee meeting?”

## **PLANNING COMMITTEE**

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

Dr John Hastie will be in attendance to speak on behalf of the Federation.

### **155. DEPUTATIONS**

(The closing date for receipt of deputations is 12 noon on 4 November 2009)

No deputations received by date of publication.

### **156. WRITTEN QUESTIONS FROM COUNCILLORS**

No written questions have been received.

### **157. LETTERS FROM COUNCILLORS**

No letters have been received.

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

No Notices of Motion have been referred.

### **159. APPEAL DECISIONS**

**17 - 42**

(copy attached).

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

**43 - 46**

(copy attached).

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

**47 - 48**

(copy attached).

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

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

(copy circulated separately).

### **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**

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

## PLANNING COMMITTEE

**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.**

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](http://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](mailto:penny.jennings@brighton-hove.gov.uk)) or email [democratic.services@brighton-hove.gov.uk](mailto:democratic.services@brighton-hove.gov.uk).

Date of Publication - Tuesday, 17 November 2009



**BRIGHTON & HOVE CITY COUNCIL**

**PLANNING COMMITTEE**

**2.00pm 4 NOVEMBER 2009**

**COUNCIL CHAMBER, HOVE TOWN HALL**

**MINUTES**

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

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

**Officers in attendance:** Jeanette Walsh (Development Control Manager); Paul Vidler (Deputy Development Control Manager); Hamish Walke (Area Planning Manager (East)); Mick Anson (Major Projects Officer); Zachary Ellwood (Interim Senior Team Planner); Aidan Thatcher (Planning Officer); Steve Reeves (Principal Transport Planning Officer); Pete Tolson (Principal Transport Planning Officer); Hilary Woodward (Senior Lawyer) and Penny Jennings (Senior Democratic Services Officer)

**PART ONE**

**133. PROCEDURAL BUSINESS**

**133A. Declaration of Substitutes**

133.1 Councillors Allen and Barnett were in attendance as substitution for Councillors McCaffery and Caulfield respectively.

**133B. Declarations of Interest**

133.2 The Deputy Development Control Manager, Mr Vidler declared a personal and prejudicial interest in Application BH2009/01888, Sussex Cricket Club Ground, Eaton Road, Hove by virtue of the fact that he was a Sussex County Cricket Club Member. He had taken no part in processing the application or formulating the recommendation set out in the report. Any questions arising from the Officer's presentation would be answered by the case officer.

133.3 Councillor C Theobald declared a personal but not prejudicial interest in Application BH2009/01888, Sussex Cricket Club Ground, Eaton Road, Hove by virtue of the fact that her husband Councillor G Theobald was a Sussex County Cricket Club Member. She confirmed in answer to questions of the Solicitor to the Committee that she remained of a neutral mind, had not pre-determined the application and would remain present at the meeting during the discussion and voting thereon.

**133C Exclusion of the Press and Public**

133.4 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 them of confidential information as defined in Section 100A (3) of (The Act).

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

**134. MINUTES OF THE PREVIOUS MEETING**

134.1 **RESOLVED** – That the Chairman be authorised to sign the minutes of the meeting held on 14 October 2009 as a correct record.

**135. CHAIRMAN'S COMMUNICATIONS**

**Web casting**

135.1 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.

**Future Involvement and Participation on Planning Committee by Brighton and Hove Federation of Disabled People**

135.2 The Chairman referred to a question received from Mr R Pennington in the following terms:

"Given that the Federation of Disabled People no longer attend the Planning Committee, what steps have the Planning Committee taken to ensure that disabled people have a meaningful voice at every Planning Committee meeting?"

135.3 The Chairman explained that Dr John Hastie would be addressing the Committee at their next meeting to explain how it was envisaged that the Federation would participate in the planning process in future, the question would therefore be held over to that meeting.



**Protocol: Voting Against Officer Recommendations**

- 135.4 The Chairman informed Members that the agreed Protocol had been circulated and that it was intended that it would come into effect from that afternoon's meeting.

**Start Time for Site Visits During the Winter Months**

- 135.5 Following discussion it was agreed that site visits would commence from 1.30pm during the winter quarter.
- 135.6 **RESOLVED** – That the position be noted.

**136. PETITIONS**

- 136.1 The Committee considered the report detailing the petition containing 103 signatures presented by Councillor Bennett at Council on 8 October 2009 relating to Application BH2009/01464, Park House Old Shoreham Road, Hove. It was noted that the application was to be considered elsewhere on that afternoon's agenda (for copy see minute book).
- 136.2 **RESOLVED** – That the contents of the petition be received and noted.

**137. PUBLIC QUESTIONS**

- 137.1 It was noted that a Public Question had been received from Mr R Pennington but that it would be held over to the next meeting of the Committee when he would also have the opportunity to ask a supplementary question.
- 137.1 **RESOLVED** - That the position be noted.

**138. DEPUTATIONS**

- 138.1 There were none.

**139. WRITTEN QUESTIONS FROM COUNCILLORS**

- 139.1 There were none.

**140. LETTERS FROM COUNCILLORS**

- 140.1 There were none.

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

- 141.1 There were none.

**142. APPEAL DECISIONS**

142.1 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.

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

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

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

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

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

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

Application:	Site Visit Requested by:
BH2009/01489, Ocean Heights, Roedean Road	Councillor C Theobald
BH2009/01186, Land Adjoining Badgers Walk, Ovingdean Road	Councillor Steedman
BH2009/01793, 11 Albert Mews, Hove	Councillor Cobb
BH2009/02331, Land East of West Pier, Lower Esplanade, King's Road, Brighton (Brighton 'O' Wheel)	Development Control Manager

**146. TO CONSIDER AND DETERMINE PLANNING APPLICATIONS ON THE PLANS LIST : 4 NOVEMBER 2009**

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

**A. Application BH2009/01477, Land Adjacent to Amex House fronting John Street, Carlton Hill, Mighell Street and Land Adjacent to 31 White Street** – Demolition of existing ancillary office accommodation and erection of 5-9 storey office building plus two basement floors. Erection of 3 storey service facilities building fronting Mighell Street. New vehicular access spaces and 132 cycle parking spaces and associated landscaping (amended plans submitted 14/09/09).

- (1) It was noted that this application had formed the subject of a site visit prior to the meeting.
- (2) The Major Projects Officer, Mr Anson gave a detailed presentation indicating the constituent elements of the proposed scheme. Elevational drawings were shown detailing the varying heights across the scheme, which would vary between 5 and 9 storeys in height. Photomontages were also shown indicating the appearance of the existing and proposed developments from neighbouring streets and in longer strategic views. Floor plans were also shown including configuration of the loading bays at basement level.
- (3) A number of amendments to the proposed conditions were recommended and these were set out in the "Late Representations List".
- (4) Mrs Hayman spoke on behalf of neighbouring objectors stating that their legitimate concerns had been ignored and marginalised. It represented a David versus Goliath situation and the reality was somewhat different to the rosy picture that had been painted. At its highest points the buildings would tower over the neighbouring terraced houses blocking out their light and would be detrimental to their amenity. The scheme was deeply flawed and inappropriate. The arguments relating to the negative impact if American Express leaving the City were irrelevant. Amex would "stay" for as long as it suited them; if in future it was considered advantageous to relocate they would leave a monstrous 1960's style tower block behind.
- (5) Ms Lewis, a Member of Carlton Hill School pta stated that whilst the school had not lodged objections to the scheme, some parents had concerns regarding the impact of the works on the school and disruption which would result. They considered that a greater degree of consultation was needed to enable all concerns to be addressed and to enable the children to be prepared prior to the works taking place.
- (6) Mr Scanlon spoke on behalf of the applicant in support of their application explaining that they had conducted an extensive consultation process and that this would be on-going until completion of the works. They had sought to address as far as practicable the concerns and objections of local residents and the school and had made a number of amendments to that end. The company was committed to staying in Brighton, providing job opportunities there and to being a good neighbour.
- (7) Councillor Fryer spoke in her capacity as a Local Ward Councillor setting out her concerns in relation to the scheme. She echoed the comments made by the objectors and stated that at present she considered the scheme fell far short of what it should be. She considered it would be appropriate to defer the application pending further work by the applicant to address the remaining concerns and to enable further changes to effected.

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

- (8) Councillor Steedman enquired regarding the contribution towards sustainability. It was explained that there were limits to the levels of sustainability which could be achieved due to the amount of energy required to run the computer/equipment 24 hours a day which was integral to the company's use. In order to compensate for this various

carbon off-sets (including provision of a new energy efficient heating system at the school) were proposed. Until technology progressed sufficiently this option was likely to be used in relation to a number of schemes.

