



**Brighton & Hove
City Council**

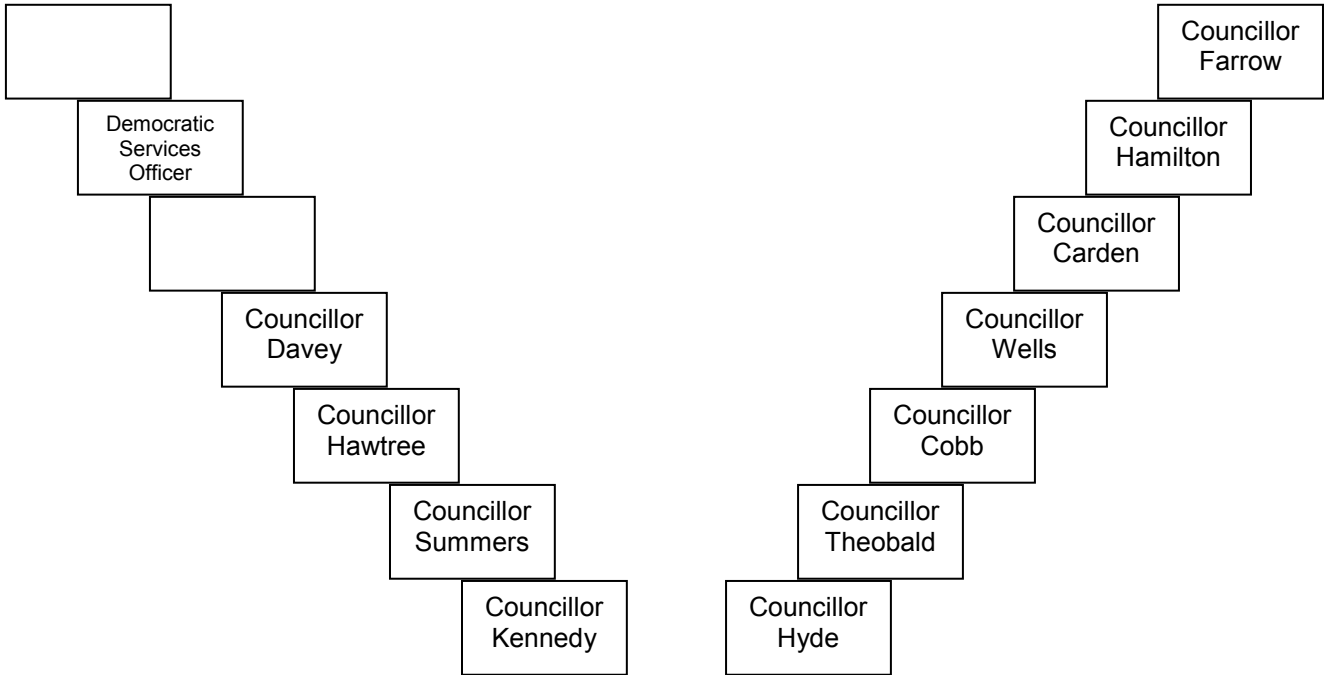
Planning Committee

Title:	Planning Committee
Date:	31 August 2011
Time:	2.00pm
Venue	Council Chamber, Hove Town Hall
Members:	<p>Councillors: MacCafferty (Chair), Hyde (Deputy Chair), Carden (Opposition Spokesperson), Cobb, Davey, Farrow, Hamilton, Hawtree, Kennedy, Summers, C Theobald and Wells</p> <p>Co-opted Members: Mr Philip Andrews (Conservation Advisory Group)</p>
Contact:	<p>Jane Clarke Senior Democratic Services Officer 01273 291064 jane.clarke@brighton-hove.gov.uk</p>

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Democratic Services: Meeting Layout

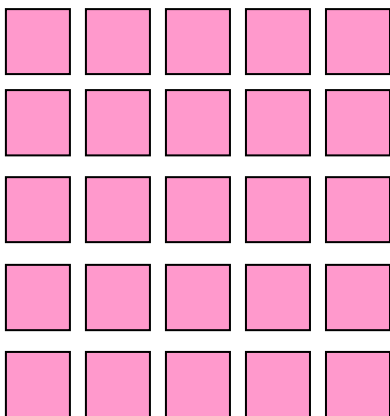
Senior Solicitor Chairman Head of Development Control



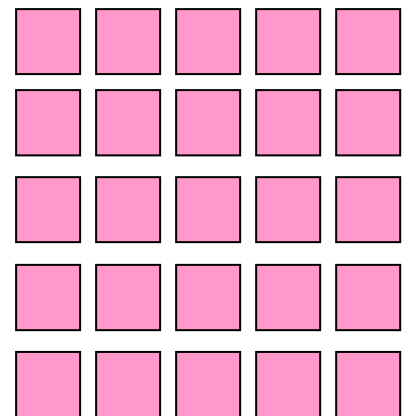
Chairman of CAG

Officers Officers

Press



Public Seating



Public Seating

AGENDA

47. 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.

48. MINUTES OF THE PREVIOUS MEETING	1 - 18
Minutes of the meeting held on 10 August 2011 (copy attached).	
49. CHAIR'S COMMUNICATIONS	
50. APPEAL DECISIONS	19 - 62
(copy attached).	
51. LIST OF NEW APPEALS LODGED WITH THE PLANNING INSPECTORATE	63 - 64
(copy attached).	
52. INFORMATION ON INFORMAL HEARINGS/PUBLIC INQUIRIES	65 - 66
(copy attached).	
53. INFORMATION ON PRE APPLICATION PRESENTATIONS AND REQUESTS	67 - 68
(copy attached).	

PLANNING COMMITTEE

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

- 56. TO CONSIDER AND NOTE THE CONTENT OF THE REPORTS DETAILING DECISIONS DETERMINED BY OFFICERS UNDER DELEGATED AUTHORITY**

- 57. 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**

Members are asked to note that plans for any planning application listed on the agenda are now available on the website at:

<http://www.brighton-hove.gov.uk/index.cfm?request=c1199915>

PLANNING COMMITTEE

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

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

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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 Jane Clarke, (01273 291064, email jane.clarke@brighton-hove.gov.uk) or email democratic.services@brighton-hove.gov.uk.

Date of Publication - Tuesday, 23 August 2011

BRIGHTON & HOVE CITY COUNCIL

PLANNING COMMITTEE

2.00pm 10 AUGUST 2011

COUNCIL CHAMBER, HOVE TOWN HALL

MINUTES

Present: Councillors MacCafferty (Chair), Hyde (Deputy Chair), Carden (Opposition Spokesperson), Cobb, Davey, Hamilton, Hawtree, Kennedy, Robins, Summers, Wealls and Wells

Officers in attendance: Jeanette Walsh (Head of Development Control), Hilary Woodward (Senior Lawyer), Steve Walker (Senior Team Planner), Steve Reeves (Principal Transport Planner), Jane Clarke (Senior Democratic Services Officer), Alun Cance (Environmental Health Officer) and Anthony Foster (Senior Planning Officer)

PART ONE

36. PROCEDURAL BUSINESS

36a Declarations of substitutes

36.1 Councillor Wealls declared that he was substituting for Councillor Cobb.

36.2 Councillor Robins declared that he was substituting for Councillor Farrow.

36b Declarations of interests

36.3 Councillor Wells declared an interest in application BH2011/01264, Blatchington Mill School, Nevill Avenue, Hove as he had attended the school on several occasions as part of his Mayoral duties. He remained of an open-mind and took part in the debate and decision of this item.

36c Exclusion of the press and public

36.4 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.

36.5 **RESOLVED** - That the public are not excluded from any item of business on the agenda.

37. MINUTES OF THE PREVIOUS MEETING

37.1 **RESOLVED** – That the Chairman be authorised to sign the minutes of the meeting held on 20 July 2011 as a correct record with the following amendment:

Application BH2011/01146, 189 Kingsway, Hove:

(19) “...The secondary windows would be *obscurely* glazed...”

38. CHAIR'S COMMUNICATIONS

38.1 The Chair noted a new procedure for managing the debate at Committee, and said that this procedure would be trialled for the next few meetings. This was to facilitate the debate and enable Officers to respond to issues that needed clarification.

39. APPEAL DECISIONS

39.1 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.

40. LIST OF NEW APPEALS LODGED WITH THE PLANNING INSPECTORATE

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

41. INFORMATION ON INFORMAL HEARINGS/PUBLIC INQUIRIES

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

42. INFORMATION ON PRE APPLICATION PRESENTATIONS AND REQUESTS

42.1 The Committee noted the position regarding pre application presentations and requests as set out in the agenda.

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

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

Application:	Requested by:
BH2010/03760 & BH2010/03759, The Astoria Cinema, Gloucester Place, Brighton	Head of Development Control

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

- 44.1 The Committee considered a report from the Arboriculturist regarding the felling of 1x Populus Tremula (Aspen) outside 1 The Vale, Ovingdean, Brighton.
- 44.2 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in paragraph 7 of the report and resolves to grant consent to fell subject to the conditions as listed in the report.
- 44.3 The Committee considered a report from the Arboriculturist regarding the felling of 1x Populus x Canescens (Grey Poplar) outside 1 The Vale, Ovingdean, Brighton.
- 44.4 **RESOLVED** – That the Committee has taken into consideration and agrees with the recommendation set out in paragraph 7 of the report and resolves to refuse consent for the reasons given in the report.
- 44.5 The Committee considered a report from the Arboriculturist regarding the felling of 1x Acer Pseudoplatanus (Sycamore) at 8 Patcham Grange, Patcham, Brighton.
- 44.6 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in paragraph 7 of the report and resolves to refuse consent for the reasons given in the report.
- 44.7 The Committee considered a report from the Arboriculturist regarding the felling of 1x Populus Nigra (Black Poplar) at 20 Hangleton Manor Close.
- 44.8 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in paragraph 7 of the report and resolves to refuse consent for the reasons given in the report.

(ii) MAJOR APPLICATIONS

- A. Application BH2011/01264, Blatchington Mill School, Nevill Avenue, Hove –** Construction of 2no. artificial turf sports pitches incorporating installation of 12no. 15 metre high floodlights, perimeter fencing and associated ground works.
- 1) Councillor Hyde noted that Councillor Fitch had commented on the application as a Ward Councillor, and asked whether he had a prejudicial interest in the item. The Senior Solicitor, Mrs Woodward, agreed that Councillor Fitch would have a prejudicial interest in the item; however this would not have necessarily precluded him from speaking on the item. He could have spoken as a member of the public, but as he was not present at the meeting this would not affect the decision.
- 2) The Senior Team Planner, Mr Walker, introduced the application and presented plans, photos and elevational drawings. He stated that part of the boundary was marked by a 2.5 metre high hedge with residential properties behind. There was a

gentle gradient from north to south on site, and from west to east. The proposed pitches would include an area for players to watch matches, and floodlight positions along the boundaries. The lowest pitch was slightly higher than the land around it, which sloped down to Nevill Avenue. There would be a low timber strike board around each pitch, with a wire mesh on top that would be around 2.1 metres in height. In addition there would be 5 meter high netting behind each of the goal mouths, and in three positions along the southern boundary.

Turning to the floodlighting, Mr Walker explained that these would be a state-of-the-art design, with the source of the light contained within the lighting hood to reduce light spillage. The lighting would be significantly more intensive on the pitch where the beams crossed, and the average lux across the pitch was now assessed at 527 as an average, rather than 507 as stated in the report. There would be around 104 - 120 hockey players arriving and leaving between matches if both pitches were in use.

Letters of representation had been received and were highlighted in the agenda, with the latest up date, and corrections included to the number of supporters and objectors on the Late List. Letters of support highlighted the need for hockey pitches in the city. Objections were on the grounds of lighting, noise and disturbance and transport issues.

In terms of lighting, Mr Walker presented a lighting diagram to show that levels decreased markedly when beyond the pitch to a level of less than 2 lux at the boundary of the field. This was a level less than that of moonlight. It was felt therefore that the impact of this on neighbours would be negligible. There would be lights visible in the distance, but there would not be any glare. Localised glare would not occur either as the lights were recessed into their housing. As set out in the report, light could be deemed a statutory nuisance if the levels were too high. If this were the case the Environmental Health Team would have powers to intervene and issue an Abatement Notice in addition to conditions proposed. The orientation of the pitches had been considered, but the school was unable to move the pitches any further away from residential properties. The ground was currently being used as sport pitches, although it was recognised that these new all-weather pitches would intensify that use.

In terms of transport there were 210 spaces available on the school site. It was anticipated that 60 spaces would be needed normally, but a 10% - 20% reduction in this figure could be achieved with the implementation of a Travel Plan. The proposed Travel Plan from the school was deemed to be very good, and an example of industry best practice.

There was little ecology on site and the Council's Ecologist had classified the site as of low ecological interest. The area around Blatchington had seen some historical finds and was in an Archaeological Notification Area, and this would need to be monitored during development.