- (9) Councillor C Theobald queried whether there would be overshadowing of properties in White Street, regarding the contribution for art and whether there would be a car club. It was explained that the art wall would represent a separate discrete element of the scheme and that there would not be a commuted sum. The applicant had agreed to deal with that aspect itself. A car club was not proposed, however, the applicant was required to provide a detailed travel plan and a travel co-ordinator would be appointed for a period of five years. There would be a reduction of light to one room at basement level in White Street but this was not a main room in the property.
- (10) Councillor Davey whilst generally welcoming the scheme enquired regarding the controls that were to be placed on phasing etc to seek to ensure a minimum of disruption to the school and the neighbouring streets during the period of the works. The Development Control Manager explained that the Local Planning Authority had control in the Construction and Environmental Management Plan required as part of the Section 106 agreement and that works to be carried out at the school could be programmed to be carried out at its convenience.
- (11) In answer to questions regarding the long period of phasing for the works it was explained that this was necessary to enable the very complicated decanting and movement of staff prior to demolition of AMEX House.
- (12) Councillor Kennedy enquired regarding proposed condition 24 relating to submission of development details including the green roofs. The Development Control Manager explained additional details of the soft landscaping to be provided throughout the scheme would need to be submitted separately.
- (13) Mr Small (CAG) referred to the blank frontage to be provided which would appear as four “dummy” houses. He enquired regarding the purpose of this element of scheme and the materials to be used. The Design and Conservation Manager explained that this represented the most modest element of the scheme but had also represented the most difficult in terms of design and had been the subject of significant redesigns and modifications. Its primary function was for cycle storage although it was a highly adaptable space and it could subsequently revert to other uses (office accommodation). Mr Small stated that he considered it would desirable for an advisory group to be set up to monitor and advise on such issues as the scheme progressed. A similar body had been set up and used to good effect in relation to the Jubilee Street scheme.

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

- (14) Councillor Carden expressed support for the proposals which would result in additional jobs for the City. He hoped that it would also be possible for those engaged in the construction works to be engaged locally.

- (15) Councillor Davey welcomed the scheme considering that the liaison proposed between the applicant and local interest group would go some way to ensuring that residents concerns were addressed.
- (16) Councillor Kennedy stated that in her view it had been useful to hear differing views in relation to the scheme. She was in agreement that the continuing liaison meetings would ensure that residents continued to be engaged in the on-going process of development. Whilst supporting the scheme she considered that there were missed opportunities in terms of the levels of biodiversity which could have been achieved.
- (17) Councillor Wells considered that the buildings were of a good design which would have a very similar footprint to the existing. He considered that it was important to allow a suitable period for decanting. It was pleasing that Amex had decided to stay within the City.
- (18) Councillor C Theobald stated that overall she liked the design of the development, although she would have preferred it if the development had been lower in height and, had more parking been provided on site. She was pleased to note that funding was being provided for improvement works at Carlton Hill School to mitigate against any potential disbenefits.
- (19) Councillor Steedman stated that although he struggled to accept the levels of carbon emissions which the scheme would generate, on balance he did support it. He was of the view however, that greater thought needed to be given to resolution of these issues in relation to major schemes in future. It was also important to ensure that any disruption/potential noise nuisance was rigorously controlled particularly bearing in mind the length of the works.
- (20) The Development Control Manager explained that hours during which works were carried out etc would be set by the planning authority and would need to be adhered to.
- (21) A vote was taken and Members voted unanimously that minded to grant planning permission be given.

146.1 **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 completion of a Section 106 Agreement to include the Heads of Terms, conditions and informatives set out in the report and the amendments set out in the circulated "Late Representations List".

**B. Application BH2009/01464, Park House, Old Shoreham Road, Hove** - Demolition of former residential language school and erection of part 4 storey and part 5 storey block of 72 flats.

- (1) The Interim Senior Team Planner, Mr Elwood, gave a presentation setting out the constituent elements of the scheme. Notwithstanding that some amendments/improvements had been made to the earlier refused scheme a number of those previous reasons for refusal remained. The development was considered

excessive and inappropriate in relation to the scale and spacial layout of the existing buildings and would be unduly dominant on this prominent site.

- (2) Dr Barker spoke on behalf of neighbouring objectors. Although not protected, the existing Edwardian building was worthy of protection and was important in that it provided a green nature corridor between two neighbouring parks around 2/3 of the site were part of the green belt and it would therefore be appropriate for a wide ranging impact assessment including nature/wildlife to be carried out. An assessment of the impact of the scheme on badger setts should also be required. There were issues relating to rights of way and landownership which remained unresolved. Overall, the scheme represented massive overdevelopment.
- (3) Mr Lister spoke on behalf of the Hove Park Residents Association setting out their concerns regarding the impact of additional vehicles on the neighbouring road network. The level of parking proposed in relation to the scheme would be inadequate and would exacerbate existing traffic problems.

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

- (4) Councillor C Theobald queried whether the building was Edwardian or in fact Victorian as suggested by some objectors and asked whether Officers had inspected the building internally to ascertain whether there were any noteworthy architectural features. She queried the purpose to which it was intended Section 106 money would be put. She considered it would be appropriate for money to be provided towards improvements to the Tennis Club clubhouse in Hove Park.
- (5) Councillor Wells referred to the proposed Section 106 Obligation for public art and was in agreement that it would be appropriate for a contribution to be provided towards the tennis club facilities in Hove Park.
- (6) The Interim Senior Team Planner, explained that as the application was recommended for refusal unless Members were minded to grant permission it was not appropriate to negotiate further at this stage. Officers had not been inside the property which although of a traditional design was not listable. There was no objection to the principle of redevelopment of the site if a suitable scheme was submitted.
- (7) Councillor Smart sought clarification regarding the footprint of the proposed development. It was explained that it would be closer to the footway than the existing buildings.
- (8) A vote was taken and Members voted unanimously that planning permission be refused.

146.2 **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 informatives set out in the report.

- C. Application BH2009/02089, Royal Pavilion, 4-5 Pavilion Buildings, Brighton –**  
Temporary ice rink on the Royal Pavilion eastern lawns. Structure to include ancillary

buildings for a café, toilet facilities and skate hire. Proposed dates are 1 November to 23 January including set up and break down.

- (1) It was noted that this application had been the subject of a site visit prior to the meeting.
- (2) The Area Planning Manager (East), Mr Walke, gave a presentation detailing the constituent elements of the proposed scheme. Notwithstanding that English Heritage had objected to the proposals as detrimental to the setting of the listed building, Officers' considered that as the use would be temporary and full reinstatement of the gardens and adjoining steps would take place afterwards, that the positive contribution and provision of a skating facility would outweigh any negative impact. The scheme would also generate additional income for the Pavilion.

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

- (3) Councillor Hamilton queried whether the facility would be provided that winter. It had been widely reported in the "Argus" that even if planning permission were to be granted that it would not proceed until 2010. The Area Planning Manager (East) explained that the scheme was not now intended for 2009. However, the applicants wished to obtain the Committee's views in respect of the application.
- (4) Councillor Smart enquired whether additional income for the Royal Pavilion would result from anticipated additional visits by those using the skating rink. It was explained that it was understood that the Pavilion would receive a direct rental income for the use of part of its grounds, as well as increased visitor numbers resulting from linked trips. The cost of works of repair and reinstatement following the use would also be borne by the applicant.

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

- (5) Councillor Steedman sought reassurance that Environmental Health were satisfied that no nuisance would result from amplified music being played in association with the use. Whilst supporting the application he was nonetheless of the view that the applicants should monitor and reduce the levels of energy used by the refrigeration units in so as far as it was possible to do so.
- (6) The Deputy Development Control Manager confirmed that it would be appropriate to add an informative relating to the refrigeration units if Members were minded to grant planning permission. Background music would be provided in the café area and the Environmental Health Department had indicated that they were satisfied with the measures proposed to be put into place.
- (7) Councillor Davey stated that he considered the rink would provide a valuable sporting facility and was also pleased to note that additional cycle parking facilities were proposed. The facility would provide a positive contribution to the City particularly as the reinstatement works would take place once the use had ceased. The Area Planning Manager (East) explained that the benefits arising from the financial contribution were not the only reasons permission was recommended. They did go some way to addressing the concerns raised by English Heritage.

- (8) Councillor C Theobald considered that the rink would provide an added attraction for the City. She was concerned however, regarding the delay that had occurred and was disappointed that the scheme would not now proceed until the following year.
- (9) The Area Planning Manager (East) explained that although pre –application discussions had taken place in July the application had not been lodged until September. Once received the application had been progressed rapidly (6 weeks).
- (10) Councillor Kennedy stated that in her opinion the application had been processed rapidly. She welcomed the scheme and hoped that it would be possible for the scheme to proceed that winter rather than the next. She had used the ice rink at Somerset House (also a listed building).
- (11) A vote was taken and Members voted unanimously that planning permission be granted.

146.3 **RESOLVED-** That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in paragraph 10 of the report and resolves to grant planning permission subject to the conditions and informatives set out in the report. Condition 11 to be amended to read:

“The development hereby permitted shall not be brought into use until the cycle parking facilities shown on the approved plans have been fully implemented and made available for use. The cycle parking facilities shall thereafter be retained for use by staff and visitors to the development and shall thereafter be retained for use by staff and visitors to the development and shall be removed from the site following the ice rink use ceasing no later than 23 January 2010.”

**D. Application BH2009/01811, 112-113 Lewes Road, Brighton** - Erection of 4 storey building providing retail on ground and first floors and 12 self-contained flats on ground and upper floors.

- (1) It was noted that this application had been the subject of a site visit prior to the meeting.
- (2) The Planning Officer, Mr Thatcher, gave a presentation detailing the proposed scheme by reference to elevational drawings and photographs. Although Reasons 2 and 6 of the recommended reasons for refusal had been overcome due to the very late submission of additional information, referred to in the “Late Representations List”, a number of other issues remained to be satisfactorily addressed and refusal was therefore recommended.
- (3) Mr Bareham spoke on behalf of the applicant in support of the application. He referred to the decision of the planning inspector in relation to 109 Boundary Road, Hove. The inspector had indicated that there should be a presumption against refusing planning permission in instances where outstanding issues could be successfully resolved following further negotiation with the applicant. He considered that this application represented such an instance and requested that further consideration of the application be deferred to enable the remaining reasons for refusal to be overcome.



- (4) The Deputy Development Control Manager responded that a significant level of advice and guidance had been provided to the applicant following the earlier refusal. Notwithstanding those discussions the applicant had failed to satisfactorily address the previous reasons for refusal before re-submitting the application. On the basis of the information given it was unclear whether the remaining grounds for objection could be overcome relatively easily or not.

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

- (5) Councillor Smart enquired whether access to the site would be from Newmarket Road and it was confirmed that it would.
- (6) Councillor Davey referred to the proposed retail unit at first floor level, as other retail units in the area were located predominantly at ground floor level. He enquired whether this was a policy requirement. The Planning Officer confirmed that the applicant had sought to provide a retail use at first floor level in order to provide the same percentage of retail on site as previously.
- (7) Councillor C Theobald sought clarification regarding the number of units which did not meet lifetime homes standards and or wheelchair accessibility requirements.

**Debate and Decision Making Process**

- (8) Councillor Kennedy proposed that further consideration of the application be deferred pending resolution of the outstanding matters referred to above. This was seconded by Councillor Smart proposed. A vote was then taken and on a vote of 10 to 2 it was agreed that the application be deferred.

146.4 **RESOLVED** - That the application be deferred in order to enable further negotiations to take place between Officers and the applicant with a view to enabling the remaining suggested reasons for refusal of the application to be overcome.

**Note:** Councillors Hyde (Chairman) and Cobb voted that consideration of the application not be deferred.

**(ii) MINOR APPLICATIONS**

**E. Application BH2009/01489, Ocean Heights, Roedean Road** – Demolition of existing dwelling and construction of 7 residential apartments (part-retrospective).

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

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

**F. Application BH2009/01239, 148 Elm Grove, Brighton** – First floor extension and conversion of existing shop and garage to form 1 flat and 1 maisonette. Retention and improvements to existing top floor flat.

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

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

**G. Application BH2009/01921, 41 Ladies Mile Road, Patcham** – Change of use from betting shop (A2) to hot food takeaway (A5) with the erection of a rear extension, new shop front and extract duct.

(1) The Area Planning Manager (East) gave a presentation detailing the proposed scheme including elevational drawings showing the proposed rear extension. The application premises were located in a local parade consisting of ground floor commercial premises with flats above and had most recently been in use as a betting shop. The proposed change of use was considered to be acceptable and it was not considered that it would result in significant harm to adjacent residential accommodation by way of increased noise, disturbance and odours, nor result in a significant increase in traffic.

(2) Mrs Simpson spoke on behalf of neighbouring objectors stating that it was considered that this use would result in significant harm to neighbouring amenity. The premises would add to the existing number of fast food takeaways in the area, and would by its nature result in additional parking/vehicle manoeuvres in an area which was already heavily trafficked. This use would encourage children from the nearby school to leave the premises during lunchtimes to purchase pizzas rather than opting for healthier options available at the school and would also encourage youths to congregate outside in the evenings which could give rise to/encourage anti-social behaviour.

(3) Mr Unwin spoke on behalf of the applicant in support of their application. Whilst diet and lifestyle choices lay with the individual, the premises would be rigorously controlled and would not be open after 11.00pm and it was not therefore considered it would give rise to anti-social behaviour. A number of the issues raised were not planning considerations. In answer to questions he explained that small cars were usually used for delivery purposes.

(4) Councillor Pidgeon spoke in his capacity as a Local Ward Councillor setting out his objections to the scheme. He re-iterated the concerns of local objectors regarding traffic, parking and possible anti-social behaviour and littering which could result. He was also concerned that there were a number of established local hot-food take away businesses in the vicinity, this use could be detrimental to their financial well being and their livelihoods should be protected during a recession.

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

(5) Councillor C Theobald enquired regarding the dimensions of the proposed rear extension and details of where vehicles making deliveries from the premises would park.

(6) Councillor Barnett sought clarification of the type of delivery vehicles to be used and the maximum number that were likely to be parked nearby at any one time.

- (7) Councillor Cobb enquired regarding the number of similar hot take away food shops located nearby and the distance between this premises and the nearest but was informed that this was not a relevant planning consideration.

**Debate and Decision Making Process**

- (8) Councillor C Theobald stated that she considered that the proposed use to be unacceptable as it would exacerbate existing parking problems in the area and could serve to encourage anti-social behaviour resulting from youths congregating in an area where this had already given rise to problems. There were a number of similar premises in the area and this could give rise to additional nuisance and litter. One litter bin outside the premises was considered insufficient.
- (9) Councillor Smart considered that although individual dietary requirements and use of the premises by children from the neighbouring school were not relevant he did not consider the application to be acceptable.
- (10) Councillor Steedman considered that it was regrettable that there did not appear to policy grounds for refusing the application.
- (11) The Solicitor to the Committee stated that if Members were minded to refuse the application the reasons cited needed to be robust and should not refer to anecdotal "evidence".
- (12) A vote was taken and on a vote of 5 to 3 with 4 abstentions planning permission was refused.

146.7 **RESOLVED** - That planning permission be refused for the following reasons:

1. The proposal would result in increased pressure on parking, increased traffic flow and resulting vehicle noise, contrary to policies SU9, SU10 and QD27 of the Brighton & Hove Local Plan.
2. The proposal would result in the generation of anti social behaviour by reason of the congregation of youths and resulting noise, contrary to policies SU9, SU10 and QD27 of the Brighton & Hove Local Plan.

**Note:** Councillor Cobb proposed that planning permission be refused. This was seconded by Councillor C Theobald. A recorded vote was then taken. Councillors Barnett, Cobb, Smart, C Theobald and Wells voted that planning permission be refused. Councillors Allen, Carden and Hamilton voted that planning permission be granted. Councillors Hyde (Chairman), Davey, Kennedy and Steedman abstained. Therefore on a vote of 5 to 3 with 4 abstentions planning permission was refused.

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

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

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

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

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

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

**J. Application BH2009/01888, Sussex Cricket Club Ground, Eaton Road, Hove** – Installation of 2 new galvanised steel flood lighting columns and 294 new metal halide floodlights to east and west side of cricket ground.

(1) Members decided that they did not require a full presentation but would wanted the opportunity to ask questions.

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

(2) Councillors Kennedy and Smart referred concerns expressed regarding the level of lighting to be provided once matches had finished. It was understood that lighting levels could be dimmed considerably whilst clearing up took place, whilst still meeting necessary safety requirements.

(3) The Interim Senior Team Planner, explained that each lighting unit could be switched off individually, or alternatively whole banks of lights could be switched off to provide as little as 10% of maximum power. This would provide a low level of lighting which would still be sufficient to enable equipment to be dismantled following matches or events.

(4) Following discussion Members requested that a further condition be added to ensure that all lighting was reduced to the minimum required for safety purposes once evening events had ceased.

(5) A vote was taken and Members voted unanimously that planning permission be granted.

146.10 **RESOLVED** - That the Committee has taken into consideration and agrees with the reasons for the recommendations 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 account and to the following additional condition:

Condition7: Notwithstanding the provisions of Condition 4 as attached to this permission, immediately following the end of any cricket matches for which they are in operation, the luminence level of the floodlights hereby permitted shall be reduced to the minimum level required to meet the identified safety requirements of the Cricket Club, in accordance with details that shall first have been submitted and agreed in

writing by the local planning authority prior to the first operation of the new floodlighting.

**Reason:** To safeguard the amenities of the occupiers of nearby residential properties in accordance with policies QD26 and QD27 of the Brighton & Hove Local Plan.

**147. 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**

147.1 **RESOLVED** - That the following site visits be undertaken by The Committee prior to determining the application.