It was deemed that with appropriate conditions attached the application should be granted with the updates and amendments included in the Late List and proposed final wording of condition 3 as agreed with Environmental Health.

Public Speakers

- 3) Mr Tinkler, a local neighbour, stated that the planning report had referred to a level of 500 lux of peak brightness as a maximum to safeguard residential amenity. The design however showed maximum peak was 627 lux, which was significantly higher and would have a detrimental effect on the amenity of surrounding neighbours. He felt that there had been no evidence submitted to prove this design would not produce glare, and as such believed the scheme needed to be significantly amended to protect residential amenity. Whilst the school had said the ground was not suitable for football there was again no evidence to support this. Mr Tinkler also objected to the loss of sports provision at the school, with the running track being removed and no space for rugby to be played. If the application was granted there would be a loss of green space and a loss of variety of sports provision. The site was in a residential area and on top of a hill, and whilst some floodlit pitches had been approved at other schools, they were much further away from residential areas. Mr Tinkler was also concerned that the lights would be seen from the South Downs.
- 4) Councillor Cobb noted a reference Mr Tinkler had made to Sport England and asked him to explain this further. Mrs Roberts, also a local neighbour who was in attendance with Mr Tinkler, replied that the planning report had said that Sport England was in support of the scheme, but the letter available on the planning file from them had stated "no objection", which was different to expressing support. When Sport England had been questioned by the local residents, they had responded that whilst they did not object to the scheme, they did question the choice of surface used for the pitches. It was further stated that the applicant had provided a rationale for why this type of surface was needed, but this was not available to view on the planning file. Sport England had confirmed they would prefer one pitch allocated for hockey, and one for multi-sports use. The loss of football and rugby provision of the school was unacceptable.
- 5) Councillor Hyde raised concerns about losing the running track and asked for confirmation that there would not be a replacement. Mr Tinkler replied there would not be space for a full sized track, but a smaller track would be provided.
- 6) Councillor Bennett addressed the Committee as the local Ward Councillor, and said that she welcomed better sports facilities in the city. This site however was not the right location for provision of these pitches. The proposal was in her view un-neighbourly, and disturbance already occurred from the football that was being played there. The voices from the hockey games would carry a long way, with additional noise intrusion from car doors banging, engines starting and people chatting after the game. There would be 120 users between game changes and this would cause significant disturbance. Many members of the hockey club lived within the Withdean area, and were unlikely to use the nearest bus stop with the equipment they had to carry. Views of the floodlighting at the bottom of Nevill Avenue would be 17 metres high. Councillor Bennett added that whilst 2 lux of light seemed low, this was still double that of emergency lighting in buildings, and so would have an impact on resident's lives. If the application was approved, she asked that the use of the pitches be reduced to 8pm weekdays, 6pm on Saturday, and no use on Sundays and Bank Holidays. Unauthorised out of hours activity was also a concern for

residents, and Councillor Bennett felt that appropriate landscaping was needed to protect amenity, in consultation with the local residents.

- 7) Councillor Janio addressed the Committee as an adjacent Ward Councillor, and said that the Travel Plan failed to adequately deal with the large increase in traffic this application would generate. He did not agree that the Travel Plan would be able to encourage such a large shift from car dependent use to the site, and felt that sportsmen and sportswomen would not use bicycles or walk to access the site. He was also concerned about the further increase in traffic should the team move up a league. Councillor Janio did not feel that Travel Plans had been successful in the past, and as such, asked the Committee to refuse the application on policy TR1 grounds.
- 8) Councillor Barnett also addressed the Committee as an adjacent Ward Councillor, and objected to the loss of play space in the school. She noted that the pitches would take over a third of the school's playing fields. There was a variety of sports being played at the moment and it would be a shame to lose this beneficial activity as it was helping to tackling the problem of childhood obesity. She had great concerns for the resident's amenity and was extremely concerned about the proposed use of the pitches up to 10pm at night.
- 9) Councillor Cobb asked about the loss of play space that had been referred to, and asked if there was extra space on the other side of the school buildings that could be used during break periods. Councillor Janio felt the loss of recreational space was significant and that space on the other side of the building was insufficient.
- 10) Mr Browning, Deputy Head Teacher of Blatchington Mill School, said that many children would be supported through this development via community group use. The city currently had less all weather pitch provision than many smaller towns, and this scheme would contribute to the 'Every Child Matters' agenda. Water logging often prevented use of the fields as they currently were, and it was deemed that one all weather pitch was equivalent to two grass pitches in terms of usage. The pitches would be shared with other schools to further develop the sports educational provision across the city. The Active for Life programme with the Council meant that the pitches would be set aside for 6 hours a week for free pitch time. The scheme would also mean that the Hockey Club didn't have to compete with 5 aside football teams for space, and would mean that specialist hockey teaching would be provided Blatchington Mill School. The proposed flood lighting would improve security around the area, and Sport England showed that the more sports activities provided in an area, the greater reduction in antisocial behaviour in the area. He added that the pitches would be managed with the utmost care.

Mr Heath, from Brighton & Hove Hockey Club, said that this was an excellent scheme, and whilst 12 potential sites had been evaluated, this was the best central location to reduce net car travel and increase child safety. Changing facilities were available on site. The Hockey Club was an equal opportunity not for profit group, but he recognised that change caused anxiety amongst some residents. The Hockey Club had been in consultation with the MP, local Councillors, and had held two open days at the school. They had spent a great deal of time considering neighbours needs and ensuring a balanced and sustainable use. Full answers had been given to

all of the questions regarding the light scheme. All of the neighbours would be shielded from glare and the floodlights would be less than half that of moonlight in people's gardens. There would be a good neighbour agreement to cover language, noise etc. and a business plan to ensure any surplus made from the pitch hire would go back into young people's development. There would not be coaches of supporters and ample parking was provided. The school needed the support of the Committee, and had support from over 300 people in the community.

- 11) Councillor Hyde asked how cessation of use of the pitches, at 8pm or 9pm, would affect the Club's ability to use them. Mr Heath replied that training would take place for adults in the evening and as many worked in London later pitch slots were needed. He also expected to hire out to third party users during this time. There was a need to ensure the business plan was viable and the pitches would not be a drain on the school's resources.
- 12) Councillor Wealls asked if football and rugby could still be played at the school, and whether the new track would be 400 metres long. Mr Heath explained that the proposed track would be 300 meters, with an extra 200 metre running strip. League football could not be played on the pitches, but training and 5 aside football could be played, together with touch rugby, cricket, netball and many other uses.
- 13) Councillor Wealls asked about residents consultations. Mr Heath replied 2 took place last summer where plans were put up and invites sent round to local areas. Meetings with Ward Councillors had also taken place and residents invited to those meetings.
- 14) Councillor Cobb felt the pitches would be popular and asked if seating would be provided for supporters, and for more details of the drop off point. Mr Browning replied that the banks currently on site would be removed and a turning place was available at the north of the building currently. Mr Heath added there were no plans to provide seating as hockey was a non-professional sport with minimal support.
- 15) Councillor Carden asked how often the pitches would be used, as he was concerned about the length of time that was available. Mr Browning replied the school would have the majority of use up to 5pm. The grass pitches were currently waterlogged and out of use for much of the time. Mr Heath replied that the Hockey Club would use the pitches after 6pm and on the weekends.
- 16) Councillor Hawtree asked about the surface water run off and how this would be dealt with. Mr Scrivener, on behalf of the school, said that the grass pitches were typically designed to have a drainage system to collect the water and drain away through the chalk base. This would improve the quality of the remaining grass fields.
- 17) Councillor Davey asked about activities for children at the school and what would be the main differences with the new pitch provision. Mr Browning replied that the school had limited indoor facilities. Fitness training would take place, along with mini athletics, touch rugby, and generally promoting a healthy lifestyle for all students. The school would ensure they were intensively used. There would be no loss of sports that were currently played as the school would not want to lose a variety of activities.

- 18) Councillor Davey asked about the management of the facility and how this would be controlled. Mr Heath replied that the school would permanently manage the facility all of the time they were open. There was an agreed time in which the Hockey Club could use the pitches.
- 19) Councillor Summers asked how much the fields were currently used for organised sport after school hours. Mr Browning replied that the fields were currently used for football, archery and activity days. He would like to see the new pitches used as much as possible, but to limit the hours of unofficial use that was currently happening. Councillor Summers asked how more often the area would be in used with the new timetable in place. Mr Browning said the fields were normally used up to 6pm or 7pm by the school. After this time they could be unofficially used until darkness.
- 20) Councillor Hawtree asked for clarification of unofficial use and Mr Browning replied that the fields were currently used to play unofficial football and games in the evenings. With the business plan in place there would be a greater restriction of use that was not controlled directly by the school. Councillor Hawtree asked why the gates weren't shut in the evening to prevent unofficial use, and Mr Browning said they often were.
- 21) Councillor Kennedy asked about the Travel Plan, and asked if it was to be agreed as part of a Section 106 Agreement. She also asked about the proposed fencing and whether this would be permeable or solid. Mr Walker replied the Travel Plan would be secured as a part of condition 7, rather than through a Section 106 Agreement. He passed around examples of the materials to be used for fencing.
- 22) Councillor Davey asked about the Travel Plan and its contents, and where the nearest bus stop was located. Mr Reeves replied that the headline terms of the Plan were available in the report. The nearest bus stop was located on Nevill Avenue.
- 23) Councillor Cobb asked whether transport of equipment was considered when agreeing the Travel Plan. Mr Reeves replied that this had not been taken into account, but believed that hockey players would make alternative arrangements if they were carrying large equipment bags.
- 24) Mrs Walsh addressed the Committee and noted the final wording of condition 3.
- 25) Councillor Kennedy asked whether the references to the moon in terms of lux levels were the brightness of a full moon, and this was confirmed.

Debate and decision making process

- 26) Councillor Hawtree was dissatisfied with the artificial turf material proposed for the scheme, and felt it would create an urban heat island. The loss of grass would reduce the natural ecology in the area. Grass would normally reduce pollutants in the air as well. This scheme would have an effect on the environment of the city.
- 27) Councillor Cobb proposed a reduction in the time the pitches were available to use, to 8am - 9pm weekdays, 8am – 8pm Saturdays, and 9am – 7pm on Sundays and

Bank Holidays to protect the amenity of local residents. Councillor Hyde seconded the proposals.

- 28) Councillor Davey agreed with the proposal. He felt the application would be beneficial to the city, but there would be an impact on local residents, and he felt a compromise of hours of operation was appropriate.
- 29) Councillor Kennedy was also concerned about hours of operation and agreed with the proposal, as she was also concerned about the light levels that may affect residents.
- 30) Councillor Summers was sympathetic with the needs of the Club but felt that this scheme could have an impact on noise for the residents. Times of use from 8am – 10pm were excessive, and she agreed with the restriction in times proposed.
- 31) Councillor Hawtree referred to the sinking fund for the pitch surfaces and felt that the pitches would last for only 8 years.
- 32) Councillor Carden was concerned by the volume of traffic using the road to the school and felt it was very narrow. He was concerned that this scheme would increase the traffic flow further. He also believed that the Astroturf would have a lot of wear and tear on it and be heavily used.
- 33) Councillor Hamilton felt it was difficult to take a single view on this application. He could recall hockey pitches being approved at Cardinal Newman School some years ago, although this scheme had not been implemented. In his view Cardinal Newman School was a better location for hockey pitches. He was concerned that there was not enough room on this site for a true variety of sports to be provided, and there would be a loss of cricket provision. He was also concerned about the use of floodlights which seemed excessive. However he could appreciate the need for good, all-weather pitches to be provided for hockey teams in the city.
- 34) Mr Walker addressed the Committee and explained that the lux levels would drop to 0 at the edges of the pitch. Residents would be able to see the lights, but they would not illuminate gardens as intrusive light. The Environmental Health Officer, Mr Cance, added that given the industry standards these lights were favourable. Light could go to a maximum of 10 lux before it became intrusive, and as the lighting plans showed that the level of light would be 0 at the boundaries, the Environmental Health Team were satisfied with the scheme based on the evidence provided.
- 35) The Chair added that the Council had separate statutory powers to serve an abatement notice should the levels of light become intrusive.
- 36) Councillor Summers referred to the timber strike board proposed as part of the scheme, and felt this could create intrusive noise late at night. Mr Walker was unsure what type of noise the strike board would make, however a condition could be added to ensure that an appropriate material would be used to ensure noise from striking balls was absorbed.

37) A vote was taken and on a vote of 5 for, 3 against and 4 abstentions planning permission was granted subject to the conditions and informatives listed in the report, amendments to conditions, and an additional condition regarding materials of the strike board.

44.9 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out below and the policies and guidance in section 7 of the report and resolves to grant planning permission subject to the conditions and informatives listed in the report, amendments to conditions, and an additional condition to read:

1. Additional condition

No development shall take place until specification of the material to be used for the striker boards around the inside edges of the pitch fences has been submitted to and approved in writing by the Local Planning Authority. The material specified shall be noise absorbent such as to attenuate the sound made when struck. The development shall be implemented in accordance with the approved specification and retained as such thereafter.