Application:	Site Visit Requested by:
BH2009/01489, Ocean Heights, Roedean Road	Councillor C Theobald
BH2009/01186, Land Adjoining Badgers Walk, Ovingdean Road	Councillor Steedman
BH2009/01793, 11 Albert Mews, Hove	Councillor Cobb
*BH2009/02331, Land East of West Pier, Lower Esplanade, King's Road, Brighton (Brighton "O" Wheel)	Development Control Manager

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

148.1 **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 or 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

**APPEAL DECISIONS**

	<b>Page</b>
<b>A. WISH WARD</b>	
Application BH2008/02764, 23 Tennis Road, Hove. Appeal against refusal to grant planning permission for proposed landing and first floor room (bedroom/dining room) doors to replace existing window and proposed access stair garden (shared with father on ground floor). (Delegated Decision) <b>APPEAL DISMISSED</b> (copy of the letter from the Planning Inspectorate attached).	<b>19</b>
<b>B. CENTRAL HOVE WARD</b>	
Application BH2008/03290, 6 Wilbury Grove, Hove. Appeal against refusal to grant planning permission for erection of a first floor single storey conservatory and raised deck. (Delegated Decision) <b>APPEAL DISMISSED</b> (copy of the letter from the Planning Inspectorate attached).	<b>21</b>
<b>C. BRUNSWICK &amp; ADELAIDE WARD</b>	
Application BH2007/0394, 19 Norfolk Square, Hove. Appeal against enforcement notice in relation to erection of one air conditioning unit to the rear of the property and the construction of an associated corrugated air conditioning enclosure. (Enforcement Decision) <b>APPEAL ALLOWED</b> (copy of letter from the Planning Inspectorate attached).	<b>25</b>
<b>D. STANFORD WARD</b>	
Application BH2009/01516, 10 Radinden Manor Road, Hove. Appeal against proposed two storey extension to the side of an existing property to provide additional family accommodation. The proposal consists of extending the existing living room and rebuilding the existing garage on the ground floor and adding two additional bedrooms, one with en-suite to the first floor.(Delegated Decision) <b>APPEAL ALLOWED</b> (copy of the letter from the Planning Inspectorate attached).	<b>29</b>

## **E. HOLLINGBURY & STANMER WARD**

Application BH2009/00232, 63 Uplands Road, Brighton. Appeal against refusal to grant planning permission for excavation of land to the front of the property to create hard standing. (Delegated Decision) **APPEAL ALLOWED** (copy of the letter received from the Planning Inspectorate attached). **31**

## **F. PRESTON PARK WARD**

Application BH2008/03531, Land Adjoining 353 Ditchling Road, Brighton. Appeal against refusal to grant planning permission for erection of a two storey detached dwelling and construction of a new vehicular access onto to Ditchling Road. (Delegated Decision) **APPEAL DISMISSED**. (copy of the letter received from the Planning Inspectorate attached). **33**

## **G. WITHDEAN WARD**

Application BH2009/01345, "Fourwinds", 16 Hillside Way, Withdean, Brighton. Appeal against refusal to grant planning permission for a pitched roof front dormer and pitched roof porch. (Delegated Decision) **APPEAL DISMISSED** (copy of the letter received from the Planning Inspectorate attached). **37**

## **H. PATCHAM WARD**

Application BH2008/00716, 162 Carden Hill, Hollingbury, Brighton. Appeal against refusal to grant planning permission for demolition of existing house and erection of a new residential unit. (Delegated Decision) **APPEAL DISMISSED** (copy of the letter received from the Planning Inspectorate attached). **37**





# Appeal Decision

Site visit made on 13 October 2009

by **JP Roberts BSc(Hons) LLB(Hons) MRTPI**

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

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**Decision date:**  
**27 October 2009**

## Appeal Ref: **APP/Q1445/A/09/2104792** **23 Tennis Road, Hove, East Sussex BN3 4LR**

- 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 Dennis and Mrs Elizabeth Kenward against the decision of Brighton & Hove City Council.
- The application Ref BH2008/02764, dated 16 August 2008, was refused by notice dated 17 November 2008.
- The development proposed is described as "*revised application – original 3/7/07 refused 24/8/07 BK2007/02529 Proposed landing and first floor room (bedroom /dining room) doors to replace existing window and proposed access stair garden (shared with father in ground floor). We are the freeholders*".

### Procedural matter

1. The Council's decision notice describes the proposal as a *Proposed balcony to rear at first floor level, access spiral staircase and replacement of window with glazed doors*. I consider that this more accurately and concisely describes the proposal and I shall adopt this description.
2. The appellants argue that the decision on the application was made outside of the prescribed period for determination, and that the decision is both invalid and flawed. As no appeal against non-determination was made, I consider that the Council was entitled to determine the application, and I shall deal with the appeal on its planning merits.

### Decision

3. I dismiss the appeal.

### Main issue

4. The effect on the living conditions of the occupiers of 21 Tennis Road with particular regard to noise and disturbance.

### Reasons

5. The appeal site is occupied by a terraced property which comprises two flats, one on the ground floor and the other occupying the first floor and rooms in the roofspace and dormer. The proposal would provide a balcony outside a first floor living room with a spiral staircase to access the rear garden, which is otherwise inaccessible without going through the ground floor flat, which is occupied by a relative of the appellants.

6. The balcony would be about 1m in depth and 2.5m in length and would be, at its closest, about 2m or so away from a first floor bedroom window in the adjoining residential property at 21 Tennis Road. An opaque screen on one side of the balcony closest to No 21 is proposed to provide a degree of privacy.
7. A previous proposal for a balcony and stairs was refused by the Council and dismissed on appeal last year (Ref: APP/Q1445/A/08/2069270). The Inspector in that case found that the proposal would result in excessive overlooking and unacceptable levels of noise and disturbance. Although I have not been provided with the plans that accompanied that application, I understand that the depth of the balcony in this case is somewhat smaller, and that the stairs have been relocated to the opposite side of the balcony to be furthest from the boundary with No 21.
8. However, at about 1m in depth, the balcony would still be of an adequate size for two people to sit on. Metal staircases tend to be noisy when in use, and whilst the degree of disturbance to the occupiers of No 21 would undoubtedly be lessened by its relocation to the other side of the balcony, the area which could be used for sitting out would, in my opinion, be so close to the boundary and first floor bedroom window of No 21, which is at a slightly lower level than those in No 23, that I consider that the use of the balcony for sitting out would potentially cause a serious degree of disturbance. I consider that this would conflict with Brighton and Hove Local Plan Policies QD14 and QD27 which respectively deal with extensions and alterations and the protection of amenity, and both seek to protect neighbours' amenities.
9. I also share the previous Inspector's concerns about the effect of the proposal on overlooking and on the living conditions of the ground floor flat should it cease to be occupied by a relative and this adds to my reason for dismissing the appeal. The proposal would enable the occupiers of the upper flat to access the garden without causing disturbance to the occupier of the ground floor flat, but this benefit does not outweigh my concerns.
10. I have had regard to the possibility of imposing a condition to require the removal of the development once the appellants cease to occupy the property, but this would not overcome or mitigate sufficiently the harm that I have found.
11. For the reasons given above I conclude that the appeal should be dismissed.

*JP Roberts*

INSPECTOR



# Appeal Decision

Site visit made on 11 September 2009

by **M C J Nunn BA BPL LLB LLM BCL MRTPI**

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**Decision date:**  
**12 October 2009**

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## Appeal Ref: APP/Q1445/A/09/2104023

### 6 Wilbury Grove, Hove, East Sussex, BN3 3JQ

- 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 Chris O'Neil against the decision of Brighton and Hove City Council.
- The application Ref BH2008/03290, dated 13 October 2008, was refused by notice dated 19 February 2009.
- The development proposed is the erection of a first floor single storey conservatory and raised deck.

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### Decision

1. I dismiss the appeal.

### Procedural issue

2. The description of the development in the heading above is that used by the Council in its decision and used by the appellant on the appeal form, rather than that on the original application form. I believe it more accurately describes the works proposed.

### Main issues

3. I consider the main issues in this case to be the effect of the proposal on:
  - i. the character and appearance of the area, with particular reference to the Willett Estate Conservation Area; and
  - ii. the living conditions at adjacent properties, with particular reference to privacy.

### Reasons

#### *Character and Appearance*

4. The appeal property is arranged over three storeys and forms part of a Victorian mews development, which I understand was originally constructed as stables serving nearby houses. It falls within the Willett Estate Conservation Area. To the rear of the property, at ground floor level, is an original 'horse tunnel', a barrel vaulted arch structure, which I gather originally ran continuously to the rear of all the mews properties. Although intact at the appeal property, many sections of it have now been removed, so as to allow the creation of rear gardens at ground level. There is a door at first floor level, which allows access on to the roof of the tunnel, thus providing a narrow 'roof terrace' area at first floor level. However, there are no enclosing walls or

railings to provide safety for those using it and the Council disputes whether use of the tunnel roof as a terrace has been formally authorised through the planning process.

5. I have serious concerns that the proposed roof terrace structure would appear unduly large and bulky in relation to the existing mews block, fully extending at high level to the boundary with the rear garden at No 11 Wilbury Road. Its overall bulk would be augmented by the presence of the conservatory above, and the proposed wrought iron balustrade, enclosing the terrace, would further add to its dominant appearance. In my view, the height and bulk of the proposed terrace would be emphasised by the absence of the 'horse tunnel' at the adjacent properties to the south, in Wilbury Grove, which all have rear gardens at ground level.
6. I acknowledge that there is a mix of development in this urbanised area, including fire escapes, and other alterations which, although not particularly attractive, are nevertheless part of the area's character. However, this eclectic character does not alter my concerns regarding the bulkiness of the proposal, and its consequent adverse effect on the character and appearance of the mews, as well as the Willett Estate Conservation Area.
7. The appellant has drawn my attention to other terraces and conservatories in the vicinity in support of the appeal. These include a side conservatory above ground floor level at No 11 Willett Road. However, this is quite different from the appeal proposal, appearing to be an original feature, integral to the design of the property and does not include a substantial terraced area. It appears small and subservient in relation to the host dwelling, which I do not consider would be the case here.
8. My attention has also been drawn to a roof terrace at No 13 Wilbury Road, but I consider that it is not a visually attractive addition to the property, and may well give rise to overlooking and loss of privacy to adjacent properties. In my view, an unsatisfactory arrangement at this property does not justify further unacceptable development.
9. I also note that a high level conservatory exists on a rebuilt terrace at No 24 Wilbury Grove, the end mews property to the north. This is a highly prominent feature when viewed from Eaton Road and I understand from the Council that this was granted planning permission in 1982 before the current planning policy framework was introduced. Although to some extent a matter of taste, I do not consider it to be a particularly sympathetic addition to the original mews, nor the conservation area. Its rather dominant appearance is exacerbated by its conspicuous and elevated position. Again, I am not persuaded that an unsympathetic development at another property in the mews justifies further unsympathetic development.
10. The appellant has cited further examples in the vicinity, including conservatories at Cambridge Grove, but these do not alter my concerns in relation to the appeal scheme.
11. I fully appreciate the appellant's desire to improve the quality of the appeal property's living environment and that considerable care has been taken to use sympathetic materials, such as hardwood, for the conservatory and quarry tiles and timber for the terrace area. I note that this palette of proposed materials

has sought to acknowledge the existing building and surrounding context, and that the scheme attempts to sensitively preserve the architectural integrity of the 'horse tunnel'. However, this does not outweigh my concerns outlined above.

12. Overall, I conclude on the first issue that the proposal would fail to preserve or enhance the character or appearance of the Willett Estate Conservation Area. It would therefore be contrary to Policies QD1, QD2 and QD14 of the Brighton and Hove Local Plan (BHLP) which together require a high standard of design in new development, as well as Policy HE6, which requires proposals within conservation areas to preserve or enhance their character or appearance. It would not accord with Supplementary Planning Guidance Note 1 'Roof Alterations and Extensions' which, amongst other things, states that new development should preserve or enhance the character or appearance of conservation areas.

#### *Living Conditions*

13. The location of the appeal dwelling within a highly urbanised area of closely spaced dwellings means that there is already a degree of overlooking between properties, especially between those in Wilbury Grove and Wilbury Road. I acknowledge that there is already an existing informal terrace area on the roof of the tunnel, which currently overlooks adjacent properties, but this is restricted in area and narrow. It would be considerably enlarged by the proposal, and its usage intensified and formalised as an area for sitting out. Because of this, in my opinion this arrangement at high level would result in greater intrusion, overlooking and loss of privacy to neighbouring properties than currently exists, particularly in respect of the rear garden and windows at No 11 Wilbury Road, currently converted into flats. In addition, I have grave concerns regarding the impact of the proposed rendered block retaining wall directly abutting the rear garden at No 11 Wilbury Road. I consider this high wall would appear overbearing from that property and exacerbate the sense of enclosure within the garden.
14. I am also concerned that the proposed terrace would directly abut the rear wall and first floor windows of the adjacent dwelling at 'The Stables' at No 8A Wilbury Grove, which serve a bedroom and bathroom. In my view, this would allow direct views into that property, causing an unacceptable loss of privacy. I acknowledge this unsatisfactory relationship already exists because the roof of the tunnel runs adjacent to that property. I note that the appellant states they have used this outside area for the duration of their ownership. I also note that the appellant states that there is a condition which requires the windows at 'The Stables' at No 8A to be obscure glazed, although no documentary evidence has been supplied to me on this point. Notwithstanding these points, as noted above, I consider the proposed terrace and conservatory would enlarge and formalise this as an amenity area for sitting out, and would thereby seriously exacerbate this lack of privacy between the two properties.
15. I therefore conclude on the second main issue that the proposal would harm the living conditions at neighbouring properties, particularly at No 11 Wilbury Road and 'The Stables' at 8A Wilbury Grove. It would therefore be contrary to Policies QD14 and QD27 of the BHLP which together require that extensions should not result in loss of privacy or amenity to adjacent residents or

occupiers. It would also run counter to Supplementary Planning Guidance Note 1 'Roof Alterations and Extensions' which, amongst other things, states that roof terraces should not result in a significant loss of privacy.

**Conclusion**

16. I have taken into account the appellant's submissions in support of this proposal, but find overall that it would neither preserve nor enhance the character or appearance of the Willett Road Conservation Area, and would harm the living conditions at adjacent properties.
17. Therefore, for the reasons given above, and having considered all other matters raised, I conclude that the appeal should be dismissed.

*M C J Nunn*

INSPECTOR



# Appeal Decision

Site visit made on 14 October 2009

by **R J Perrins MA MCM**

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**Decision date:  
3 November 2009**

## **Appeal Ref: APP/Q1445/C/09/2101291 19 Norfolk Square, Brighton BN1 2PB.**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Hasan Kara against an enforcement notice issued by Brighton & Hove City Council.
- The Council's reference is 2007/0394.
- The notice was issued on 11 March 2009.
- The breach of planning control as alleged in the notice is without planning permission the installation of one air-conditioning unit to the rear of the property and the construction of an associated corrugated air-conditioning enclosure.
- The requirements of the notice are:
  1. Remove the air-conditioning unit and fixings from the rear yard of the property.
  2. Remove the associated, corrugated air-conditioning enclosures and fixings from the rear yard of the property.
  3. Make good any damage caused to the rear of the property to match the rest of the existing building.
- The period for compliance with the requirements is 28 days.
- The appeal is proceeding on the grounds set out in section 174(2) (a) of the Town and Country Planning Act 1990 as amended.

## **Decision**

1. I allow the appeal, and direct that the enforcement notice be quashed. I grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely the installation of one air-conditioning unit to the rear of the property and the construction of an associated corrugated air-conditioning enclosure at 19 Norfolk Square, Brighton BN1 2PB referred to in the notice, subject to the following conditions:
  - 1) The external air conditioning unit hereby permitted shall not operate outside the hours of 0900 and 2200.

## **The appeal on ground (a)**

### *Main issues*

2. From my consideration of the evidence and what I saw during my site inspection, I consider the main issues to be; the effect of the development on the character and appearance of the area; whether the development preserves or enhances the character or appearance of the Regency Square Conservation Area and; the effect of the development upon the living conditions of the neighbouring residents with regard to noise.

*Character and appearance of the area*

3. The air conditioning unit is situated at the rear of No 19 within a small enclosed yard. There is no public access to, or view of, the area although flats above the shop at second and third floors (when viewed from the courtyard) have an oblique view of the installation. Windows opening onto the yard at ground and first floor serve the shop which runs the unit. The yard is a rather bland dank area with a large amount of plastic and metal external pipework on the west and south facing walls.
4. Saved policies QD14 and HE6 of the Brighton and Hove Local Plan 2005 (BHLP) seek developments that are of high quality design and respect the character, materials and appearance of the host and adjoining properties. Policy HE6 seeks to preserve or enhance the character of the conservation area and states that proposals that would have an adverse impact upon that will not be permitted.
5. I accept that the enclosure, a timber framed and corrugated roofed structure, does not relate well to the existing building, is of poor design and build quality. The materials have, to my mind, been chosen for their purpose rather than their appearance and the associated pipework and fixings have little aesthetic merit. The installation has no redeeming features.
6. However, it cannot be seen from any public vantage point, views from the flats above would have to be actively sought and would be at an oblique angle onto the roof of the structure. The yard itself with its haphazard pipe work, in different materials, has little character from which to detract. In my opinion, the development has no material impact upon the character and appearance of the area. For these reasons I find it would not conflict with the aims of Policy QD14 of the BHLP.

*Whether the development carried out preserves or enhances the character or appearance of the Regency Square Conservation Area*

7. The Conservation Area is characterised by set-piece squares and terraces with a marked contrast between the formal architecture of the grander buildings such as those in Regency Square to the smaller scale three-storey houses found in Norfolk Square. The air-conditioning unit cannot be seen from the public domain. As I have concluded that the development carried out would not have an adverse impact upon the character or appearance of the yard, I consider that the character and appearance of the Conservation Area would be preserved and the development would not be contrary to Policy HE6 of the BHLP.

*Living Conditions*

8. There are conflicting views on whether or not the noise issue has been resolved and I accept that the unit generates noise. However, it is clear that the appellant has taken steps to reduce the impact of that noise following the issue of a noise abatement notice by the Council. Without any detailed acoustic information before me, and given that noise is no longer an issue raised by the Council, I have no reason to consider that the development has led to unacceptable harm to the living conditions of occupiers of nearby dwellings. However, given the close proximity of residential properties, I consider a



precautionary approach is warranted, particularly with regard to night time noise. I will therefore restrict the operating hours by condition to safeguard those living conditions. Moreover, my decision does not preclude, should it be necessary, action being taken under separate environmental legislation.

*Conclusion*

9. For the reasons given above and having considered all other matters raised I conclude that the appeal should succeed on ground (a) and planning permission will be granted.

*Richard Perrins*

Inspector





# Appeal Decision

Site visit made on 13 October 2009

by **JP Roberts BSc(Hons) LLB(Hons) MRTPI**

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**Decision date:**  
**21 October 2009**

## Appeal Ref: **APP/Q1445/D/09/2112030** **10 Radinden Manor Road, Hove BN3 6NH**

- 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 and Mrs Kendrick against the decision of Brighton & Hove City Council.
- The application Ref BH2009/01516, dated 23 June 2009, was refused by notice dated 13 August 2009.
- The development proposed is described as "a two storey extension to the side of an existing property to provide additional accommodation for a growing family – 2 adults and 4 children. The proposal consists of extending their living room and rebuilding the existing garage on the ground floor and adding two additional bedrooms, one with en-suite to the first floor".

### Procedural matter

1. The Council's decision notice describes the proposal as the "*Erection of a two storey front and side extension*". I consider that this description more concisely and appropriately describes the proposal and I shall adopt it.