Reason: To safeguard the amenities of the occupiers of nearby residential properties and to comply with policies SU10 and QD27 of the Brighton and Hove Local Plan 2005.

2. Condition 3

The level of illumination from the floodlights hereby approved shall not exceed a maintained average of 527 Lux upon the surface of the artificial pitches whereby the projected maintenance factor is 0.80.

Reason: In order to comply with the Floodlighting Strategy submitted and to ensure levels of light spillage are kept to a minimum in the interests of safeguarding residential amenity and to comply with policies QD26 and QD27 of the Brighton & Hove Local Plan 2005.

3. Condition 6

The floodlights hereby permitted shall only be used between the hours of 8.00am to 9.00pm Monday to Friday, 8.00am to 8.00pm on Saturdays and 9.00am to 7.00pm on Sundays and Bank Holidays. Additionally they shall only be used when the artificial pitches are being used.

Reason: To safeguard residential amenity and to comply with policies QD26 and QD27 of the Brighton & Hove Local Plan 2005.

(iii) MINOR APPLICATIONS**D. Application BH2011/01154, Mill House, Overhill Drive, Brighton – Erection of two storey detached residential dwelling.**

- 1) The Senior Planning Officer, Mr Foster, presented the application and presented plans, photos and elevational drawings. He said that an additional letter of support from the occupiers of 2 Grange Walk had been received. It was noted that there was a twitten that ran along the boundary of the application site. The existing property of Mill House would be retained and another application had already been approved on site in 2010. The design was traditional with white render and a slate tile roof. There were no windows proposed a first floor level on the south elevation. A bay window was proposed but this would be 28 meters from the adjacent elevation of Grange Walk. A previous scheme had been dismissed at appeal on the grounds of potential overlooking on Grange Walk.

Public Speakers

- 2) Mrs Hubbard, a local neighbour, said that she objected to any further development on the site due to safety fears for children walking along the twitten, and the effect this further disturbance would have on the ecology of the site. The access was not wide enough for two cars to pass one another, and although a passing point had been added, she felt it was dangerous as cars needed to reverse around 25 meters to get to it. The loss of trees on site was not appropriate either, and Mrs Hubbard felt this would be against policies in the Local Plan that protected trees and hedgerows. Mrs Hubbard asked for a condition to secure the passing area in perpetuity. She noted that multi property applications on site had always been refused, but felt that the applicant was now using a backdoor approach to secure more development on site. The ward Councillors fully supported the objections made on this scheme.
- 3) Mr Pickup, agent for the applicant, said that the reasons given for refusal were not sustainable. The proposed access arrangements had already been approved and passed by an independent safety audit, which had formed part of the previous application. The Appeal Inspector had also examined this safety audit and was satisfied. The passing space was retained as part of the current scheme. There would be three dwellings on site, but the Inspector had indicated that he would have no objections to this site serving up to five dwellings. Three separate meeting with residents had taken place and ward Councillors were invited to attend as well. Council Officers were satisfied that there was no reason to refuse planning permission on this site and there were no outstanding travel issues.
- 4) Councillor Hawtree asked about the materials for the roof and Mr Pickup replied that either natural slate or artificial slate could be used. Materials would be approved at a later stage via condition however.
- 5) Councillor Hawtree asked if timber windows would be used and Mr Pickup added that this again would be approved through the materials condition.

Debate and decision making process

- 6) Councillor Wealls asked for views of the block plan and photos of the site, and these were displayed.
- 7) Councillor Cobb referred to previous applications where a double height building had been proposed but refused, and asked what the height of this new proposed building would be compared to Mill House. Mr Foster presented further plans and showed Committee Members the height differences on site.
- 8) Mrs Walsh clarified some issues regarding materials, and stated that applicants were free to submit applications with only suggested materials. Conditions were added to permissions to ensure types of materials would be used, but it would be unreasonable to expect applicants to give full details of materials when the scheme may not be constructed for several years.
- 9) Councillor Hyde asked how much higher the top of the house for the proposed scheme would be compared with the recently approved bungalow and Mr Foster said that the height to the ridgeline was 5 meters for the bungalow and 6.6. metres for the proposed scheme.
- 10) Councillor Wealls asked where the right of way ran on site and Mr Foster demonstrated this on the plans.
- 11) Councillor Cobb considered this as a back garden development and felt that this represented cramming on this site. She felt that if the scheme was approved the Council should be asking for Code Level 5 for Sustainable Homes to be achieved.
- 12) Councillor Hyde proposed a condition to be added for the passing place to be retained in perpetuity, and Councillor Kennedy seconded this proposal.
- 13) Mrs Walsh addressed the Committee to clarify some issues, and stated that it was not a material planning consideration to consider how many applications had been made on site. This was relevant information, but could not be used as a reason for approval or refusal. In terms of the condition for a passing place, she added that it would not be reasonable to request a passing place in perpetuity, as an applicant always had the right to put in a new planning application.
- 14) Mrs Woodward addressed the Committee and clarified that if the materials condition was amended, it would be to delegate the decision for approval of materials to the Head of Development Control, in consultation with the Chair, Deputy Chairman and Opposition Spokesperson.
- 15) Councillor Wealls asked whether there were any plans for street lighting to be provided along the twitten to ensure the safety of children using the route. Mr Foster replied that he was not aware of any plans for this.
- 16) Councillor Cobb felt there was a lack of information regarding various aspects of this scheme and did not feel able to make a decision.

17) A vote was taken and on a vote of 8 for, 0 against and 4 abstentions planning permission was granted subject to the conditions and informatives listed in the report.

44.10 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out below and the policies and guidance in section 7 of the report and resolves to grant planning permission subject to the conditions and informatives listed in the report, amendments to conditions, and an additional condition to read:

1. Additional condition

The vehicle passing area as shown on the approved plans shall not be used otherwise than as a passing area for private motor vehicles belonging to the occupants of and visitors to the development hereby approved, the passing area shall be fully implemented and made available for use prior to the occupation of the development hereby permitted and shall thereafter be maintained and retained for use at all times.

Reason: In the interests of highway safety and for the benefit and convenience of the public at large to comply with policy TR7 of the Brighton & Hove Local Plan.

2. Condition 9

Unless otherwise agreed in writing by the Local Planning Authority, no residential development shall commence until:

- (i) evidence that the development is registered with an accreditation body under the Code for Sustainable Homes and a Design Stage Report / Interim Report showing that the development will achieve Code level 5 for all residential units have been submitted to the Local Planning Authority; and
- (ii) a Design Stage / Interim Code for Sustainable Homes Certificate demonstrating that the development will achieve Code level 5 for all residential units has been submitted to, and approved in writing by, the Local Planning Authority. A completed pre-assessment estimator will not be acceptable.

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

3. Condition 15

Unless otherwise agreed in writing by the Local Planning Authority, the residential unit hereby approved shall be occupied until a Final / Post Construction Certificate by an accreditation body confirming that each residential unit built has achieved a Code for Sustainable Homes rating of Code level 5 has been submitted to, and approved in writing by, the Local Planning Authority.

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

E. **Application BH2011/01399, Trinity House, Roedean Vale, Brighton** – Erection of three storey detached dwelling with associated access from Roedean Vale.

- 1) Mr Foster introduced the application and presented plans, photos and elevational drawings. Permission for a new dwelling on site had already been granted. The nearest elevation was located 4 metres away from the shared boundary. The property was of a modern, flat roof design, finished in a white render. The proposed windows on the first floor level were located 13 meters from the shared boundary and the ground floor window was 4 meters from the shared boundary. The northern elevation would be viewed as two storeys in height. There was a restriction on use of part of the terrace to prevent overlooking to the south. There was a loss of a number of trees on site but this would be ameliorated by replanting of native species.

Public Speakers

- 2) Mr Long, the adjacent neighbour, was concerned that the bulk of the house was being moved nearer to the street as part of this application, and would be overly dominant on the street scene. There was no reasons that the line of buildings on the street should be broken, and he was concerned at a 40 year old Sycamore would be removed. In his view the plans could be moved so that the building was in line with the street scene. The ridge height had been increased and the style of the property would further increase the overly dominant effect and contribute to overshadowing. Loss of light was given as a reason for the applicants to remove trees on their site, but they would be replanted on the shared boundary, moving the loss of light onto his land. He had asked for consultation with applicants but this was declined. In Mr Long's view, minor amendments to the scheme would greatly improve the application and gain the support of residents, the local Ward Councillors and the Roedean Preservation Society.
- 3) Councillor Hawtree asked if Mr Long objected to the scheme entirely. Mr Long accepted the use of the site for a new dwelling but felt this plan negatively affected his amenity. As there had been no consultation to discuss any amendments, it had meant that any issues now needed to be raised at Committee stage.
- 4) Mrs Forward, agent for the applicant, said that the current building was identical to the previously approved scheme. The Sycamore tree had recently been surveyed

more accurately, and the previous scheme could not have been built without damaging the tree. This necessitated its removal. The building would achieve Code Level 6 for Sustainable Homes, and had passed its Passive House pre-assessment. The house had excellent sustainability credentials and was fully compliant with all planning policies.

- 5) Councillor Hyde asked if any consultation had taken place with the neighbours and Mrs Forward replied that as the agent she was unsure if detailed proposals had been discussed.
- 6) Councillor Wealls referred to the northern elevation and asked for more details. Mrs Forward replied that the wall would be white render and this design had been chosen to help with acoustic and visual overlooking concerns. A new planting scheme would also soften this elevation. The height of the northern wall would be considerably lower.
- 7) Councillor Hawtree referred to the ecological scheme, asked how the photovoltaic panels would be positioned, how grey water would be recycled, whether wooden windows would be considered for the scheme, and what would be the surface material of the roof terrace. Mrs Forward replied that grey water recycling would be part of the scheme, which included aluminium and timber triple glazed windows. The roof terrace would be split into two elements with the first part being Terrazzo tiles, and the second element that was restricted in use, and would form a roof garden with planting materials to be agreed by condition. The photovoltaic panels on the roof would be angled to allow the house to generate more electricity than it used.
- 8) Councillor Wells was concerned about the trees that were being proposed on the shared boundary and whether this would constitute a loss of light for the neighbours. Mrs Forward replied that the majority of planting along that boundary would be bamboo, and therefore would not grow too high. Further species were to be agreed with the Landscape Officer at the Council. There would be no loss of light compared with the previously approved scheme. Mrs Walsh clarified that the planting could take place independently in any event.
- 10) Councillor Davey referred to the high levels of sustainability proposed for the scheme, and asked if the agent was confident that this could be achieved. He asked if there were any other properties in the city that this scheme could be compared with. Mrs Forward replied that she was confident, and her company had built similar schemes in other areas that did not need remedial work to ensure sustainability. She was unsure if there was any other scheme in the city that had achieved this level of sustainability.
- 11) Councillor Cobb asked for more details on the Passive House scheme. Mrs Forward replied that Passive House accreditation was solely related to the building fabric and the amount of energy a dwelling used. This proposed dwelling would generate more energy than it used.

Debate and decision making process

- 12) Councillor Hyde did not like the application because of the detrimental effect the scheme would have on its neighbours. She felt that the house was too large for its plot size, and would have an overbearing effect on the neighbouring properties. Roedean was characterised by large gardens and big houses with no elements of overlooking. There would be an unreasonable loss of trees on site and Councillor Hyde would prefer to see a much more sympathetic building, in line and style with other buildings in the area.
- 13) Councillor Kennedy was very supportive of a Passive House being built on site with such a high level of achievement under the Code for Sustainable Homes. She thanked the agent for the model that had been produced, and felt able to support the scheme.
- 14) Councillor Davey was supportive of the application and felt this was an exciting scheme. He believed this would be the most sustainable house in the city and he liked the design very much.
- 15) Councillor Cobb also liked the design and its sustainability credentials. She felt that the house should be set back to prevent loss of light for the neighbours however.
- 16) Councillor Hyde was pleased to see the levels of sustainability to be achieved on site, but did not feel that this merit should take precedence of the amenity of current residents.
- 17) Councillor Wealls was unhappy with the design and would not be supporting the application.
- 18) A vote was taken and on a vote of 5 for, 5 against and 2 abstentions the vote was tied. The Chair took a casting vote in favour of the application and planning permission was agreed subject to the conditions and informatives listed in the report.
- 44.11 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out at paragraph 7 of the report and resolves to grant planning permission subject to the conditions and informatives listed in the report.
- 45. TO CONSIDER AND NOTE THE CONTENT OF THE REPORTS DETAILING DECISIONS DETERMINED BY OFFICERS UNDER DELEGATED AUTHORITY**
- 45.1 **RESOLVED** – That those details of applications determined by the Strategic Director of Place under delegated powers be noted.