### Decision

2. I allow the appeal, and grant planning permission for the erection of a two storey front and side extension at 10 Radinden Manor Road, Hove BN3 6NH in accordance with the terms of the application, Ref BH2009/01516, dated 23 June 2009, and the plans submitted with it, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
  - 2) The materials to be used in the construction of the external surfaces of the extension hereby permitted shall match in colour, style, bonding and texture those used in the existing building.

### Main issue

3. The effect on the character and appearance of the surrounding residential area.

### Reasons

4. The appeal property is a detached L-shaped two storey dwelling set back from the road. The part of the house nearest the road has two gabled roofs, only slightly lower than the main part of the roof. The only element of the proposal to which the Council objects is the provision of a third gabled element at the front, and I shall confine my consideration to this aspect of the proposal.

5. There is a variety of designs and sizes to the houses in Radinden Manor Road, and those on either side of the appeal site are dissimilar to the appeal property. There are pitched roof gabled elements to properties in the area, including the school opposite, the house next door at no 8, and most notably, in the new dwelling at 2a Radinden Manor Road, which has a plethora of gables.
6. Double pitch roofs are a means of replicating the pitch of the main roof of a house when spanning a wide elevation, as in this case. The appellants drew my attention to a triple gable on a property in elsewhere in Hove, but as they acknowledge, it is at the rear, which in my view is of less importance than the front elevation. In my experience triple gables of this sort are usually only seen on the front elevations of much larger houses, along with other elements. However, given the variety of design in the area, I consider that replication of traditional design features is not essential.
7. Even so, the three gabled elements would be identical, and in my assessment, this would appear repetitive, lacking any focus, and would alter the balance between the main part of the dwelling and the forward projection, allowing the forward part to become the more dominant.
8. It would be in full view of passers-by and I agree with the Council that it would not be in sympathy with the design of the dwelling, and would be harmful to the character and appearance of the surrounding residential area. It would also conflict with policies in the saved Brighton and Hove Local Plan 1995 which promote good design, and in particular Policies QD1 and QD14 which deal with design quality and extensions. I have had regard to the Council's Supplementary Planning Guidance SPG note 1 *Roof Alterations & Extensions*, but other than promoting good design, I found little that is relevant to this specific proposal which adds to the policies to which I have referred.
9. I have had regard to the recent planning permission (Ref: BH2009/00419) for a similar sized extension which incorporates a single pitched roof with a flat roofed section over the forward element of the dwelling in place of the three gables proposed here. I consider that this would have some of the shortcomings that I have identified in respect of the appeal proposal. Moreover, the approved roof, despite the pitched recessive roofplane, would be unbroken and more dominant than that now proposed, albeit of a more traditional form.
10. Taking this into account, I consider that although the issue is finely balanced, the proposal would not be materially worse than that already approved. Added to this is the benefit that the appeal proposal would have in being able to utilise the existing roof, thereby avoiding wasteful demolition and re-building. I therefore conclude that these considerations outweigh the harm that I have found.
11. The Council has suggested a condition to require matching materials and finishes to be used in the extension which I consider is necessary in the interests of appearance.
12. For the reasons given above I conclude that the appeal should be allowed.

*JP Roberts*

INSPECTOR

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# Appeal Decision

Site visit made on 11 September 2009

by **M C J Nunn BA BPL LLB LLM BCL MRTPI**

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

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**Decision date:**  
**15 October 2009**

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## Appeal Ref: APP/Q1445/A/09/2105168

### 63 Uplands Road, Brighton, East Sussex, BN1 7FA

- 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 Miss Nicola Turnbull against the decision of Brighton and Hove City Council.
- The application Ref BH2009/00232, dated 12 June 2008, was refused by notice dated 29 April 2009.
- The development proposed is 'excavation of land to front of property to create hardstanding.'

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### Decision

1. I allow the appeal, and grant planning permission for the excavation of land to the front of the property to create hardstanding at 63 Uplands Road, Brighton, East Sussex, BN1 7FA in accordance with the terms of the application, Ref BH2009/00232, dated 12 June 2008, and the plans submitted with it.

### Procedural matters

2. The description in the heading above is taken from the Council's decision and used on the appeal form, and differs from that in the application form. I consider it more succinctly describes the works applied for.
3. The development subject to the appeal has already occurred.

### Main issue

4. I consider the main issue in this case to be the effect of the proposal on the character and appearance of the area.

### Reasons

5. The appeal property comprises a semi-detached post-war property on a road of other similar dwellings. The properties are on a hill with steeply sloping front gardens, some of which have been terraced, and are generally laid to lawn or cultivated with flowers and shrubs. Many of the semi-detached properties in the vicinity, including the appeal property, have shared access driveways between them which rise steeply to garages set behind the houses.
6. I understand that various changes have been made to the scheme following the Council's earlier refusal of permission in October 2008 under Ref BH2008/02191. For example, I note that the width of the hardstanding has been reduced as well as the width of the steps. The reduction in the area of hardstanding allows for greater planting to the south western boundary as well

as planting to the north east of the steps. In addition, the area between the back of the hardstanding and the house now has shrub planting as opposed to hard paving. The existence of planting and shrubs provides a softening effect and a contrast to the hard paved surfaces and retaining walls. In my view, these changes, although relatively minor, cumulatively considerably soften the appearance of the hardstanding and make it more attractive in the street scene.

7. Whilst I accept the Council's point that this type of excavated arrangement is not common in the immediate vicinity, I do not consider that to be reason in itself to withhold permission. In my view, the block paving, stepped retaining walls and the enclosed steps up to the front door appear well designed and relate satisfactorily to the host dwelling, as well as the wider street scene. In my judgement, because care has been taken with the proposal's design, I do not consider it appears discordant or incongruous in relation to the existing properties or the street scene generally.
8. I do not share the Council's concerns that the proposal unbalances the appearance of the pair of semi-detached dwellings since they are not identical, each having a different porch design. Nor do I consider differences in front garden treatment would undermine the area's character. The Council also has concerns that the white blockwork appears incongruous against the traditional red brickwork that characterises the dwellings in Uplands Road. I accept that the materials used here contrast with the red brick of the houses, but in my view it is a pleasant contrast. I also consider that the brightness of the blockwork will mellow over time, as it becomes weathered. In my opinion, no harm is caused to the character and appearance of the area.
9. I therefore see no conflict with Policies QD1, QD2 and QD14 of the Brighton and Hove Local Plan which together require, amongst other things, development to be of high quality, well designed and to make a positive contribution to the visual quality of the environment.
10. I note that there are no objections to the scheme from a highways perspective.
11. The Council has not suggested any conditions should I be minded to allow the appeal, and I do not consider any are necessary as the work has been undertaken and completed.
12. For the reasons given above, and having considered all other matters raised, I conclude that the appeal should be allowed.

*M C J Nunn*

INSPECTOR



# Appeal Decision

Site visit made on 27 July 2009

by **Elizabeth Lawrence BTP MRTPI**

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

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**Decision date:**  
**7 August 2009**

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## Appeal Ref: APP/Q1445/A/09/2099608/WF Land adjoining 353 Ditchling Road, Brighton, BN1 6JJ.

- 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 Borderstock Limited against the decision of Brighton and Hove City Council.
- The application (Ref BH2008/03531), dated 14 October 2008, was refused by notice dated 7 January 2009.
- The development proposed is described as erection of a two storey detached dwelling and construction of a new vehicular access onto Ditchling Road.

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### Decision

1. I dismiss the appeal.

### Main issues

2. The first main issue is the effect of the scheme on the character and appearance of the street scene. The second main issue is the effect of the scheme on the living conditions of the occupiers of the adjoining properties with particular regard to outlook and privacy. Also whether the scheme would provide adequate private garden space for the occupiers of the proposed dwelling. The third main issue is whether the scheme would make adequate provision for the travel needs of the occupiers of the proposed dwelling.

### Reasons

#### *Appearance*

3. The existing dwelling at No.1 Beacon Close does not follow or respect the proportions, height or design detailing of the existing dwellings in either Beacon Close or this part of Ditchling Road. However the elevation of the house facing Ditchling Road includes both strong vertical and horizontal lines, which are similarly evident in the adjacent terrace and the narrow frontage facing Beacon Close reflects the smaller proportions of the dwellings in that road. At the same time generous sized gaps are maintained between the dwelling and the neighbouring properties, with the consequence that it is viewed as quite separate to the neighbouring properties within the street scene. As a result of these factors the existing dwelling blends in with its surroundings.
4. The proposed dwelling would have an uncharacteristic narrow frontage fronting Ditchling Road and the proportions, height and design detailing of the proposed dwelling would fail to respect or reflect that of No.351. This combined with its siting close to No.351 would result in an uncomfortable relationship between

the existing and proposed properties. The development would appear both cramped and incongruous in the street scene. The fact that the proposed dwelling would respect the appearance of the existing dwelling at No.1 Beacon Close would be insufficient to mitigate against the harm caused. Indeed it would erode the setting and separate identity of No.1 Beacon Close.

5. I conclude on this issue that the proposal would unacceptably harm the character and appearance of the adjacent terrace and the street scene. The harm that would be caused would outweigh the benefits of providing an additional dwelling on the site. Accordingly the scheme would conflict with policies QD1, QD2, QD3 and HO4 of the Brighton and Hove Local Plan 2005. Collectively and amongst other things these policies seek to make full and effective use of land whilst ensuring that new developments make a positive contribution to the quality of the environment and take into account local characteristics.

#### *Living conditions*

6. The dwelling at 3 Beacon Close comprises a modest sized bungalow that sits on lower ground to No.1. The west facing windows of the existing dwelling at No.1 look directly towards and over 3 Beacon Close and clearly result in some actual and perceived loss of privacy for the occupiers of No.3. Due to its siting and relative height the proposed dwelling would exacerbate the situation and the occupants of No.3 would be reliant on the survival of a row of mature Leylandi trees for privacy within their rear garden. The overall impact of the proposed house and the existing dwelling at No.1 would be visually overbearing for the occupants of No.3.
7. I am less concerned about the impact of the development on the living conditions of the occupants of 351 Ditchling Road, although there would be some overlooking of their side windows at a slightly oblique angle. In itself this would not amount to a reason for dismissing this Appeal.
8. The garden area to serve the proposed dwelling would be small when compared to the immediately adjacent gardens. However it would have a favourable westerly aspect and would be comparable in size to other rear gardens in the locality. Accordingly whilst its limited size and enclosed nature reinforces my conclusion regarding the cramped nature of the development, the size of the rear garden would be adequate to serve the proposed dwelling. Particularly in view of the proximity of the park to the northeast.
9. I conclude that the living conditions of the occupiers of the proposed house would be satisfactory and that the living conditions of the occupiers of No.351 would not be materially harmed due to loss of privacy or outlook. However the proposed dwelling would unacceptably harm the living conditions of the occupants of No.1 due to loss of privacy and its overbearing visual impact. As such the scheme would conflict with policies QD1, QD2, QD3, QD27 & HO4 of the Local Plan which collectively seek to provide a satisfactory environment and living conditions for residents.



*Travel Demands*

10. Having regard to the accessible location of the site and the limited size of the proposed dwelling I am satisfied that a single on-site car parking space and the provision of secure cycle storage would cater for the day to day parking requirements of the proposed dwelling, without placing undue pressure on the demand for on-street parking in the locality. In addition, cycle storage could be secured through the imposition of a condition. However as required by policy TR1 of the Local Plan proposals should provide for the travel they create and maximise the use of public transport. In line with this policy QD28 seeks to secure off-site highway improvements, etc. through planning obligations.
11. Whilst the Council has set out the reasoning behind the contribution being sought to improve accessibility to bus stops, pedestrian facilities and cycling infrastructure, no details are given of the specific projects such contributions would support and how they would relate to the Appeal proposal. Without such details I am unable to come to a firm conclusion on whether the contribution being sought would satisfy the tests set out in Circular 05/2005.
12. Accordingly I conclude that on the basis of the limited information before me it has not been demonstrated that the development would fail to make adequate provision for the travel needs of the occupiers of the proposed dwelling. As such the proposal would not conflict with policy TR1 of the Local Plan.

**Conclusion**

13. Whilst I have found in favour of the Appellant on some points my conclusions on the first 2 main issues represent compelling reasons for dismissing this appeal which the imposition of conditions could not satisfactorily address.

*Elizabeth Lawrence*

INSPECTOR





# Appeal Decision

Site visit made on 13 October 2009

by **JP Roberts BSc(Hons) LLB(Hons) MRTPI**

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

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**Decision date:**  
**21 October 2009**

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## Appeal Ref: APP/Q1445/D/09/2112292

### "Fourwinds" 16 Hillside Way, Withdean, Brighton, East Sussex BN1 5FE

- 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 Tim Ward against the decision of Brighton & Hove City Council.
- The application Ref BH2009/01345, dated 6 February 2009, was refused by notice dated 31 July 2009.
- The development proposed is a pitched roof front dormer and pitched roof porch.

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### Decision

1. I dismiss the appeal.

### Main issue

2. The effect on the character and appearance of the surrounding residential area.

### Reasons

3. The appeal site is occupied by a split level bungalow on a steeply sloping hillside. Hillside Way is occupied by a variety of detached houses, some being two storey dwellings, whilst there are also a number of bungalows. Dormer windows are not a prominent feature of houses in the road, but as there is such diversity in appearance amongst the dwellings, I do not consider that this matters.
4. The Council's concerns centre on the position of the proposed dormer, and its juxtaposition with the four existing rooflights and the proposed porch roof. The roof of the porch would overlap with the roof of the projecting gable, but the degree of overlap would be slight, and whilst there would be some degree of incongruity, I consider that it would be minor.
5. The proposal would not comply with the Council's Supplementary Planning Guidance (SPG) in that the top of the dormer would be level with the top of the roof, and the cill would be well above the eaves level, contrary to the guidance which seeks dormers to be set down from the top of the roof, and cills to be just above the roof slope. In this case, the roofslope is relatively shallow, and a dormer located just above the bottom of the slope would appear awkward, and would be too low to serve the proposed bedroom.
6. I have greater concern about the height of the dormer. I consider that it is good design practice to keep the height of dormers below the ridge height of the main roof, and in conjunction with its wide span, I agree with the Council that it would not meet the high design standards that are sought in national

and local policies, including Planning Policy Statement 1: *Delivering Sustainable Development* (PPS1) and Policies QD1 and QD14 of the saved Brighton and Hove Local Plan 2005, which deal with design quality and extensions and alterations.

7. I have had regard to the rear flat-roofed dormer already present which can be seen from the road to the south, and which extends to the ridge height, but I see that as a bulky and intrusive feature and I do not see it as an example to replicate.
8. The proposed dormer would also be close to the rooflights, but as they are almost flush features in the roofplane, and because the bungalow is set well back and above the height of the road, they are not prominent. However, cumulatively the proposed dormer and porch in addition to the rooflights would create a much busier roofscape, and would detract from the simple lines of the existing building.
9. I therefore conclude that the proposal would cause material harm to the character and appearance of the surrounding residential area and would conflict with the development plan policies to which I have referred.
10. On my visit I looked at the other houses in Hillside Way referred to me by the appellant. None is exactly comparable to the appeal proposal, and I do not know the circumstances in which they were approved. Neither these examples nor the lack of objection from Hillside Way neighbours are sufficient to alter my conclusions.
11. For the reasons given above I conclude that the appeal should be dismissed.

*JP Roberts*

INSPECTOR



# Appeal Decision

Site visit made on 11 September 2009

by **M C J Nunn BA BPL LLB LLM BCL MRTPI**

an Inspector appointed by the Secretary of State  
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**Decision date:**  
**10 November 2009**

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## Appeal Ref: APP/Q1445/A/09/2103090

### 162 Carden Hill, Hollingbury, Brighton, East Sussex BN1 8GN

- 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 Ms Lena Johansson against the decision of Brighton and Hove City Council.
- The application Ref BH2008/00716, dated 18 February 2008, was refused by notice dated 23 October 2008.
- The development proposed is demolition of existing house and erection of new residential unit.

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## Decision

1. I dismiss the appeal.

## Main issues

2. I consider the main issues in this case to be the effect of the proposal, firstly on the character and appearance of the area, and secondly on the living conditions at the neighbouring properties (Nos 160 & 164) in terms of outlook.

## Reasons

### *Character and Appearance*

3. The appeal site comprises a post-war bungalow that has been extended with various additions including a large tiled front dormer extension. It lies in an elevated position on a steeply sloping site which is terraced. To the front of the dwelling is a high level terraced area enclosed by a mock 'classical' balustrade, with shrub planting between brick retaining walls on the lower levels. A single garage is centrally set within the slope at street level. The adjacent properties, in a similarly elevated position, are of a contemporaneous era, but of varying designs. There is an open park area on the opposite side of the road.
4. Although the Council has raised concerns that inadequate information has been supplied with the application to fully assess it, particularly regarding its relationship with the properties either side, in my view the appellant has provided a considerable amount of detailed information which seeks to explain and illustrate the proposal fully. In my opinion, there is sufficient information to adequately assess the proposal.
5. I share the Council's view that there is no objection in principle to replacing the existing property, which is not of any particular architectural merit. I also note that Policy QD1 of the Brighton and Hove Local Plan specifically discourages replication of existing styles and pastiche designs, unless within an area