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

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

46. 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

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

Application:	Requested by:
BH2010/03760 & BH2010/03759, The Astoria Cinema, Gloucester Place, Brighton	Head of Development Control

The meeting concluded at 5.20pm

Signed

Chair

Dated this

day of

APPEAL DECISIONS

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Appeal Decisions

Site visit made on 18 July 2011

by Martin Joyce DipTP MRTPI

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

Decision date: 8 August 2011

Appeal A: APP/Q1445/C/11/2150997 128 Church Road, Hove BN3 2EA

- 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 Foad Abdolkhani against an enforcement notice (Notice A) issued by the Brighton & Hove City Council.
- The Council's reference is 2008/0270.
- The notice was issued on 3 March 2011.
- The breach of planning control as alleged in the notice is, without planning permission, the use of the first floor offices as a residential flat.
- The requirements of the notice are to cease the unauthorised use of the first floor of the property as a residential flat.
- The period for compliance with the requirements is six months.
- The appeal is proceeding on the grounds set out in Section 174(2)(a) of the Town and Country Planning Act 1990 as amended. The deemed application for planning permission also falls to be considered.

Summary of Decision: The appeal is dismissed and the enforcement notice upheld.

Appeal B: APP/Q1445/C/11/2150998 128 Church Road, Hove BN3 2EA

- 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 Foad Abdolkhani against an enforcement notice (Notice B) issued by the Brighton & Hove City Council.
- The Council's reference is 2008/0270.
- The notice was issued on 3 March 2011.
- The breach of planning control as alleged in the notice is, without planning permission, the installation of plastic uPVC windows at first floor level to the north and west elevations.
- The requirements of the notice are to:
 1. Remove the unauthorised two plastic windows from the north elevation at first floor level and three plastic windows from the west elevation at first floor level; OR,
 2. Install the five windows as granted planning permission under application BH2009/01865 as indicated in drawing number 02-02 rev. C and subject to condition 3 of that approval.
- The period for compliance with the requirements is three months.
- The appeal is proceeding on the grounds set out in Section 174(2)(a) of the Town and Country Planning Act 1990 as amended. The deemed application for planning permission also falls to be considered.

Summary of Decision: The appeal is dismissed and the enforcement notice upheld.

Appeal C: APP/Q1445/A/11/2151148
128 Church Road, Hove BN3 2EA

- 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 Foad Abdolkhani against the decision of the Brighton & Hove City Council.
- The application, Ref: BH2010/01982, dated 18 June 2010, was refused by notice dated 8 December 2010.
- The development proposed is the provision of a three-bedroom flat – change of use from office to residential; and, replacement windows from timber to uPVC.

Summary of Decision: The appeal is dismissed.

Preliminary Matters

1. The Section 78 appeal (Appeal C) concerns essentially the same development as that covered by the two enforcement notices that are the subject of Appeals A and B - the change of use of first floor offices to a residential flat, and the installation of uPVC windows on the north and west elevations of that flat in place of the original timber windows. I saw at my inspection, however, that the appeal property has been further altered in a manner that is not shown on the submitted application plans. Although the elevations given on Drawing No 03 show that a former garage in the south-western corner of the appeal site is to be demolished, the proposed first floor plan, on Drawing No 01, is inconsistent with that annotation, as it indicates that the garage would remain with "existing plant on flat roof".
2. The garage has, however, been demolished, and the ground floor of the property extended to the south. The external staircase which provides access to the first floor has been re-positioned from the north of the garage to a location adjacent to the southern boundary, and a terrace to the south of the main entrance to the first floor has been extended southward so that it covers the whole of the ground floor extension. I estimate that the terrace, which has been surfaced with timber decking, has been extended by about 3m.
3. It is my understanding that the Council are investigating this possible further breach of planning control. Planning permission has been granted for the change of use of the basement and ground floors of the property from financial (Class A2) to Restaurant (Class A3)¹ with external changes². However, the approved plan, which is that referred to in requirement 2 of Notice B, shows that the external staircase to the first floor would remain in its original position. There is, therefore, an apparent divergence from that plan.
4. The extended terrace and the re-positioned external staircase access are not before me in these appeals as they are not shown on the plans submitted with the application that is the subject of Appeal C. Consequently, third party objections from occupiers of the flats to the south of the appeal property, at No 22 Medina Villas, which relate to noise disturbance, overlooking and loss of privacy from the extended terrace, cannot be taken into account in my determination of these appeals. The objections are for the Council to consider in the context of their current enforcement investigations.

¹ Classes A2 and A3 of the Town and Country Planning (Use Classes)(Amendment)(England) Order 2005 (UCO).

² Planning permission No BH2009/01865, dated 15 October 2009.

THE APPEALS ON GROUND (a) AND THE SECTION 78 APPEAL

Main Issues

5. The main issues in these appeals are:
 - a. the effect of the change of use on the Council's policy in respect of the retention of office accommodation; and,
 - b. the effect of the new fenestration on the character and appearance of the surrounding area, including whether the development preserves or enhances the character or appearance of the Cliftonville Conservation Area.

Reasoning

Policy considerations in relation to the change of use

6. Policy EM6 of the Brighton and Hove Local Plan 2005 (LP) states that small industrial, business and warehouse premises (Use Classes B1, B2 and B8 of 235 sq m or less) will be retained for employment purposes unless a number of criteria are met. These include that the premises have been assessed and are genuinely redundant i.e. that they are vacant and have been marketed locally at a price that reflects their condition and commercial value and for a period of time that reflects the likely demand for the size of premises. Policy EM5, concerning the release of redundant office floorspace and conversion to other uses, is also pertinent. This states, amongst other things, that planning permission will not be granted for the change of use of office premises or office sites to other purposes, unless they are genuinely redundant because the site is unsuitable for redevelopment or the premises are unsuitable and cannot be readily converted to provide different types of office accommodation. A number of criteria are then set out to assist in the determination of "redundancy", and the policy concludes with the statement that if the offices are genuinely redundant, preference will be given to alternative employment generating uses, followed by affordable housing.
7. The appeal property was originally used as a bank, with offices above last used as an employment agency. The appellant states that the first floor has been vacant since at least 2007 but no further information has been provided to support this contention and, crucially, no evidence is available to confirm or otherwise whether the property was the subject of any marketing. In this context the appellant admits that such information was not provided with his planning application, but states that it is now available in the context of Appeal A. However, nothing has been supplied with the grounds of appeal.
8. I can only conclude that the tests set by the relevant Council policy have not been met and that the appellant has failed to show that the offices were redundant, or unsuitable for further use in the same Use Class, or that any marketing exercise, at a realistic price, has been undertaken. The consequence of this is that the objectives of the Council's employment policies would be undermined if the new use of the first floor as a residential flat were to be sanctioned through a grant of planning permission. The reasoned justification for the policies show that the Council are seeking to make the best use of the limited amount of land available for new development, and that well located sites need to be retained, particularly in the contest of an identified Structure Plan shortfall of office sites. Additionally the retention of sites in

Brighton & Hove is needed because of its designation as a Priority Area for Economic Regeneration, and loss of floorspace could reduce the ability to meet employment needs locally. Loss of sites would also increase unemployment for those unable to travel out of the City to work each day, as well as increase the need to commute elsewhere, especially by private car, which is less sustainable.

9. My conclusion on this issue is that the change of use that has taken place materially harms the Council's policy, as set out in the LP, in respect of the retention of office accommodation within the City.

Effect on character and appearance

10. The character of the surrounding area is mixed, with a variety of land uses, building styles, and ages and scale of development. In terms of appearance, the use of traditional materials, and associated detailing, on the majority of buildings in the immediate vicinity and in the wider Conservation Area, is a particular feature, notwithstanding that there are a number of examples of non-traditional windows apparent.
11. In this context, the Council issued an Article 4 Direction on 28 July 2005 covering the Conservation Area which removed permitted development rights under The Town and Country Planning (General Permitted Development) Order 1995 as amended for a number of forms of development including the replacement of windows under Part 1 of Schedule 1. This does not apply directly to the appeal property, as its lawful use is not that of a single dwellinghouse and thus permitted development rights do not apply, but it illustrates the Council's desire to maintain features of importance to the Area. In relation to doors and windows, the Article 4 Direction states that aluminium or plastic replacements are generally not acceptable.
12. Various Policies in the LP also seek to ensure a high standard of design in new development, including Policies QD1 and QD2. Policy HE6, concerning development within or affecting the setting of Conservation Areas, is particularly pertinent. It states that proposals should preserve or enhance the character or appearance of the Area and should show, amongst other things, a consistently high standard of design and detailing reflecting the scale and character or appearance of the Area, including building forms, and the use of building materials and finishes which are sympathetic to the Area. A footnote confirms that, in respect of criterion (a) of the Policy, which includes the term "building forms", the alteration of the style and detail of traditional panelled timber doors and timber sliding sash, or original timber or metal casement windows, will be resisted.
13. The uPVC windows installed at the appeal property lack the texture and depth of traditional timber windows and represent a loss of quality both in the context of the host building, its immediate surroundings and the wider Conservation Area. The appeal building is situated in a prominent location on a corner site and is visible in views in both directions along Church Road, as well as from the upper end of Osborne Villas. In those views, the uPVC windows look out of place and incongruous. I note that there are several other buildings in Church Road where uPVC windows have been installed, but they are not in the majority and are not on such a prominent corner building. In any event, they detract also from the character and appearance of the area, and do not provide a sound argument for further diminution of visual quality.

14. I note that the appellant considers that the Council have been inconsistent in their approach, but it seems to me that many of the uPVC windows in other buildings are of some age, and may well pre-date both the Council's LP policy and the Article 4 Direction. My conclusion on this issue is that the uPVC windows materially harm the character and appearance of the surrounding area, and neither preserve nor enhance that of the wider Cliftonville Conservation Area, contrary to the relevant policies of the LP.
15. It follows from my conclusions on the main issues that the appeals on grounds (a) against Notices A and B, and in respect of Appeal C, fail, and that planning permission will not be granted.

Other Matters

16. All other matters raised in the written representations have been taken into account, but they do not outweigh the conclusions reached on the main grounds and issues of these appeals. I have also considered whether these appeals gives rise to any issues bearing on existing national planning policies but I conclude that they do not; the draft National Planning Policy Framework, recently issued, does not, therefore need to be taken into account.

Conclusions

17. For the reasons given above I conclude that the appeals should not succeed. I shall uphold the enforcement notices and refuse to grant planning permission on the deemed application. Appeal C should also be dismissed.

FORMAL DECISIONS

Appeal A: APP/Q1445/C/11/2150997

18. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under Section 177(5) of the 1990 Act as amended.

Appeal B: APP/Q1445/C/11/2150998

19. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under Section 177(5) of the 1990 Act as amended.

Appeal C: APP/Q1445/A/11/2151148

20. The appeal is dismissed.

Martin Joyce

INSPECTOR



Appeal Decision

Site visit made on 21 June 2011

by D Roger Dyer BA DipArch RIBA FCI Arb Barrister

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

Decision date: 29 July 2011

Appeal Ref: APP/Q1445/X/11/2146491

8 Princes Terrace, Brighton BN2 5JS

- The appeal is made under section 195 of the Town and Country Planning Act 1990 against a refusal to grant a lawful development certificate (LDC).
 - The appeal is made by Mr David Evans against the decision of the Brighton and Hove City Council.
 - The application Ref BH2010/03376, dated 26 October 2010, was refused by notice dated 31 December 2010.
 - The development relates to "Conversion of roofspace comprising rear dormer and flush rooflights to front roof slope."
-

Decision

1. The appeal is allowed and a Certificate of Lawfulness is attached to this letter.

Application for costs

2. An application for costs was made by Mr D Evans against Brighton and Hove City Council. This application is the subject of a separate decision.

Reasons

3. The appellant's property is a terraced house of two storeys above ground with a basement. It was probably built in the early part of the 20th century. The proposal is to form an additional bedroom with a small shower room in the roof space lit by a dormer window on the rear, augmented by two roof lights in the front roof. The appellant has applied for a first floor extension to create an additional bathroom but that does not form part of his application for the LDC and of this appeal.
 4. The appellant's case is that the proposed conversion of the roof space should benefit from the Town and Country Planning (General Permitted Development) (Amendment) (No 2) (England) Order 2008 (hereafter the "GPDO"). In particular, the appellant relies on Class B of Schedule 2, Part 1 of the GPDO which permits the enlargement of a dwellinghouse consisting of an addition or alteration to its roof provided that no part of the extended building would exceed the highest part of the existing roof. A condition of Class B is that the materials should be of similar appearance to those used in the construction of the exterior of the existing house. Other provisions of Class B are not in issue in this case.
 5. The Council's refusal to grant a certificate is based on its interpretation of the appellant's submitted drawings. It says that the plans "appear to show the roof of the dormer set above the ridge tiles" and thus it does not accord with Class B (a).
-

6. The drawing of the proposed rear elevation shows the top of the dormer would be below the ridge line by about 50mm. The section drawing is less clear in that the top of the dormer is shown at the same level as the ridge tile and there is a note on that section that states "TOP OF EXSTG RIDGE TILE" from which it appears that the intention is that the highest part of the dormer should be at the same level as the ridge tile. If that is so there is nothing on the drawings, including the side elevations, which indicates that the new dormer would exceed the height of the highest part of the roof.
7. As to condition (a) of Class B, I observe that the vertical faces of the dormer are to be formed in plain clay tiles. The existing roof has clay pan tiles but they are not normally considered suitable for use on vertical surfaces. The plain tiles have a similar finish but a different profile. In the circumstances, the materials meet the condition in that they are of a similar appearance to the roof covering.
8. The Council also argues that the drawings include a proposed first floor extension. The appellant has stressed that the first floor extension does not form part of the application for the LDC. His application form addresses only the conversion of the roof space. The drawing submitted is annotated "Lawful development certificate refers to roof conversion only" and "Full planning application refers to first floor extension only". In any case there is nothing in the provisions of Class B of the GPDO that would prevent the roof conversion qualifying as permitted development if the first floor extension is granted planning permission; the cubic content of the resulting roof space is restricted by Class B.1(c) but there is no provision in Class B limiting the content of the dwellinghouse as a whole.
9. It follows that the appellant's application and the accompanying drawings are consistent with permitted development as provided in the GPDO. For all the above reasons the appeal succeeds and a lawful certificate is attached to this letter. In reaching my decision I have taken account of all other matters referred to me in writing but I have found nothing that outweighs the main planning issues that have to be considered in this case.

D Roger Dyer

INSPECTOR



The Planning
Inspectorate

Lawful Development Certificate

APPEAL REFERENCE APP/L5810/X/11/2145154
TOWN AND COUNTRY PLANNING ACT 1990: SECTION 191 *or* 192
(as amended by section 10 of the Planning and Compensation Act 1991)

THE TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND)
ORDER 2010: ARTICLE 35

1. **IT IS HEREBY CERTIFIED** that on 26 October 2010 the operations described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and cross hatched in black on the plan attached to this certificate would have been lawful within the meaning of section 191(2) *or* 191(3) of the Town and Country Planning Act 1990 as amended, for the following reason:
2. The proposed conversion of the roof space with a rear dormer and flush roof lights to the front roof slope would fall within the provisions for permitted development set out in the Town and Country Planning (General Permitted Development) (Amendment) (No 2) (England) Order 2008.

D Roger Dyer
INSPECTOR

First Schedule

Loft conversion incorporating roof lights to the front and a dormer to the rear.

Second Schedule

Land at 8 Princes terrace, Brighton BN2 5JS

NOTES

1. This certificate is issued solely for the purpose of section 192 of the Town and Country Planning Act 1990 as amended.
2. It certifies that the operations described in the First Schedule taking place on the land specified in the Second Schedule would have been lawful, on the specified date and, thus, would not have been liable to enforcement action, under section 172 of the 1990 Act, on that date.
3. This certificate applies only to the extent of the operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any operations which are materially different from those described, or which relate to any other land, may render the owner or occupier liable to enforcement action.
4. The effect of the certificate is also qualified by the proviso in section 192(4) of the 1990 Act, as amended, which state that the lawfulness of a described use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations begun, in any of the matters which were relevant to determining such about lawfulness.



The Planning
Inspectorate

Plan

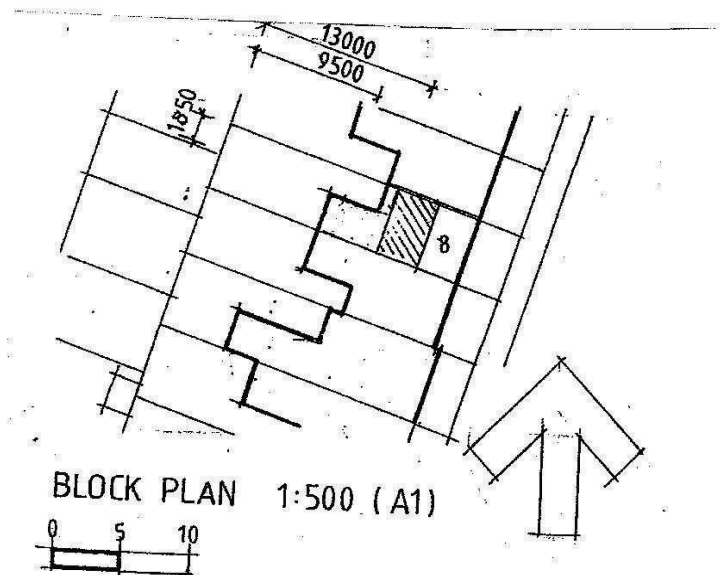
This is the plan referred to in the Lawful Development Certificate dated: 29.07.2011

by **D Roger Dyer BA DipArch RIBA FCI Arb Barrister**

Land at: 8 Princes Terrace, Brighton BN2 5JS

Appeal ref: APP/Q1445/X/11/2146491

Scale: 1:500





Appeal Decision

Site visit made on 20 April 2011

by Sheila Holden BSc MSc CEng TPP MICE MRTPI FCIHT

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

Decision date: 4 August 2011

Appeal Ref: APP/Q1445/A/11/2144362

14a Upper Hollingdean Road, Brighton BN1 7GA

- 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 Leo Horsefield against the decision of Brighton & Hove City Council.
 - The application Ref BH2010/01497, dated 19 September 2010, was refused by notice dated 29 October 2010.
 - The development proposed is an amendment to original application BH2006/03532 for the new build dwelling registered as 14a Upper Hollingdean Road. The original approved existing drawings/section were incorrect. This application provides revised corrected drawings of the as-built new dwelling.
-

Application for Costs

1. An application for costs was made by Brighton & Hove City Council against Leo Horsefield. This application is the subject of a separate decision.

Decision

2. The appeal is dismissed.

Procedural matters

3. The appeal site has been the subject of extensive discussions between the appellant and the Council following the construction of a 3 bedroom property. Permission for a 2 bedroom dwelling, subject to a series of conditions, had previously been approved by the Council in 2007 as part of application Ref: BH2006/03532, which included the conversion and change of use of other buildings on a larger site. On the decision notice the Council describes the current proposal as "erection of a 3 bedroom dwelling (retrospective)".
 4. The development that has taken place appears to deviate from the plans approved as part of BH2006/03532 in several respects and the Council also contends that the appellant has failed to comply with a number of the conditions. In an effort to regularise the development the Council requested that a new application with accurate "as built" plans be submitted for consideration.
 5. The appellant contends that differences between the submitted plans and what has been constructed on the site are not significant. However, from the evidence presented and my observations at the site visit I do not agree. The
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actual size of two of the roof lights serving the wet room appeared to be larger than those shown on the drawings. The highest point of the building was above the eaves level of No. 14 whereas the elevations show it to be the same height and there are several pipes in the western most facing roof slope that are not clearly shown on either the plans or the elevations. I consider these differences to be sufficiently serious for me to conclude that I cannot accept the plans presented with the appeal as an accurate representation of the development that has been implemented. My role is, therefore, confined to a consideration of the plans that were listed on the Council's decision notice and I have determined the appeal on the basis that it is a new application for the erection of a 3-bedroom dwelling.

6. Three of the reasons for refusal on the Council's decision notice relate to the quality of the building that is now on the site and are therefore not relevant to my considerations. The fourth reason relates to the accuracy of the plans. In their statement the Council contends that the plans not only fail to accurately reflect the building that has now been constructed but also contain internal inconsistencies. It is these inconsistencies that I consider to be the main issue in determining this appeal. Following my site visit I have therefore undertaken a thorough examination of the plans submitted with the appeal. I have also sought clarification from both parties on them as I consider the accuracy of the plans to be critical to my considerations.
7. The Council sets out some of the inconsistencies within the plans in Appendix 7 of their statement, which refers to Drawing Nos. LH09-253-203 Rev A and LH09-253-201 Rev C. However, the status of these plans is unclear as they are not listed on the Council's decision notice. On these drawings horizontal dimensions are only given on the plans and vertical dimensions are only provided on the elevations. The horizontal dimensions, which the Council have added to the elevations in Appendix 7, seem to be their estimates from scaling them from the drawings. These estimates suggest that there are significant differences, possibly up to 0.5m, in the dimensions of the proposed dwelling taken from different drawings. Although it may not be appropriate to rely entirely on estimated dimensions it does, nevertheless, suggest that there are material inconsistencies within the drawings.
8. I have therefore looked carefully at the plans LH09-253-201 Rev A and LH09-253-203, which were those determined by the Council. From a visual inspection of these drawings it appears to me that there are inconsistencies in the dimensions of a similar nature to those described above. I therefore consider these discrepancies would make it difficult to assess whether or not a building had been constructed in accordance with these plans at a later date.
9. From my further examination of the plans, my main concern relates to the pitch of the roof on the western most section of the building. This is shown in a series of elevations on Drawing Nos. LH09-253-205 Rev B (Sections 1-1 and 2-2) and LH09-253-206 (South elevation D-D). It is shown to be steeper on elevation D-D than on Section 2-2. This part of the building would be a wedge shape and would be narrower at its southern end than at its northern end.
10. The appellant has confirmed that it is intended that the gutter would be at the same height along the length of the wall. However, I am of the view that if the pitch of the roof was to vary along its length, and yet remain flat, it would

result in the height to the eaves level at the narrower southern end being greater than that at the northern end. Alternatively, if the height were to remain the same along the length of the wall, it would be necessary for the roof to have a curved profile to accommodate the change in pitch. If the roof were not a flat plane it would not be possible to insert and secure the four proposed roof lights satisfactorily.

11. I consider this to be a fundamental flaw in the design that is shown on the appeal proposal. It would therefore be impossible to construct a building in a way that was compliant with the plans. The other internal inconsistencies between the plans and elevations that I have identified add weight to this conclusion. This leaves me with no choice other than to dismiss the appeal.

Other matters

12. Having reviewed all the other written representations submitted with the appeal I am aware that neighbours have expressed concerns about the proposal on their living conditions, particularly in relation to loss of outlook and overlooking. However, many of these problems appear to have arisen because the building that is now on the site is not compliant with the conditions imposed on the permission granted under Ref BH2006/03532. These are not matters for me in the context of this appeal.

Conclusions

13. For the reasons set out above, and having regard to all other matters raised by main and third parties, I find nothing to alter my conclusion that the appeal should be dismissed.

Sheila Holden

INSPECTOR



Costs Decision

Site visit made on 20 April 2011

by Sheila Holden BSc MSc CEng TPP MICE MRTPI FCIHT

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

Decision date: 4 August 2011

Costs application in relation to Appeal Ref: APP/Q1445/A/11/2144362 Land at 14a Upper Hollingdean Road, Brighton BN1 7GA

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Brighton & Hove City Council for a full award of costs against Mr Leo Horsefield.
 - The appeal was made against the refusal of planning permission for an amendment to original application BH2006/03532 for the new build dwelling registered as 14a Upper Hollingdean Road. The original approved existing drawings/section were incorrect. This application provides revised corrected drawings of the as-built new dwelling.
-

Decision

1. The application for an award of costs is refused.

Reasons

2. Circular 03/2009 advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
 3. The development that has taken place on the site following the grant of planning permission for a 2 bedroom dwelling in 2007 (Ref: BH2006/03532) has been the subject of on-going discussions and negotiations between the parties since 2008. There is substantiated evidence that the building that has been constructed does not accord with the approved plans or comply with a number of the conditions attached to that permission.
 4. From the description given on the application form it would appear that the appellant was seeking to use the submission of a fresh application as a means of providing corrected, as-built drawings. However, it is clear to me that the application did not fulfil this requirement since the plans were not an accurate representation of the existing building. Furthermore, there was also only limited evidence submitted with the appeal to substantiate compliance with outstanding matters relating to conditions on the original approval. In addition I concluded that the plans submitted with the appeal were not capable of being implemented in any event. These discrepancies were more fully discussed in the substantive decision on the appeal.
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5. A number of the issues that the Council was attempting to address related to a failure to comply with conditions on the original permission. Some of these, such as the quality of the building and the requirement to satisfy various codes and standards could have been addressed through submission of revised plans, additional reports or a fresh planning application with appropriate supporting documentation. However, they could also have been resolved more appropriately through other action by the Council. Nevertheless, the Council accepted the application and attempted to assess it, even though they were aware that the plans did not correspond with the description on the application forms.
6. From the correspondence and meetings that took place, as well as the way in which the Council responded to the application, it should have been abundantly clear to the appellant that it was the non-compliance with the conditions that was of greatest concern both to the Council and the residents of the surrounding houses. This should have persuaded the appellant to discuss matters further rather than go to appeal. I acknowledge that the Council has sought to regularise the situation through a fresh planning application, rather than through pursuing enforcement action. However, this course of action did not produce an outcome that was satisfactory for either party and I have had to consider the appeal on the basis that it was for a materially different development to that which had been constructed on the site. The reasons for this were more fully explained in the substantive decision.
7. It therefore seems to me that both parties have wasted time and expense in the pursuit of this appeal that could have been avoided, particularly if the application and plans had been thoroughly examined before being registered. The right of appeal should, as stated in the Circular, be exercised with caution. However, as the basic design of the building is similar to that which had already been approved by the Council it was not, therefore, a case of an appeal that had no chance of success in principle. In this case it was because of important and critical details that the appeal failed.
8. In my view the appellant has not pursued the appeal in a manner where his behaviour could be considered unreasonable; the proposal is not one which falls within any of the criteria set out in Paragraph B13 of the Circular. I therefore find that unreasonable behaviour resulting in unnecessary expense, as described in Circular 03/2009, has not been demonstrated and that a full award of costs is not justified.

Sheila Holden

INSPECTOR



Appeal Decision

Site visit made on 11 July 2011

by Elizabeth Lawrence BTP MRTPI

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

Decision date: 18 July 2011

Appeal Ref: APP/Q1445/D/11/2152896
36 Hollingdean Terrace, Brighton, BN1 7HA.

- 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 Paul Cullen against the decision of Brighton and Hove City Council.
 - The application Ref BH2011/00248, dated 26 January 2011, was refused by notice dated 21 March 2011.
 - The development proposed is replacement and enlargement of timber platform incorporating steps and glazed screens (part retrospective).
-

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 host building and the surrounding area. The second main issue is the effect of the scheme on the living conditions of the occupiers of the adjacent properties with particular regard to visual impact and privacy.

Reasons

Character and appearance

3. The timber platform and steps have already been constructed and replace a smaller platform and steps in a similar position. The proposed glazed screens and trellis have not yet been provided.
 4. Due to its elevated position and materials the proposed development would be prominent within the rear garden environment and would detract from the simple lines and symmetry of the rear of the terrace. In particular the timber railings, trellis and glazed screens would be visually dominant and would obscure the first floor rear windows, both upsetting the rhythm of the terrace and appearing totally out of keeping with the host building.
 5. By comparison the previous landing, railings and steps were far more modest and did not obscure the first floor windows or dominate the rear elevation of the building. Likewise the landing and steps at the rear of 38 Princes Terrace are modest and do not dominate the rear elevation of that property. The first floor
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rear extensions at both 38 and 40 Hollingdean Terrace are fully enclosed and are not directly comparable to the proposed scheme in relation to materials, appearance or use. Notwithstanding this, they illustrate how first floor rear additions can impact on the character and appearance of the dwellings concerned and the terrace as a whole.

6. I conclude on this issue that the proposal would unacceptably harm the character and appearance of the host property and the surrounding rear garden environment. Accordingly the scheme would conflict with policy QD14 of the Brighton & Hove Local Plan 2005, which requires residential extensions and alterations to be well designed, sited and detailed in relation to the host building, neighbouring properties and the surrounding area.

Living conditions

7. From the proposed terrace there are clear views of the rear ground floor windows and doors of the adjacent properties in Roedale Road. Whilst the proposed trellis would reduce the area from which those properties would be overlooked, there would still be direct views from the northern end of the proposed terrace area. Having regard to the elevated position of the terrace and the fact that it could well be used as an outdoor entertaining and recreational area, its use would result in a significant level of actual and perceived loss of privacy for the occupants of the dwellings opposite.
8. Although the previous landing overlooked the rear of the properties opposite, due to its limited size and function it did not result in the same levels of actual and perceived overlooking. The same applies to the existing landing at 38 Princes Terrace.
9. The proposed glazed screens and trellis would ensure that the use of the proposed terrace would not result in a material loss of privacy for the occupants of 34 Princes Terrace. However the proposed glazed screen and trellis would be visually dominant when viewed from the adjacent rear windows and garden area at No.34. Its impact would be intensified when the terrace was in use and as a result would have an overbearing impact on the living conditions of the occupiers of that property.
10. In relation to No.38 the proposed glazed screen at the northern end of the terrace would improve the level of privacy between the two properties. In addition as No.38 has a rear first floor extension and external landing and stairs the proposal would not have an overbearing impact on the living conditions of that property.
11. I conclude on this main issue that the proposal would materially and unacceptably harm the living conditions of the occupiers of the adjacent dwellings in Roedale Road due to loss of privacy. It would also materially harm the living conditions of the occupiers of 34 Hollingdean Road due to its overbearing visual impact. Accordingly the scheme would conflict with policies QD14 and QD27 of the Local Plan. These policies seek to ensure that new development does not cause significant harm to the living conditions of existing residents.

Conclusion

12. The conclusions on both main issues represent compelling reasons for dismissing this Appeal, which the imposition of conditions would not satisfactorily address.

Elizabeth Lawrence

INSPECTOR



Appeal Decision

Site visit made on 11 May 2011

by Elizabeth Lawrence BTP MRTPI

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

Decision date: 8 June 2011

Appeal Ref: APP/Q1445/A/11/2147608

348 Ditchling Road, Brighton, East Sussex, BN1 6JG.

- 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 Alan Pook against the decision of Brighton & Hove City Council.
 - The application Ref BH2010/02996, dated 20 September 2010, was refused by notice dated 25 January 2011.
 - The development proposed is conversion of loft space into 1 x studio flat.
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Decision

1. I dismiss the appeal.

Main issue

2. The main issue is whether the proposed development would provide satisfactory living conditions for the occupants of the studio flat.

Reasons

3. The site is situated in an accessible location where, in accordance with the advice given in Planning Policy Statement 1 (PPS1) – *Delivering sustainable development* and PPS3 - *Housing*, full and effective use of sites is encouraged. That is, provided that the development provides reasonable living conditions and respects the area in which it is located.
 4. The kitchen, lounge and bedroom areas would be contained within a single room in the loft area, which would also provide the only access to the flat. The spaces for each use would be cramped, with little circulation space between the kitchen and sleeping areas. The situation would be exacerbated by the limited amount and awkward shape of the floor-space with a head height of at least 2 metres. In addition, the flat would have a single east-facing aspect and the absence of windows in the western roof-slope would add to the strong sense of enclosure within the room.
 5. Although there are advantages in having the bathroom on the floor below, access to it would be via the narrow staircase and landing which is devoid of its own natural light. As such it would add to the cramped environment within the flat. The Appellant has indicated that cycles could be parked and refuse could be stored within the front garden area. However, as stated by the Council, the
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- recycling boxes would need to be stored within the flat, reducing still further the amount of usable space.
6. The main parties have cited schemes for small flats that have been both dismissed and allowed at appeal, although few details regarding the size and configuration of the accommodation concerned have been submitted. Notwithstanding this, the appropriateness or otherwise of any scheme is based upon the individual merits of the scheme proposed, having regard to the prevailing planning policies and all other material considerations. In this instance the limited floor area combined with the restricted head heights would result in a cramped and unsatisfactory form of accommodation for any occupiers.
 7. The shortage of affordable housing for single persons and couples within the area is fully recognised and is reflected in the letters of support for the proposal. However, this is not a good reason for allowing sub-standard forms of accommodation and in this instance the harm that would result from the scheme would outweigh the benefits of providing a single studio flat.
 8. I conclude that the living conditions in the proposed studio flat would be unsatisfactory due to the cramped environment it would provide. As such the scheme would be contrary to policy QD27 of the Brighton & Hove Local Plan 2005 which states that planning permission will not be granted for developments that would cause loss of amenity to proposed occupiers. It would also conflict with the advice in PPS1 and PPS3 which is that the Government's key housing policy goal is to ensure that everyone has the opportunity of living in a decent home and that high quality design should be ensured through good and inclusive design and the effective use of resources.

Elizabeth Lawrence

INSPECTOR



Appeal Decision

Site visit made on 11 May 2011

by Elizabeth Lawrence BTP MRTPI

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

Decision date: 7 June 2011

Appeal Ref: APP/Q1445/A/11/2147411

Site adjacent to 1 Warmdene Way, Brighton, BN1 8NW.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Bob Walters against Brighton and Hove City Council.
 - The application Ref BH2010/03428 is dated 1 November 2010.
 - The application sought planning permission for demolition of existing garage and construction of a bungalow without complying with a condition attached to planning permission Ref BH2008/03475, dated 23 June 2009.
 - The condition in dispute is No.11 which states that: No development shall take place until details of a scheme to provide sustainable transport infrastructure to support the demand for travel generated by the development has been submitted to and approved in writing by the local planning authority. This shall include a timetable for the provision to be made and shall be carried out in accordance with the approved details.
 - The reason given for the condition is: To ensure that the proposed development provides for the demand for travel it creates and does not put undue pressure on existing on-street car parking in the city and to comply with policies TR1 and SU15 of the Brighton & Hove Local Plan.
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Application for Costs

1. An application for costs was made by Mr Walters against Brighton and Hove City Council. This application is the subject of a separate decision.

Decision

2. I allow the appeal and grant planning permission for demolition of existing garage and construction of a bungalow on site adjacent to 1 Warmdene Way, Brighton, BN1 8NW in accordance with the application Ref BH2010/03428 dated 1 November 2010 without compliance with the condition 11 previously imposed on the planning permission Ref BH2008/03475, dated 23 June 2009, but subject to the other conditions imposed therein, so far as the same are still subsisting and capable of taking effect.

Main Issue

3. The main issue is whether it is necessary and reasonable to require provision to be made for sustainable transport infrastructure to support the demand for travel generated by the development.

Reasons

4. Whilst the Appeal is against the Councils failure to determine the application within the prescribed period it is noted that the Planning Committee did consider the application
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- and decided against removing condition 11. The Committee resolved to allow the application subject to the same conditions imposed on planning permission BH2008/03475. From the Committee meeting minutes it would appear that concern was expressed that to remove the condition would lead to more people applying for the return of Section 106 contributions relating to sustainable transport. Other concerns referred to in the minutes related to the crossing between the driveway and the highway and the condition of the driveway which are matters that are covered by condition 12 of the 2008 planning approval.
5. The Appellant sought the approval of details relating to various pre-commencement conditions and submitted the Appeal application after the introduction of "*Temporary Relief Measures*" which came into effect on 17 May 2010. The measures confirm that financial contributions for transport, in relation to residential development, will only be sought on schemes of 5 units or above. The note which outlines the measures, which was issued on 11 May 2010, confirmed that as a matter of practice the Local Planning Authority will cease to secure Section 106 contributions through conditioned Section 106's. The "*Temporary Relief Measures*" were clearly introduced notwithstanding any potential conflict with policies TR1 and SU15 of the Brighton & Hove Local Plan.
 6. Condition 11 of planning permission BH2008/03475 seeks the provision of sustainable transport infrastructure and informative 6 attached to the decision advises that condition 11 may be satisfied by a Section 106 agreement, to provide £2,000.00 to fund improved sustainable transport infrastructure. However, the proposed development is for a single dwelling and as such it falls below the threshold for financial contributions for transport.
 7. Bearing in mind the Appeal application was submitted after the introduction of the "*Temporary Relief Measures*" and that the Council has confirmed that the measures are still in place it would be unreasonable to retain condition 11. In addition, little evidence has been submitted to demonstrate a need for improved sustainable transport infrastructure in the vicinity and how any such works would relate to the proposed development.
 8. I conclude that it has not been demonstrated that it is necessary for provision to be made for sustainable transport infrastructure to support the demand for travel generated by the development. Accordingly there would be no conflict with policy QD28 which states that in all cases planning obligations sought will be necessary and directly related to the proposed development and reasonable in all other respects.

Elizabeth Lawrence

INSPECTOR



Costs Decision

Site visit made on 11 May 2011

by **Elizabeth Lawrence BTP MRTPI**

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

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

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

Decision date:
7 June 2011

Costs application in relation to Appeal Ref: APP/Q1445/A/11/2147411 Land adjacent to 1 Warmdene Way, Brighton, East Sussex, BN1 8NW.

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
- The application is made by Mr Bob Walters for a full award of costs against Brighton and Hove City Council.
- The appeal was made against the failure to determine an application within the prescribed period for demolition of existing garage and construction of a bungalow without complying with condition 11 attached to planning permission Ref BH2008/03475, dated 23 June 2009.

Decision

1. I allow the application in the terms set out below.

Reasons

2. Circular 03/2009 advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. As stated in paragraph B20 of Circular 03/2009 planning authorities are not bound to accept the recommendations of their officers, however they do need to show reasonable planning grounds for taking a contrary decision and produce relevant evidence on appeal to support their decision in all respects. In this instance the Council has failed to produce sufficient and relevant evidence to support their resolution to retain condition 11 against the advice of officers. The resolution was made prior to the submission of the planning appeal.
4. The only concern raised in relation to the removal of condition 11 in the evidence submitted by the Council was that it would result in more people applying for the return of Section 106 contributions. However the planning officer advised members that there had been a number of applications to remove such conditions and that the applicant had been advised to make the application, in accordance with the "*Temporary Relief Measures*" which came into effect on 17 May 2010. The Council subsequently failed to provide any evidence which addressed the continued need for the condition, having regard to infrastructure requirements arising from the development, policies TR1, SU14 and QD27 of the Brighton & Hove Local Plan and the "*Temporary Relief Measures*".

5. I therefore find that unreasonable behaviour resulting in unnecessary expense, as described in Circular 03/2009 has been demonstrated and that a full award of costs is justified.

Costs Order

6. In exercise of my powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other powers enabling me in that behalf, I HEREBY ORDER that Brighton and Hove City Council shall pay to Mr Bob Walters the costs of the appeal proceedings, such costs to be assessed in the Senior Courts Costs Office if not agreed. The proceedings concerned an appeal more particularly described in the heading of this decision.
7. The applicant is now invited to submit to Brighton and Hove City Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

Elizabeth Lawrence

INSPECTOR



Appeal Decision

Site visit made on 18 July 2011

by **Martin Joyce DipTP MRTPI**

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

Decision date: 27 July 2011

Appeal Ref: APP/Q1445/D/11/2154170
95 Carden Avenue, Brighton BN1 8NF

- 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 R Lord against the decision of the Brighton and Hove City Council.
 - The application, Ref: BH2011/00429, dated 15 February 2011, was refused by notice dated 14 April 2011.
 - The development proposed is a first floor extension and remodelling to form two-storey house.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue in this appeal is the effect of the proposed development on the character and appearance of the surrounding area.

Reasoning

3. The proposal involves the substantial remodelling of an existing chalet bungalow to form a two-storey flat-roofed house, with a parapet wall surrounding a sedum roof. The walls would be rendered and coloured white, with fenestration in a contrasting, albeit unspecified, colour.
4. The character of the surrounding area is that of a suburban housing estate built with a mixture of house types and styles on varied topography. In terms of appearance, the differing slopes of the land and mature vegetation provide a relief to the long rows of houses built alongside the principal roads of the area, including Carden Avenue. The appeal property is sited to the rear of No 93 Carden Avenue on a backland plot, but its access runs alongside Patchdean, and the existing northern side elevation lies adjacent to this cul-de-sac, which contains modern terraced housing and associated garage blocks.
5. Various policies in the Brighton and Hove Local Plan (LP) have been referred to by the Council in their reason for refusal but it seems to me that their main concern relates to the quality of the contemporary design of the proposal, rather than to the principle of extensions to provide additional accommodation. Previous applications for extensions to form up to two additional storeys for this bungalow have been refused largely because of the bulk and style of the proposed development, and this has resulted in the appellant seeking an innovative and radically different design for the property.

6. Policy QD1 of the LP requires a high standard of design in all proposals for new buildings and a positive contribution to the visual quality of the environment, whilst Policy QD2 seeks to ensure that new developments are designed to emphasise and enhance the positive qualities of the local neighbourhood, by taking account of local characteristics. Of particular relevance is Policy QD14, which relates to extensions and alterations to existing buildings and is therefore directly applicable to the proposal before me. This policy states that planning permission will only be granted if the proposed development is, amongst other things, well designed, sited and detailed in relation to the property to be extended, adjoining properties and to the surrounding area, and uses materials sympathetic to the parent building.
7. The box-like design would not, in my view, accord with the various design policies of the LP. Despite the extent of existing vegetation which helps to screen the existing bungalow, albeit much of it outside the control of the appellant, it would appear as a stark and incongruous block visible in prominent views along Patchdean, and in oblique views from Carden Avenue at a point where there is a gap in the frontage development. Whilst some distance from the latter road, and despite the intervening thick and tall coniferous hedge at the end of the garden of No 93, the resultant house would create a jarring and inappropriate visual impression at odds with the character and appearance of its surroundings.
8. I saw that other modern house styles have been built nearby, for example at Nos 97 and 99 Carden Avenue, where a mono-pitch design has been employed at the end of a terrace of houses. I also note that other contemporary designs have been permitted elsewhere in Brighton, although I do not know the full circumstances of those individual cases. However, none of this justifies a design which contrasts so sharply with its surroundings in terms of style, size and materials. Moreover, the odd arrangement of windows, and the lack of detail in relation to their materials and colour, adds to the overall unacceptability of the proposal.
9. My conclusion on the main issue is that the proposed development would materially harm the character and appearance of the surrounding area contrary to the relevant policies of the LP.

Other Matters

10. All other matters raised in the written representations have been taken into account, but they do not outweigh the conclusions reached on the main issue of this appeal. I have also considered whether the draft National Planning Policy Framework would give rise to any issues relating to this appeal, but I have concluded that it would not.

Martin Joyce

INSPECTOR



Appeal Decision

Site visit made 29 June 2011

by **B C Scott** BA(Hons) Urban & Regional Planning MRTP

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

Decision date: 1 July 2011

Appeal Ref: APP/Q1445/D/11/2151870

52 Waldegrave Road, Brighton, East Sussex, BN1 6GE.

- 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 Mrs Angela Escott against the decision of Brighton & Hove City Council.
 - The application Ref: BH2010/03758, dated 3 December 2010, was refused by notice dated 1 February 2011.
 - The development proposed is demolition of existing conservatory to rear to be replaced by single storey extension.
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Procedural Matters

1. The appeal site is within the Preston Park Conservation Area (PPCA) for which I have a duty under section 72(1) of the *Planning (Listed Buildings and Conservation Areas) Act 1990* to pay special attention to the desirability of preserving or enhancing its character or appearance. The Council raises no objections in that regard. Given that the form and scale of the proposed development largely exists at the rear of the appeal dwelling, I am satisfied that no harm to the PPCA would result.

Decision

2. The appeal is allowed and planning permission granted for demolition of existing conservatory to rear to be replaced by single storey extension at 52 Waldegrave Road, Brighton, East Sussex, BN1 6GE, in accordance with the terms of the application Ref: BH2010/03758 dated 3 December 2010, subject to the following conditions:
 - 1) The development hereby permitted shall be begun before the expiration of three years from the date of this decision.
 - 2) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.
 - 3) The development hereby permitted shall be carried out in accordance with the following approved plans, all dated 03/12/10: LO-1; LO-2; and LO-3.
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The views of local residents have been taken into account in reaching this decision.

Main Issue

3. I consider the main issue in this case to be the effect of the proposed development on the living conditions of the adjoining occupiers, with particular reference to outlook.

Reasons

4. The appeal site is in a high density urban area of period housing. It is a house of generic style with a substantial, original two-storey rear spur, around which is a flat-roofed side extension and a rear conservatory. That configuration is beside the similar rear spur and a conservatory of the adjoining house (no.50). Kitchen and bathroom windows of the respective dwellings face across the intervening side spaces, over the shared boundary.
5. The proposed development would increase the height of the side extension, due to the introduction of a parapet wall, and would lengthen the flank wall rearwards to the limit of the conservatory, which would go. The thrust of policies QD14 (in this context) and QD27 of the Brighton & Hove Local Plan 2005 is to protect the amenity of adjoining occupiers
6. A particular feature of the appeal site is the ground level, which is substantially above that of the adjoining house. Even so, from my examination of the respective side spaces, I came to the conclusion that the outlook of the adjoining occupiers is typically restricted due to the high-density urban character of the area and not due to any difference in ground levels. That outlook, in any event, is from a kitchen window.
7. The increase in height involved with the appeal scheme would be relatively modest. The proposed resultant flank wall would not be fully on view because of the shared boundary treatment. Given that the proposed development would be similar in scale and form to what already exists, I am satisfied that the outlook of the adjoining occupiers would not suffer through an overbearing impact.
8. I note those other examples and an appeal decision to which my attention is drawn. Also, I acknowledge that the appeal scheme would have a limited extent in relation to permitted development. Nevertheless, I find no reason to consider the appeal before me other than upon its individual planning merits.
9. I have considered all other matters raised, but none alters my conclusion on the main issue that the proposed development would not unacceptably affect the living conditions of the adjoining occupiers, in accordance with the requirements of policies QD14 and QD27 of the Development Plan, which leads me to allow the appeal.

Conditions

10. In addition to the standard condition concerning time limit, in view of the location of the appeal site and in the interests of avoiding a discordant result, I impose a condition to require matching materials. I impose also a standard

condition listing the plans/drawings to which my decision refers, for the avoidance of doubt.

B C Scott

INSPECTOR



Appeal Decision

Site visit made on 21 June 2011

by Elizabeth Lawrence BTP MRTPI

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

Decision date: 7 July 2011

Appeal Ref: APP/Q1445/A/11/2150958

100a St Georges Road, Brighton, East Sussex, BN2 1EA.

- 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 M Burnard-Epstien against the decision of Brighton and Hove City Council.
 - The application Ref BH2010/03547, dated 12 November 2010, was refused by notice dated 25 February 2011.
 - The development proposed is described as replacement of existing front window with double doors to create access to flat roof incorporating installation of steel railings to form roof terrace at first floor level (retrospective).
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Decision

1. I dismiss the appeal.

Main Issue

2. The main issue is the effect of the scheme on the host building and whether the scheme preserves or enhances the character or appearance of East Cliff Conservation Area.

Reasons

3. The East Cliff Conservation Area is characterised by Regency and early Victorian developments arranged around a strong grid street pattern. The Appeal property occupies a prominent position within the street scene adjacent to the junction of St Georges Road, College Place and Bloomsbury Place. The proposed railings which have already been erected are particularly prominent when viewed from College Place and from the east within St Georges Road. Similarly the proposed doors have already been provided and are clearly visible from College Place.
 4. Neither the railings nor the doors respect the simple form and architectural integrity of this early Victorian property. The timber door frames fail to respect or reflect the character or appearance of the existing lightweight sash window frames and the railings add to the scale and prominence of the modest single storey side wing.
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5. Together the railings and doors give the property an uncharacteristic cluttered appearance. The situation is exacerbated by the advertisement board on the west side of the terrace and the varied heights and means of enclosure of the adjacent roof terraces. This ignores the additional clutter that could result from the use of the terrace. Whilst the repainting of the building in a cream colour with white painted windows and black railings would improve its current appearance, it would not satisfactorily overcome the cluttered appearance resulting from the proposed development.
6. From the evidence submitted it would appear that the roof terraces to the west do not have planning permission. Notwithstanding this, due to their siting away from the road junction they are not as prominent within the street scene as the proposed railings and doors. For these reasons they do not set a precedent for allowing the proposed development.
7. Finally, whilst the proposal would benefit the occupiers of the first floor of the premises by providing outside amenity space and an emergency exit, these benefits would not outweigh the clear harm that would be caused by the proposal, both to the character and appearance of the host property and the surrounding area.
8. I conclude on the main issue that the proposed railings and doors seriously and unacceptably detract from the appearance of the host building and fail to preserve or enhance the character or appearance of East Cliff Conservation Area. Accordingly the proposal conflicts with policies QD1, QD2, QD14 and HE6 of the Brighton & Hove Local Plan 2005. Collectively these policies seek to ensure that new additions are well designed and detailed in relation to the host property and make a positive contribution to the visual quality of the area. At the same time proposals should preserve or enhance the character or appearance of the conservation area they are located within.

Elizabeth Lawrence

INSPECTOR



Appeal Decision

Site visit made on 11 July 2011

by Elizabeth Lawrence BTP MRTPI

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

Decision date: 19 July 2011

Appeal Ref: APP/Q1445/D/11/2153381

3 Ovingdean Close, Ovingdean, Brighton, East Sussex, BN2 7AD.

- 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 Leonard Catt against the decision of Brighton and Hove City Council.
 - The application Ref BH2011/00729, dated 11 March 2011, was refused by notice dated 21 April 2011.
 - The development proposed is described as construction of two summerhouses including terracing and timber decking (retrospective).
-

Preliminary matters

1. In their Grounds of Appeal the Appellant states that the Appeal relates to just one of the two summerhouses and that the other summerhouse has been moved. I have dealt with the Appeal on this basis and accordingly I have changed the description of the proposed development in my decision to "construction of one summerhouse including terracing and timber decking (retrospective)."

Decision

2. I dismiss the Appeal for the construction of one summerhouse including terracing and timber decking (retrospective).

Main Issue

3. The main issue is the effect of the proposal on the living conditions of the occupiers of the adjacent properties with particular regard to visual impact and privacy.

Reasons

4. A Certificate of Lawfulness has been granted for the construction of an identical summerhouse in the position of the proposed summerhouse, but without the area of terrace to the front of it. As confirmed by the Appellant, on the basis that the summerhouse is already on the site there is every probability that this fallback position would be pursued if this Appeal were dismissed. This is a material factor in the consideration of this Appeal.
 5. The gardens of the dwellings along the west side of Ovingdean Close rise steeply to the west, which results in various levels of inter-looking between them. The proposed summerhouse occupies an elevated position towards the rear of the garden, where due
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to its width and extent of glazing it is clearly visible within the rear garden environment. The situation is exacerbated by the proposed terrace, which together with its railings and trellis work results in a bulky garden development that is particularly dominant within the site and the rear garden environment.

6. The summerhouse and decking are partially screened from the adjacent properties by a combination of established and newly planted shrubs and trees. The submitted drawings indicate that further soft landscaping would take place in front of the timber decking and within the surrounding garden area. However, having regard to the size and combined height of the summerhouse and decking, it would fail to adequately screen and soften the appearance of the development. In particular, during the winter months the development would appear stark, overbearing and totally out of keeping with the rear garden environment.
7. For these reasons the proposal would have a materially adverse impact on the character and appearance of the host property or the rear garden environment in general.
8. The full length windows in the summerhouse are orientated away from No5 and Ketts Ridge. This together with the planting along the boundaries ensures that the use of the summerhouse would not result in a material loss of privacy for the occupants of the adjacent properties. However, due to the size of the windows there would be a perceived loss of privacy.
9. The level of overlooking from the terrace is far greater. It provides views directly into the garden at No.5 and towards the rear windows of that property. During the winter months it would also result in the overlooking of the gardens to the south. Whilst the proposed planting would in time reduce the level of overlooking, having regard to the potential for the terrace to be used extensively for outdoor entertaining and recreation, it would be inadequate to prevent a material level of harm resulting from loss of privacy.
10. It is acknowledged that there are ancillary domestic buildings and terraced areas at No.5. However they are not directly comparable to the Appeal scheme in terms of their position, size or likely use. In addition, the raised area at Ketts Ridge is screened from the Appeal property by the boundary fence.
11. Finally, I have taken into account the concern expressed regarding the accuracy of the drawings, the information given on the application form, the possible loss of light resulting from the proposed planting and the possible impact on wildlife. However these factors add little to the conclusion on the main issue.
12. I conclude on the main issue that the proposal would materially harm the living conditions of the occupiers of the adjacent properties, with particular regard to visual impact and loss of privacy. Accordingly the proposal would conflict with policies QD14 ad QD27 of the Brighton and Hove Local Plan, which seek to protect the living conditions of local residents.

Elizabeth Lawrence

INSPECTOR



Appeal Decision

Site visit made on 31 May 2011

by Roger C Shrimplin MA(Cantab) DipArch RIBA FRTPI FCI Arb MIL

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

Decision date: 13 June 2011

Appeal Reference: APP/Q1445/D/11/2150343
73 High Street, Portslade, Brighton BN41 2LH

- 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 M Griggs against the decision of Brighton & Hove City Council.
 - The application (reference BH2010/03647, dated 23 November 2010) was refused by notice dated 21 January 2011.
 - The development proposed is the "installation of two 'Solatube' daylight admitting devices between the roof and living room of the house".
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Decision

1. I dismiss the appeal.

Preliminary Points

2. The "description" of the proposal given in the relevant box of the application form includes a body of explanatory material which does not form part of the description itself and which I have therefore omitted from the description of the proposed development given in the above heading, though I have taken account of the information, of course.

Main issue

3. I have concluded that the main issue to be determined in this appeal is the visual effect of the proposed development on the appeal building and its setting.

Reasons

4. The appeal building at 73 High Street is set back from the road frontage, behind a modest but secluded front garden, with no private space behind the building. It is constructed in a traditional form with flintwork and brick facings under a plain tiled roof. It is now a cottage that has been created from a former forge, an outbuilding of 69-71 Kemps.
 5. The building at 69-71 Kemps is listed (Grade II) as a building of special architectural or historic interest and the site is located within the Portslade Old Village Conservation Area. The Council have argued that the appeal building is also protected by the listed building designation, as being "within the grounds of 69-71 Kemps", even though it now has a separate curtilage. On the basis of
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the limited evidence before me in this respect, I am not persuaded that the appeal building can properly be described as being "listed", and I have not considered it as such in determining this appeal.

6. The proposals which are the subject of this appeal involve the insertion of a pair of "Solatubes" to bring light to the ground floor living room through the roof. These "daylight admitting devices" (as described in the application) are formed by a dome fixed to the roof which would admit light to a diffuser at ceiling level through a tube with an internally reflective surface.
7. The new installation would introduce some natural light to recesses either side of the living room fireplace on the ground floor of the cottage. It is true that the living room is not particularly well lit by natural light but it is by no means unsatisfactory and is a pleasant room, with a character which reflects its historic quality. The new "light diffusers" in the ceiling would improve the availability of natural light but, in my opinion, they would not be particularly well suited to the traditional character of the building and would not amount to a significant improvement to the property, overall.
8. Externally, the domed rooflights would stand proud of the plane of the roof (by approximately 30 cm) and would be alien to the materials of the plain tiled roof, even though tiles could be laid across the necessary flashings, to reduce the visual impact. On the front of the building the dome would be apparent from the High Street, especially for visitors to the property itself. At the rear, only glimpses of the affected roof area can be obtained from the public realm but I have no doubt that the new dome would be clearly visible from adjoining properties.
9. I am sure that the domes would have an undesirable effect on the external appearance of the building, detracting from the simple form of the roof and undermining its architectural character. In my view the project would harm the appearance of the appeal building and would detract from its setting within the Portslade Old Village Conservation Area, albeit to a limited extent, because of the relatively small scale of the intervention. Nevertheless, it would conflict with policies aimed at protecting the historic environment and achieving good design, notably saved Policy HE6 of the Brighton and Hove Local Plan.
10. The practical benefit of the additional natural light in the living room would be extremely limited, in my view, and I am convinced that the advantages of the scheme would not outweigh the harm done to the appearance of the building. Hence, I have concluded that the scheme before me ought not to be allowed and, although I have considered all the matters raised in the representations, I have found nothing to cause me to alter my decision.

Roger C Shrimplin

INSPECTOR



Appeal Decision

Site visit made on 23 May 2011

by Elizabeth Fieldhouse DipTP DipUD MRTPI

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

Decision date: 26 May 2011

Appeal Ref: APP/Q1445/D/11/2150033

Cinderford, Cornwall Gardens, Brighton BN1 6RH

- 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 Alpha Properties Limited against the decision of Brighton & Hove City Council.
 - The application Ref BH2010/03135, dated 30 September 2010, was refused by notice dated 2 February 2011.
 - The development proposed is a 'bin enclosure and dropped kerb'.
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Decision

1. I dismiss the appeal.

Procedural matters

2. The development proposed is more accurately described on the Council's decision as a 'Proposed bin enclosure and dropped kerb. Alterations to front boundary wall to accommodate widening of vehicle access.'

Main Issue

3. The main issue is whether the proposal would preserve or enhance the character or appearance of the Preston Park Conservation Area.

Reasons

4. The Cornwall Gardens area of Preston Park Conservation Area is characterised by substantial detached and semi-detached houses many of which are of the Edwardian period. Those on the east side of Cornwall Road are generally above the level of the road with old brick retaining walls and entrances between brick piers defining the back edge of the pavement. At the southern end of the street there is more recent development of bungalows, the appeal property being one built in the 1950s on the east side of the road. The coach house to the rear of Cinderford is being converted for residential use and the changes proposed relate to the access and bin store associated with that development.
5. The proposal would increase the width of the existing crossover and entrance from 2.6m to 4.4m widening the drive to the coach house on the roadside of Cinderford. Unlike other parts of the road, wider entrances to properties are found at the southern end of Cornwall Gardens. The brick pier has been removed from the northern side of the entrance but Cornwall House at the southern end of the road does not have piers flanking the entrance. Therefore

- the widening of the access and the removal of the brick pier would preserve the character and appearance of this part of the conservation area.
6. The proposed bin enclosure would be 1m deep parallel to the road and extend 1.8m into the front garden from the frontage wall. It is shown to be the height of the adjoining pier, some 1.3m high on the proposed 'Section through the bin store' with the pier some 1.4m high on the 'Elevation to Cornwall Gardens'. On that drawing, the front boundary wall is shown to be about 1.2m high. Therefore, it is likely that the bin store would be visible over the boundary wall with no space to mitigate the unhappy juxtaposition when viewed from the road. Such a situation would fail to preserve or enhance the character or appearance of the conservation area.
 7. In addition, the plan of the proposed bin enclosure and dropped kerb shows 6 steps to the front garden level adjoining the bin store whereas the section shows two steps which would be the case if the section shows the view towards the drive but the section through the bin store does not appear to be this view. The need for 6 steps would appear to give a greater rise in level than is shown to exist between the level of the front garden and the drive adjoining Cinderford.
 8. The appeal site lies within the conservation area where development should preserve or enhance the character or appearance. The proposed development is not dimensioned on the sections/elevations which appear to show slightly different heights for the same pier nor do they adequately demonstrate that the proposed bin enclosure would not be visible above the boundary wall. It has not been demonstrated that the proposal would preserve or enhance the character or appearance of the conservation area. Therefore it is not possible to conclude that policy HE6 of the Brighton and Hove Local Plan 2005 or the duty in section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 would be met. For the reasons given the appeal should fail.

Elizabeth Fieldhouse

INSPECTOR

NEW APPEALS RECEIVED**WARD****APPLICATION NUMBER****ADDRESS****DEVELOPMENT DESCRIPTION****APPEAL STATUS****APPEAL RECEIVED DATE****APPLICATION DECISION LEVEL****REGENCY**

BH2011/00932

20 Crown Street, Brighton

Erection of two storey side and rear extension incorporating rooflights to front and rear elevations and associated external alterations.

APPEAL LODGED

25/07/2011

Delegated

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

BH2011/00726

Field End, 4 Founthill Road, Brighton

Replacement of existing fence to West elevation and brickwork wall, piers and vehicular access to South elevation with new brickwork wall and entrance gates. Construction of new brickwork wall parallel to Eastern elevation (Part retrospective).

APPEAL LODGED

25/07/2011

Planning Committee

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

BH2011/01446

17 Rigden Road, Hove

Erection of two storey pitched roof rear extension incorporating demolition of existing garage.

APPEAL LODGED

27/07/2011

Delegated

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

BH2011/00834

Land to the rear of 197 Old Shoreham Road, Portslade

Erection of two semi-detached 2no bedroom dwellings and associated access.

APPEAL LODGED

26/07/2011

Delegated

WARD**APPLICATION NUMBER****ADDRESS****DEVELOPMENT DESCRIPTION****APPEAL STATUS****APPEAL RECEIVED DATE****APPLICATION DECISION LEVEL****ST. PETER'S & NORTH LAINE**

BH2011/00009

14 Frederick Street, Brighton

Erection of part single and part two storey rear extension incorporating a rooflight and sun pipe. Enclosure of front garden with 1800mm high fence.

APPEAL LODGED

27/07/2011

Delegated

WARD**APPLICATION NUMBER****ADDRESS****DEVELOPMENT DESCRIPTION****APPEAL STATUS****APPEAL RECEIVED DATE****APPLICATION DECISION LEVEL****HOLLINGDEAN & STANMER**

BH2010/03961

Pavement outside Hollingdean Depot opposite 13 Upper Hollingdean Road

Erection of 12.5m high replica telegraph pole with 3no antennas, a radio equipment cabinet adjacent to the pole and development works.

APPEAL LODGED

03/08/2011

Delegated

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

BH2011/01568

47 Rugby Road, Brighton

Loft conversion incorporating rooflights to front and rear and raising of ridge height.

APPEAL LODGED

10/08/2011

Delegated

INFORMATION ON HEARINGS / PUBLIC INQUIRIES**31st August 2011**

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

119 Lewes Road, Brighton

Planning application no: BH2010/02958

Description: Certificate of Lawfulness for existing use of premises as car hire and car and bus parking.

Decision: Delegated

Type of appeal: Public Inquiry

Date: **WITHDRAWN**

Location:

8 West Way, Hove

Planning application no: BH2010/03486

Description: Formation of additional storey at first floor level to create two 2no bedroom and two 1no bedroom residential units, ground floor extension at front and associated works.

Decision: Committee

Type of appeal: Informal Hearing

Date:

Location:

Information on pre-application presentations and requests

Date	Address	Ward	Proposal
7 June 2011	N/A	N/A	N/A
28 June 2011	N/A	N/A	N/A
15 July 2011	3Ts	East Brighton	3T's (teaching, tertiary & trauma). Comprehensive redevelopment of southern half of RSCH on Eastern Road to provide replacement modern clinical facilities over three phases and erection of a helipad on top of the Thomas Kemp Tower.
9 August 2011	N/A	N/A	N/A
30 August 2011	N/A	N/A	N/A
20 September 2011			
11 October 2011			
1 November 2011			
22 November 2011			
13 December 2011			
10 January 2012			
31 January 2012			
21 February 2012			
13 March 2012			
3 April 2012			
24 April 2012			
15 May 2012			

NOTE: The pre-application presentations are not public meetings and as such are not open to members of the public. All presentations will be held in Hove Town Hall on the date given after scheduled site visits, unless otherwise stated.