- featuring a distinctive historic style of architecture. This policy also encourages the opportunity to be taken to create new buildings of distinction on suitable sites. Therefore, it seems to me, that local policy would in principle support a modern design in this location, subject to certain criteria being fulfilled.
6. The proposed design would be uncompromisingly contemporary utilising modern materials and would comprise a series of block-like structures set over three levels, with large glazed windows at the front. The lower floor would be set into the hillside, and a front section comprising a kitchen/dining area would project forward of the other parts of the house. The highest part of the house would be set back roughly in line with the existing neighbouring properties either side. The proposed design concept does not draw on any others in the vicinity and would be unlike any others nearby.
  7. I appreciate the appellant has attempted to achieve an interesting and high quality modern design. However, I do have serious concerns about various aspects of the scheme. For example, I consider that the forward projecting part of the proposal, protruding well forward of the adjacent dwellings, would appear incongruous and intrusive in relation to those properties, as well as discordant in the street scene. I acknowledge that the existing houses are not in a fixed line, since the road curves in this location. I also note the appellant states that the front projecting part of the dwelling would only be slightly set forward of the position of the existing high level terrace, and that part of the design rationale for this element was to create a more sheltered and private front garden area for the neighbouring property at No 160. Nevertheless, in my judgement, the forward projection of this part of the living accommodation would appear more prominent than the existing terraced area and, to my mind, would create a greater impression of bulkiness. I consider it would appear discordant in this context.
  8. I also consider that the proposed dwelling, which would extend quite close to both the flank boundaries at various points, would appear overly wide in relation to the size of the plot, thus appearing somewhat cramped. I appreciate the existing dwelling is close to the flank boundaries, particularly on the side adjacent to No 164. However, because I believe the proposed new dwelling would appear larger and more bulky than the existing one, partly because of its eye catching, imposing and striking modern appearance, I consider that a greater degree of separation would be required in this instance.
  9. I therefore conclude on the first issue that the proposal would harm the character and appearance of the area. It would be contrary to Policies QD1 and QD2 of the Brighton and Hove Local Plan (BHLP) which together seek to achieve high quality designs that, whilst encouraging new buildings of distinction on suitable sites, also take into account local characteristics of areas and seek to enhance their positive qualities.
  10. I note the appellant is proposing to landscape the front garden and remove the existing garage, thus improving the garden's visual appearance. I also note the appellant states that access to the dwelling would be improved. I acknowledge the proposed dwelling's sustainable credentials, and that considerable effort has been taken to reduce its carbon footprint. However, these advantages do not outweigh my concerns in relation to the first issue.
-

### *Living Conditions*

11. The Council is concerned that the proposed dwelling would obscure views from the adjacent properties because of the forward projection of part of the proposed dwelling. However, whilst some side views may be interrupted by the projecting part of the building, particularly at No 160, I do not consider there would be any significant loss of outlook to neighbouring properties (Nos 160 & 164) and I do not consider this is a reason for the appeal to fail.
12. I therefore conclude on the second main issue that the proposal would not harm living conditions at adjacent properties in terms of outlook. I do not consider there would be a conflict with Policy QD27 of the BHLP which seeks to protect the amenity of adjacent residents, including their outlook.

### **Other matters**

13. The Council has raised concerns that there is insufficient information to demonstrate how elements of waste management have been incorporated into the scheme, including the submission of a Waste Minimisation Statement. It is also concerned that insufficient information has been submitted to show how the proposal would comply with 'lifetime homes' standards. I consider these are matters that could be dealt with by suitably worded conditions requiring information to be submitted to the Council for approval before works commence, and are not reasons for this appeal to fail.
14. I note the appellant's frustration at the manner in which the planning application was processed by the Council. However, this has not influenced my conclusions in relation to this appeal which I have assessed having regard to the development plan, Government policy and other relevant considerations.

### **Conclusion**

15. Although I do not consider the proposal would harm the living conditions at neighbouring properties, I conclude that it would be unacceptable in terms of its effect on the character and appearance of the area.
16. Therefore, for the reasons given above, and having considered all other matters raised, I conclude that the appeal should be dismissed.

*M C J Nunn*

INSPECTOR





# PLANNING COMMITTEE

## Agenda Item 160 Brighton & Hove City Council

### NEW APPEALS RECEIVED

#### WARD

APPLICATION NUMBER  
ADDRESS  
DEVELOPMENT DESCRIPTION

APPEAL STATUS  
APPEAL RECEIVED DATE  
APPLICATION DECISION LEVEL

#### WITHDEAN

BH2009/01701  
61 Valley Drive, Brighton  
Demolition of existing garage and erection of  
a two storey side extension.  
APPEAL LODGED  
19/10/2009  
Delegated

#### WARD

APPLICATION NUMBER  
ADDRESS  
DEVELOPMENT DESCRIPTION

APPEAL STATUS  
APPEAL RECEIVED DATE  
APPLICATION DECISION LEVEL

#### WITHDEAN

BH2009/00762  
76 Dyke Road Avenue, Brighton  
Two storey rear extension and a single storey  
side extension.  
APPEAL LODGED  
20/10/2009  
Delegated

#### WARD

APPLICATION NUMBER  
ADDRESS  
DEVELOPMENT DESCRIPTION

APPEAL STATUS  
APPEAL RECEIVED DATE  
APPLICATION DECISION LEVEL

#### PATCHAM

BH2009/01818  
22 Rotherfield Crescent, Brighton  
Erection of a two storey side extension.  
APPEAL LODGED  
21/10/2009  
Delegated

#### WARD

APPLICATION NUMBER  
ADDRESS  
DEVELOPMENT DESCRIPTION

APPEAL STATUS  
APPEAL RECEIVED DATE  
APPLICATION DECISION LEVEL

#### BRUNSWICK AND ADELAIDE

BH2009/02015  
The Old Market, 11A Upper Market Street,  
Hove  
Erection of 2 no. new penthouse apartments  
on the roof of the Old Market. New  
maintenance terrace provided at roof level  
above the existing east entrance lobby.  
Extension of existing stair/lift well to south for  
access to the new apartments, alterations to  
windows and installation of front canopy.  
APPEAL LODGED  
26/10/2009  
Environmental Services Planning Committee

**WARD****APPLICATION NUMBER****ADDRESS****DEVELOPMENT DESCRIPTION****APPEAL STATUS****APPEAL RECEIVED DATE****APPLICATION DECISION LEVEL****BRUNSWICK AND ADELAIDE**

BH2009/02014

The Old Market, 11A Upper Market Street,  
HoveErection of 2 no. new penthouse apartments  
on the roof of the Old Market. New  
maintenance terrace provided at roof level  
above the existing east entrance lobby.  
Extension of existing stair/lift well to south for  
access to the new apartments, alterations to  
windows and installation of front canopy.

APPEAL LODGED

26/10/2009

Environmental Services Planning Committee

**WARD****APPLICATION NUMBER****ADDRESS****DEVELOPMENT DESCRIPTION****APPEAL STATUS****APPEAL RECEIVED DATE****APPLICATION DECISION LEVEL****WISH**

BH2008/03179

269 Kingsway, Hove

Side and rear extension at basement and  
ground floor level. (part retrospective).

APPEAL LODGED

27/10/2009

Delegated

**WARD****APPLICATION NUMBER****ADDRESS****DEVELOPMENT DESCRIPTION****APPEAL STATUS****APPEAL RECEIVED DATE****APPLICATION DECISION LEVEL****PATCHAM**

BH2009/01809

22 Hartfield Avenue, Brighton

Erection of a single storey detached garage  
with new vehicle access.

APPEAL LODGED

30/10/2009

Delegated

**WARD****APPLICATION NUMBER****ADDRESS****DEVELOPMENT DESCRIPTION****APPEAL STATUS****APPEAL RECEIVED DATE****APPLICATION DECISION LEVEL****ROTTINGDEAN COASTAL**

BH2009/01582

Wayfaring Down, 9 Longhill Road, Ovingdean

Erection of detached garage with room in roof  
at rear of property, associated alterations to  
existing boundary wall facing Ainsworth  
Avenue and replacement of boundary wall  
facing Longhill Road and installation of new  
gates.

APPEAL LODGED

28/10/2009

Delegated

**WARD**

APPLICATION NUMBER

ADDRESS

DEVELOPMENT DESCRIPTION

APPEAL STATUS

APPEAL RECEIVED DATE

APPLICATION DECISION LEVEL

**WISH**

BH2009/01365

Land Rear of 8 - 16 St Leonards Road, Hove  
Demolition of existing garages and  
construction of three new 1 1/2 storey  
houses.

APPEAL LODGED

02/11/2009

Delegated

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**Brighton & Hove  
City Council**

**INFORMATION ON HEARINGS / PUBLIC INQUIRIES**  
**25<sup>th</sup> November 2009**

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

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**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: Tuesday 3<sup>rd</sup> November – Friday 6<sup>th</sup> November  
Tuesday 10<sup>th</sup> November – Friday 13<sup>th</sup> November  
Tuesday 17<sup>th</sup> November – Friday 20<sup>th</sup> November  
Tuesday 24<sup>th</sup> November – Wednesday 25<sup>th</sup> November  
Tuesday 1<sup>st</sup> December – Friday 4<sup>th</sup> December  
Tuesday 8<sup>th</sup> December – Wednesday 9<sup>th</sup> December

Location: Brighton Centre – East Wing

**The Hyde, Rowan Avenue, Hove**

Planning application no: BH2009/01249

Description: Proposed construction of two blocks of 2 and 3 storeys to provide a total of 27 new sheltered housing units with associated caretaker's flat, support and recreation areas including private landscaped gardens and

car and cycle parking facilities.  
Decision: Committee  
Type of appeal: Public Inquiry  
Date: Tuesday 2<sup>nd</sup> February – Thursday 4<sup>th</sup> February 2010  
Location: Hove Town Hall

**Park House, Old Shoreham Road, Hove**

Planning application no: BH2008/03640  
Description: Demolition of former residential language school and erection of 5 storey block of 72 flats.  
Decision: Committee  
Type of appeal: Informal Hearing  
Date:  
Location:

**ENFORCEMENT HEARING: 18 Hampton Place**

Enforcement nos: 

- 2003/0319
- 2006/0428

Description: 

- Metal Flue Erected at the rear of the property without listed building consent.
- Various unauthorised works to a listed building.

Decision: N/A  
Type of appeal: Informal Hearing  
Date:  
Location: