

**BRIGHTON & HOVE CITY COUNCIL****PLANNING COMMITTEE****2.00pm 18 SEPTEMBER 2013****COUNCIL CHAMBER, HOVE TOWN HALL****MINUTES**

**Present:** Councillors , Jones (Deputy Chair), Carden (Opposition Spokesperson), Cox, Duncan, Gilbey, Hamilton, K Norman, Sykes, C Theobald and Wells

**Co-opted Members:** Jim Gowans (Conservation Advisory Group)

**Officers in attendance:** Paul Vidler (Deputy Development Manager), Nicola Hurley (Area Planning Manager), Steven Shaw (Principal Transport Officer), Hilary Woodward (Senior Solicitor) and Ross Keatley (Democratic Services Officer).

**PART ONE****63. PROCEDURAL BUSINESS****63a Declarations of substitutes**

63.1 Councillor Sykes was present in substitution for Councillor Davey; Councillor Duncan was present in substitution for Councillor Mac Cafferty and Councillor Ken Norman was present in substitution for Councillor Hyde.

**63b Declarations of interests**

63.2 Councillor Cox referred to Application BH2013/02074 and Application BH2013/02075 for full planning permission and listed building consent respectively at 119 Church Road, Hove and explained that as his letter of objection to a change in the opening hours was attached to the Committee report he would withdraw from the meeting during the consideration and vote on these two applications.

63.3 Councillor Ken Norman referred to Application BH2013/02475 33 Redhill Drive, Brighton and explained that he had objected to this application and, as such, he would withdraw from the meeting during the consideration and vote on this application.

**63c Exclusion of the press and public**

63.4 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.

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

**64. MINUTES OF THE PREVIOUS MEETING**

64.1 **RESOLVED** – That the Chair be authorised to sign the minutes of the meeting held on 28 August 2013 as a correct record.

**65. CHAIR'S COMMUNICATIONS**

65.1 The Chair reminded Members that mandatory training would be taking place for all Members on Tuesday 8 October at 10:00 hours in the Council Chamber, Hove Town Hall.

**66. PUBLIC QUESTIONS**

66.1 There were none.

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

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

Application:	Requested by:
BH2013/02475 – 33 Redhill Drive, Brighton	Councillor Carol Theobald

**68. TO CONSIDER AND DETERMINE PLANNING APPLICATIONS**

**A. BH2013/02096 - Hove Park Depot, The Droveaway, Hove - Full Planning Permission** - Demolition of existing buildings and construction of a new three storey primary school building with brise soleil solar shading, solar panels and windcatchers with associated external hard and soft landscaping.

68.1 This application was withdrawn by the applicant.

**B. BH2013/02097 - Hove Park Depot, The Droveaway, Hove - Conservation Area Consent - Demolition of existing buildings.**

- (1) It was noted that this application had formed the subject of a site visit prior to the meeting.
- (2) The Area Planning Manager, Nicola Hurley, introduced this application and gave a presentation by reference to plans, photographs and elevational drawings. The site was located between The Droveaway and the Engineerium. It was noted that the application for full planning on the site had been withdrawn, and this application only sought consent for the demolition of the existing buildings on the site. The main issues related to the loss of the existing building and the impact on the Conservation Area; policy stated that buildings should be retained if they made a positive contribution to the Conservation Area; however, it was felt that in this instance the buildings did not reflect the appearance of the area or made a positive contribution. For the reasons outlined in the report the application was recommended for approval.

**Questions for Officers**

- (3) In response to queries from Councillors Duncan, Carden and Hamilton in relation to the ecology on the site it was explained that the application was not part of a piecemeal application for wider aims on the site; instead the application was only concerned with the demolition of the existing buildings in the context of the Conservation Area. Whilst Officers would not normally recommend demolition, leaving an empty site, it was considered that the current buildings made no positive contribution. In relation to ecology aspects it was explained that the demolition would not have an impact on existing badger sets on the site as the sets were located in the southern part of the site away from the buildings proposed to be demolished. The Senior Solicitor, Hilary Woodward, also confirmed that badgers were protected by separate legislation, and if any were found in the process of demolition then the appropriate legislation would have to be complied with.
- (4) It was confirmed for Councillor Sykes that some of the buildings on the site were currently in use by the Council; however, the application was only able to consider the impact of the demolition on the Conservation Area. Councillor Ken Norman continued this line of questioning and it was confirmed that if the buildings were demolished then the operation would be moved by the Council to Stanmer Nursery; any changes in relation to the use would form a separate matter from the Conservation Area Consent as they would involve ownership matters beyond the remit of the Committee.

**Debate and Decision Making Process**

- (5) Councillor Duncan reiterated his concern that the approval of the demolition of the existing building would be the first stage of a larger application; he felt the application was premature and should only be considered alongside the wider application for the development of the whole site. To clarify the Senior Solicitor explained that the Planning Authority had a duty to determine applications, and the outcome of the application for Conservation Area Consent would set no precedent for any future planning application on the site.

(6) A vote was taken and Conservation Area consent was granted on a vote of 7 in favour with 3 abstentions.

68.2 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in paragraph 11 and resolves to **GRANT** conservation area consent subject to the conditions and informatives set out in the report.

**Note: Councillors Littman and Wakefield were not present at the meeting.**

**C. BH2013/02050 - Aldi Stores Ltd, 7 Carlton Terrace, Portslade - Removal or Variation of Condition** - Application for variation of condition 1 of BH2011/02857 to vary the hours of operation of the store to read: The store shall not be open for trading to the public except between the hours of 0800 and 2100 on Monday to Saturday and 1000 to 1600 on Sundays and Bank Holidays. Staff may be within the premises between the hours of 0700 and 2200 hours on Mondays to Saturdays and 0930 and 1730 on Sundays and Bank Holidays.

(1) The Area Planning Manager, Nicola Hurley, introduced this application and gave a presentation by reference to plans, photographs and elevational drawings. The application site related to Aldi Stores on Carlton Terrace which consisted of a large detached building with residential properties above and a smaller unit also with residential units above. The planning history was noted; in particular a refusal for changes to the car park. This application sought the variation of Condition 1 to allow the store to be open until 2100 hours Monday to Saturday and for the staff to be allowed in the store until 2200 hours Mondays to Saturdays; attention was also drawn to additional letters of objection in the Late List. The main consideration in relation to the change of hours were the impact on neighbour amenity, and the applicant had submitted a detailed noise assessment which set out that the change of hours would not have a detrimental impact; Officers had analysed this report and agreed with the findings. For the reasons set out in the report the application was recommended for approval.

#### **Public Speakers and Questions**

(2) Ms Angie Ross spoke in objection to the application in her capacity as a local resident. She stated that she was representing the residents of the 12 flats situated above the premises, and the grounds for their objections related to the existing noise from the premises and the lack of compliance by the store with the planning conditions currently attached to the premises. Ms Ross explained that she had personally made over 100 complaints, and felt that the matter had not been taken seriously. There was no sound proofing between the premises and the residential properties above and the noise of staff talking; doors banging; shopping trolley movements and cash registers were all audible by residents. A noise assessment had been commissioned by the operator; however, this had been taken from the car park and did not give consideration to the impact of the residential flats above. Ms Ross went on to point out that no Officers from Environmental Protection had visited the store to assess the noise problems, and the residents were of the view that an independent noise study should be undertaken. The premises also did not comply with the current planning conditions, and it was highlighted that on Sunday 21 July 2013 contractors had been present in the store all

night to undertake a refit; similar work had also been undertaken the following weekend. It was also noted that the store was only permitted one main delivery and one milk delivery on bank holidays; however, they had received five deliveries on the last bank holiday. Ms Ross closed by stating that she was concerned the problems would get worse if the hours were extended, and asked that the current conditions be properly enforced.

- (3) Councillor Hamilton asked if there was noise after the store closed, and in response Ms Ross explained that the noise was worse and it would travel more during these times.
- (4) Mr Scadding spoke in support of the application in his capacity as the Planning Agent for the applicant. He stated that the premises had a long planning history, and the number of planning restrictions caused the store operational problems; this application sought to allow Aldi to better fulfil its role as a local store. The decision to trade until 2100 hours was largely driven by customer demand and to address modern work and shopping patterns. The majority of competitors were open until 2200 hours, and the additional half an hour after the premises was closed would allow staff to undertake duties that could not be completed whilst the store was open. The noise assessment had been prepared which considered actual activities on the site; this had shown there would not be a negative impact and this had been scrutinised by Council Officers. The operators had also acknowledged the various objections, but were of the view that they 'could not please everyone' and that a compromise needed to be reached. Mr Scadding stated that the premises would operate within the existing restrictions, but did make reference to the period of essential maintenance – highlighting that the residents had been informed and given hampers as a gesture of good will – stating that the premises was not ignoring the planning restrictions. The store was a key town centre anchor, and the report had demonstrated that the change of hours would not have an adverse impact. In closing Mr Scadding asked that the application be granted.
- (5) Councillor Hamilton asked why the noise assessment had only been undertaken from the car park, and not from within the store or the residential flats above. In response Mr Scadding explained that this was the standard approach. Councillor Hamilton went on to ask about the location in the car park from which the assessment was undertaken; however, Mr Scadding explained he could not confirm this as he was not part of the noise assessment.
- (6) Mr Scadding confirmed for Councillor Sykes that the applicant had commissioned the noise assessment.

#### **Questions for Officers**

- (7) Councillor Cox asked if the operators were obliged to undertake a noise assessment, and in response Officers explained that they were not; however, such an assessment could give weight to applications, and the Planning Authority could be minded to ask that they undertake one.
- (8) In response to Councillor Wells the Senior Solicitor, Hilary Woodward, confirmed the store would need to comply with relevant legislation and therefore only be able to trade for six hours on Sundays.

- (9) Councillor Sykes asked about the recent enforcement investigations referenced in the Committee report, and in response the Deputy Development Control Manager explained the resolution of this had been suspended subject to the outcome of the planning application before the Committee.
- (10) Councillor Gilbey asked if the Planning Authority would direct the premises on how to undertake the noise assessment, and in response it was explained that this could sometimes be the case, and the Authority could direct if they considered more information was needed.
- (11) It was confirmed for Councillor Hamilton that the report made reference to the assessment being undertaken from the car park.

**Debate and Decision Making Process**

- (12) Councillor Hamilton stated that the premises were located within his Ward, and he had been receiving complaints in relation to these premises for some time; he also referenced mistakes and inaccuracies within the sound assessment. He went on to add that the assessment should have considered the impact of noise on the residential units and taking readings from within the store itself. The report also made reference to a wall, and Councillor Hamilton noted that this wall had not been built properly; nor had the operator sought to install parking bays for residents as agreed. The residential flats were occupied by key workers and the extra hour of operation would have an adverse impact on them. The premises also had a bad relationship with the residents, and it was felt that the store was already very busy and arguments in relation to viability were unfounded. The problems at the premises had been going on for years, and Councillor Hamilton was of the view that the current hours were adequate, and the application should be considered using the appropriate information in relation to the noise assessment. Councillor Hamilton summarised that the application should be refused.
- (13) Councillor Carden stated that the store was very successful, and people used it as it was a cheaper place to shop. Reference was also made to some of the local traffic problems caused due to how busy the premises had become. Councillor Carden was of the view that all staff duties could be undertaken whilst the premises was open; the impact of the noise for residents was already bad enough and the current opening hours were sufficient.
- (14) Councillor Wells stated that his main concern was the residents in the flats above, and he could not understand why Officers had not undertaken their own noise assessment. He stated that viability was not a matter for the Committee to consider, and the residents should not be subjected to additional noise. In summary he stated that he would not support the Officer recommendation.
- (15) Councillor Sykes stated that he was quite shocked by the very poor nature of the noise assessment, and he felt the operators were trying to get around the residents complaints by regularising the conditions; he stated he would not support the Officer recommendation.

- (16) Councillor Carol Theobald stated she was surprised Officers in Environmental Protection had not looked into the matter or undertaken noise assessments, and she was not satisfied that any new restrictions on the premises would be properly adhered to; she stated she would most likely be voting against the Officer recommendation.
- (17) Councillor Cox stated that he was pleased to hear that the store was doing well, and felt this was positive for the town of Portslade; however, he stated that the problem was with the relationship with the neighbours, and he said that if the Committee were minded to refuse the application this should be considered as means to begin restoring a positive relationship.
- (18) The Deputy Development Control Manager suggested that the item could be deferred to allow a further noise report to be undertaken which would give a report on the readings from the store and the flats above; however, the Committee was minded to put the application before them to the vote.
- (19) A vote was taken and the Officer recommendation to approve was not carried on a vote of 9 against with 1 abstention. Councillor Hamilton proposed reasons for refusal and these were seconded by Councillor Sykes; a short adjournment was then held to allow Councillor Hamilton and Councillor Sykes; the Deputy Development Control Manager; the Senior Solicitor and the Area Planning Manager to draft the reasons for refusal in full. These reasons were then read to the Committee and it was agreed that they reflected what had been put forward by Members. A recorded vote was then taken and Councillors: Jones, Ken Norman, Carden, Duncan, Gilbey, Hamilton, Sykes, Carol Theobald and Wells voted that planning permission be refused and Councillor Cox abstained from the vote.

68.3 **RESOLVED** – That the Committee has taken into the Officer recommendation to grant, but resolves to **REFUSE** planning permission for the reasons set out below:

- i. The noise assessment is considered inadequate by reason of the limited location from which measurements were taken. Therefore the applicant has failed to demonstrate that the additional hours proposed would not have a detrimental impact on the amenity of neighbouring residents by reason of noise nuisance, contrary to policies SU10 and QD27 of the Brighton & Hove Local Plan 2005.

**Note: Councillors Littman and Wakefield were not present at the meeting.**

**D. BH2013/01836 - Rear of 32 Stanford Avenue, Brighton - Full Planning Permission**  
- Demolition of existing garage and erection of a two storey 1no bedroom house.

- (1) The Area Planning Manager, Nicola Hurley, introduced this application and gave a presentation by reference to plans, photographs and elevational drawings. The site related to a domestic garage on the eastern side of Stanford Avenue, and was located in the Preston Park Conservation Area. It was noted that an application had been refused earlier in the year for a two storey one bedroom house; the reasons for refusal had related to appropriateness of the site and the impact on neighbouring amenity. Permission was sought for the demolition of the existing garage and the creation of a one bedroom house. The main considerations related to the principle of the development; the impact on the street scene and the Conservation Area; the impact on

neighbouring amenity and the standard of accommodation and adherence with Lifetime Homes. The size of the plot was constrained and the resulting proposal was cramped and at odds with the plot. Reference had been made by the applicant's agent to a scheme at Southdown Road; however, Officers were of the view that there were clear differences with this site in relation to the plot size and the relationship with other buildings. As a free standing dwelling the building would appear more prominent and it sat forward from the boundary line whereas the uniform line of the streetscene was set back. The existing buildings also had a strong architectural unity and the design was considered uncomfortable and incongruous. For the reasons set out in the report the application was recommended for refusal.

### **Public Speakers and Questions**

- (2) Ms Cattell spoke in support of the application in her capacity as the agent. She stated that the applicant had lived at no. 32 for 20 years and were part of the local community; they had reached a time when they wanted to downsize to release the capital in their property; whilst staying in their local area. There were few smaller properties that they could buy, and the scheme was considered a means to achieve their goals. The application also sought to build on the footprint of the existing garage, and it was noted that the density would be typical of that in the area. The property would not be cramped given the amount of amenity space, and the applicant did neither want nor need anymore space. The house would be set back at the first floor, and the neighbours were also supportive of the scheme. Ms Cattell also noted that the applicant wanted to negotiate a higher boundary for the front of the property to create more usable amenity space. In closing it was noted that the city would not be able to meet its housing need in the next few years and this application provided the opportunity to create a tailor made home to add to the housing stock.
- (3) In response to a query from Councillor Carol Theobald it was confirmed that the garage was currently used for storage, and the amount of amenity space was confirmed.

### **Questions for Officers**

- (4) In response to a query from Councillor Wells the Area Planning Manager explained that Officers considered the established building line of the street to be important and this particularly related to line of buildings in Rugby Road.
- (5) Councillor Duncan referenced the agent's comments in relation to the wall onto Rugby Road, and asked that if the Committee were minded to grant the application would it be appropriate to add a condition in relation to this; in response the Area Planning Manager confirmed that Officers were of the view that this could not be dealt with by condition.
- (6) It was confirmed for Councillor Carol Theobald that on rear the upper floor the hallway and bathroom windows would have obscured glazing.
- (7) It was confirmed for Councillor Sykes that the proposed development line on the first floor projected further forward than the line of the bay windows of the houses on Rugby Road.



- (8) Councillor Cox asked further questions about the condition of the front wall, and in response the Area Planning Manager explained that Officers would not recommend conditioning this as it would contravene the comments from the Heritage Team.

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

- (9) Councillor Carol Theobald stated that the proposed house looked very small and cramped, and she had concerns in relation to the extent of the amenity space; she also felt that the gap between the properties had merit in its own right.
- (10) Councillor Duncan noted that there was a requirement for new housing within the city, and there was a need to look at creative solutions for this. He stated he was swayed by the argument that the applicant wanted to live in the property.
- (11) A vote was taken and planning permission was refused on the Chair's casting vote with a vote of 5 in support with 5 against.

- 68.4 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out and resolves to **REFUSE** planning permission.

### Reasons for Refusal:

- i. The proposed development is considered to represent an uncharacteristic and inappropriate development in excess of what might reasonably be expected to be achieved on this limited plot site. Consequently the proposal represents an over-development of the site to the detriment of the character of the area. The proposal is therefore contrary to policies QD1, QD2 and QD3 of the Brighton & Hove Local Plan.
- ii. The proposed dwelling would extend beyond the building line on Rugby Road, and by reason of its scale, height, footprint, positioning and design, would be an unsympathetic and dominant addition to the street scene. As such the development would cause harm to the character and appearance of the Preston Park Conservation Area and thus be contrary to policies QD2, QD3 and HE6 of the Brighton & Hove Local Plan.
- iii. The proposed dwelling, by reason of the height and proximity to site boundaries, would represent a cramped and overbearing development within the rear gardens of neighbouring properties on Stanford Avenue. This would be to the detriment of neighbouring amenity which is contrary to policy QD27 of the Brighton & Hove Local Plan.
- iv. The development would enable the use of the existing hardstand as a parking space that would jeopardise highway safety, in particular pedestrians that use the public pavement on Rugby Road. There is no proposal for new boundary treatment on the front boundary of the site that would restrict this, and would therefore be contrary to policy TR7 of the Brighton & Hove Local Plan.

Informatives:

- i. In accordance with the National Planning Policy Framework and Policy SS1 of the Brighton & Hove City Plan Part One (submission document) the approach to making a decision on this planning application has been to apply the presumption in favour of sustainable development. The Local Planning Authority seeks to approve planning applications which are for sustainable development where possible.

**Note: Councillors Littman and Wakefield were not present at the meeting.**

- E. BH2013/01985 - 36 Upper Rock Gardens, Brighton - Full Planning Permission -**  
Demolition of upper ground floor rear extension and staircase and erection of lower and upper ground floor rear extensions with staircase.
- (1) The Area Planning Manager introduced the application and gave a presentation by reference to photographs, plans and elevational drawings. The site was located in the East Cliff Conservation Area, and the history of the site was outlined in the report. Particular attention was drawn to a refusal for a rear extension in 2012; this scheme was a revision of that refusal and sought the demolition of the upper ground floor and the erection of a new upper and lower ground floor. A letter of support had also been received from Councillor Powell. The main considerations related to the impact of the design on the parent building and the impact on the street scene and the character of the Conservation Area. The proposal would be deeper and wider at the upper and lower ground floor levels, and whilst this was considered more appropriate than the existing form, the structure would still appear over-dominant – projecting 9.8 metres to the rear. There were further inappropriate elements to the scheme as the rear extended onto St. Mary's Place and the impact of neighbour amenity and the position of the windows would increase the loss of the light. For the reasons set out in the report the application was recommended for refusal.
  - (2) It was noted that there had been a public speaker registered to speak in support of the applicant, but they had been unable to attend.

**Questions for Officers**

- (3) Councillor Ken Norman made reference to the letter from Councillor Powell, and asked for further explanation in relation to the existing rear extensions of neighbouring properties. In response the Area Planning Manager explained that there were some existing extensions which did not have any planning history; in these circumstances Officers had to assume there was no approval and they had been built before the adoption of the Local Plan. It was also confirmed for Councillor Ken Norman that no.33A most likely related to a basement flat.
- (4) Councillor Wells referenced the size of the extension at no. 34, and in response the Area Planning Manager explained that without the planning history Officers did not have details of the proportions; however, given the substantial size it was unlikely it would be supported by Officers.
- (5) It was confirmed for Councillor Sykes that the width of the outrigger for no. 36 was the same as the other adjoining properties in the street.

**Debate and Decision Making Process**

- (6) Councillor Sykes noted that it was important to give careful consideration of the rear of properties, and he agreed with the Officer recommendation that this would constitute overdevelopment and have a detrimental impact to the rear of the property.
- (7) A vote was taken and planning permission was refused on a vote of 7 to 2 with 1 abstention.
- 68.5 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out and resolves to **REFUSE** planning permission.

Reasons for Refusal:

- i. The proposed development by reason of its scale, design, depth and detailing would result in an overly dominant addition that would have a significantly detrimental impact upon the appearance and character of the building, the wider terrace and the East Cliff Conservation Area, contrary to policies HE6 and QD14 of the Brighton & Hove Local Plan.
- ii. The proposed development, by reason its height, design, and depth would result in a significantly overbearing impact, a loss of light and an unacceptable sense of enclosure towards the adjoining property, No.35 Upper Rock Gardens. As such the proposal is contrary to policies QD14 and QD27 of the Brighton & Hove Local Plan.

Informatives:

- i. In accordance with the National Planning Policy Framework and Policy SS1 of the Brighton & Hove City Plan Part One (submission document) the approach to making a decision on this planning application has been to apply the presumption in favour of sustainable development. The Local Planning Authority seeks to approve planning applications which are for sustainable development where possible.

**Note: Councillors Littman and Wakefield were not present at the meeting.**

- F. BH2013/02349 - Land to South of 32 Cambridge Grove, Hove - Full Planning Permission** - Erection of 3no bedroom dwelling.
- (8) The Area Planning Manager introduced the application and gave a presentation by reference to photographs, plans and elevational drawings. The site was located in the East Cliff Conservation Area, and the history of the site was outlined in the report. Particular attention was drawn to a refusal for a rear extension in 2012; this scheme was a revision of that refusal and sought the demolition of the upper ground floor and the erection of a new upper and lower ground floor. A letter of support had also been received from Councillor Powell. The main considerations related to the impact of the design on the parent building and the impact on the street scene and the character of the Conservation Area. The proposal would be deeper and wider at the upper and lower ground floor levels, and whilst this was considered more appropriate than the

existing form, the structure would still appear over-dominant – projecting 9.8 metres to the rear. There were further inappropriate elements to the scheme as the rear extended onto St. Mary's Place and the impact of neighbour amenity and the position of the windows would increase the loss of the light. For the reasons set out in the report the application was recommended for refusal.

- (9) It was noted that there had been a public speaker registered to speak in support of the applicant, but they had been unable to attend.

### Questions for Officers

- (10) Councillor Ken Norman made reference to the letter from Councillor Powell, and asked for further explanation in relation the existing rear extensions of neighbouring properties. In response the Area Planning Manager explained that there were some existing extensions which did not have any planning history; in these circumstances Officers had to assume there was no approval and they had been built before the adoption of the Local Plan. It was also confirmed for Councillor Ken Norman that no.33A most likely related to a basement flat.
- (11) Councillor Wells referenced the size of the extension at no. 34, and in response the Area Planning Manager explained that without the planning history Officers did not have details of the proportions; however, given the substantial size it was unlikely it would be supported by Officers.
- (12) It was confirmed for Councillor Sykes that the width of the outrigger for no. 36 was the same as the other adjoining properties in the street.

### Debate and Decision Making Process

- (13) Councillor Sykes noted that it was important to give careful consideration of the rear of properties, and he agreed with the Officer recommendation that this would constitute overdevelopment and have a detrimental impact to the rear of the property.
- (14) A vote was taken and planning permission was refused on a vote of 7 to 2 with 1 abstention.
- 68.5 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out and resolves to **REFUSE** planning permission.

### Reasons for Refusal:

- iii. The proposed development by reason of its scale, design, depth and detailing would result in an overly dominant addition that would have a significantly detrimental impact upon the appearance and character of the building, the wider terrace and the East Cliff Conservation Area, contrary to policies HE6 and QD14 of the Brighton & Hove Local Plan.
- iv. The proposed development, by reason its height, design, and depth would result in a significantly overbearing impact, a loss of light and an unacceptable sense of

enclosure towards the adjoining property, No.35 Upper Rock Gardens. As such the proposal is contrary to policies QD14 and QD27 of the Brighton & Hove Local Plan.

Informatives:

- ii. In accordance with the National Planning Policy Framework and Policy SS1 of the Brighton & Hove City Plan Part One (submission document) the approach to making a decision on this planning application has been to apply the presumption in favour of sustainable development. The Local Planning Authority seeks to approve planning applications which are for sustainable development where possible.

**Note: Councillors Littman and Wakefield were not present at the meeting.**

**F. BH2013/02349 - Land to South of 32 Cambridge Grove, Hove - Full Planning Permission - Erection of 3no bedroom dwelling.**

- (1) The Area Planning Manager, Nicola Hurley, introduced the application and gave a presentation by reference to plans, photographs and elevational drawings. The application site related to a plot of land to the north of no. 76 The Drive, Hove; the site was accessed at the lower level from Cambridge Grove. It was noted that the site was located in the Willett Estate Conservation Area, and the Grade II listed buildings in The Drive/Cromwell Road were located to the south. The application sought the erection of a two storey property with bedrooms and a bathroom on the lower ground floor and the living space on the ground floor. Attention was also drawn to matters on the Late List and an additional letter of support received from Councillor Phillips.
- (2) The main considerations related to design; the impact on the Conservation Area and listed buildings; the impact on the adjacent accommodation; the standard of the accommodation and sustainable transport. It was highlighted that there had been refusals for schemes on the site dating back to 2000, and there had been a scheme refused by the Committee earlier in the year. This scheme was largely similar and would appear as a single storey from the road; the major change related to the proposed orientation of the building; however, the principle of the dwelling remained the same. It was considered that the modern design would be out of keeping with the surrounding area, and the Heritage Officer felt that it would have a harmful impact on the nearby mews. Furthermore the design of the front boundary wall would not properly address the surroundings and would be out of keeping. There was also concern in relation to the impact on amenity as the garden would be set at a lower level and there was concern that the height of the fence was unacceptable and would create a sense of enclosure. For the reasons set out in the report the applicant was recommended for refusal.

**Public Speakers and Questions**

- (3) Mr Phillips spoke in support of the application in his capacity as the architect. He stated that he would address the four reasons for refusal in the report in turn. The scheme sought to protect the openness of the area, and 50% of the site was free to view, and only the southern part of the site would be occupied. It was noted that the neighbouring buildings were up to five storeys high, and the proposed building would only appear as a single storey from street level. Mr Phillips went to state that the Committee had

previously granted schemes of contemporary design, and the proposed design and materials would add to the sense of light. Attention was also drawn to a similar scheme that had been approved close to the site. In closing the letters of support from Local Ward Councillors were highlighted.

**Questions for Officers**

- (4) In response to a query from Councillor Gilbey the Area Planning Manager drew attention to the committee report to highlight the issues in relation to overlooking of no. 32 Cambridge Grove and no. 76 The Drive.
- (5) Councillor Duncan noted that the speaker had drawn attention to a similar scheme and asked for more information in relation to this. In response the Area Planning Manager explained that the site was further east, and it was not identical in terms of the features of the site; its surroundings and it was outside the Conservation Area. In relation to this application Officers were recommending refusal in terms of the principle of the development and the resulting impact on amenity. Councillor Duncan went on to ask about the reason for refusal in relation to the loss of light and overshadowing; in response it was explained that despite support from the neighbours Officers were still duty bound to assess the impact on amenity, and had to come to a view notwithstanding the representations made.
- (6) Councillor Gilbey asked about the importance of the gap, and the potential for an approval to set precedence for future development on similar sites. The Area Planning Manager explained that the site would be considered on its individual merits, and Officers would stand by the recommendation to refuse.

**Debate and Decision Making Process**

- (7) Councillor Sykes stated that he was minded to disagree with the Officer recommendation and felt that the gap had already been lost by other buildings; the site would only contribute one additional building and the architect had made efforts to minimise the impact. He stated he would not support the Officer recommendation.
- (8) Councillor Duncan stated he was very impressed with the level of community and Ward Councillor support for the application, and noted the long planning history at the site. He stated that he was of the view that the proposal had now reached the stage where it was acceptable.
- (9) Councillor Carol Theobald stated that it was obvious that the gap was an important feature of the area and noted that the planning history in the report went back as far as 1988. She also stated that the earlier appeal decision had been upheld in relation to the impact on the Conservation Area and the adjoining listed building. She added that the extension of the neighbouring properties were not recent additions.
- (10) Councillor Jones stated that the architect had worked to address the problems of the difficult site, but he would still be supporting the Officer recommendation.
- (11) A vote was taken and planning permission was refused on a vote of 5 to 4 with 1 abstention.

- 68.6 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out and resolves to **REFUSE** planning permission.

Reasons for Refusal:

- i. The development would result in a harmful loss of openness between the Grade II Listed properties on The Drive/Cromwell Road and the mews buildings in Cambridge Grove, to the detriment of the prevailing character and appearance of the Willett Estate Conservation Area, contrary to policies QD2, HE3 and HE6 of the Brighton & Hove Local Plan.
- ii. The development, by reason of its siting and scale as well as the increased height to the boundaries, would appear overly dominant and overbearing, particularly from the neighbouring gardens of Cromwell Road and constitutes a cramped form of development. The proposal would therefore fail to respect or enhance the local context and the positive qualities of the local neighbourhood and would have a negative impact upon the amenity of the adjoining properties, contrary to policies QD1, QD2, QD3 and QD27 of the Brighton & Hove Local Plan.
- iii. The proposed dwelling, by reason of its design, materials and detailing would appear incongruous within the historic mews setting, to the detriment of the Willett Estate Conservation Area, contrary to policies QD1, QD2, QD3, QD5 and HE6 of the Brighton & Hove Local Plan.
- iv. The development, by reason of its siting and scale would result in a loss of light and overshadowing to neighbouring properties, in particular No 32 Cambridge Grove. The proposal would therefore have a harmful impact upon the amenity of these adjoining properties, contrary to policy QD27 of the Brighton & Hove Local Plan.

Informatives:

- i. In accordance with the National Planning Policy Framework and Policy SS1 of the City Plan Part One (submission document) the approach to making a decision on this planning application has been to apply the presumption in favour of sustainable development. The Local Planning Authority seeks to approve planning applications which are for sustainable development where possible.

**Note: Councillors Littman and Wakefield were not present at the meeting.**

- G. BH2013/02074 - 119 Church Road, Hove - Full Planning Permission** - Erection of single storey rear extension.

- (1) The Area Planning Manager, Nicola Hurley, introduced this application and gave a presentation in relation to application BH2013/02074 for full planning permission and application BH2013/02075 for listed building consent by reference to plans, photographs and elevational drawings. The existing use of the premises was currently a wine bar and restaurant and permission was sought for the construction of a rear extension with a glazed roof; attention was also drawn to matters on the Late List. The

main considerations related to the impact on amenity and the impact of the scheme on the listed building. The extension would project 2.5 metres from the rear and be mainly glazing so as not to detract from the historic form of the building or the Conservation Area. It was noted that there had been objection to the opening hours, but these would remain the same as those currently permitted. For the reasons outlined in the reports the applications were recommended for approval.

### **Questions for Officers and Decision Making Process**

- (2) In response to Councillor Sykes the Area Planning Manager explained that Environmental Protection had not raised any concerns in relation to the use of glazing to insulate against noise.
- (3) A vote was taken and planning permission was unanimously granted.

68.7 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in paragraph 11 and resolves to **GRANT** planning permission subject to the conditions and informatives set out in the report.

**Note: Councillors Littman and Wakefield were not present at the meeting, and Councillor Cox withdrew from the meeting during the consideration and vote on this application (see minute 63.2).**

**H. BH2013/02075 - 119 Church Road, Hove - Listed Building Consent - Listed Building Consent for the erection of single storey rear extension.**

- (1) A vote was taken and listed building consent was unanimously granted.

68.8 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in paragraph 11 and resolves to **GRANT** listed building consent subject to the conditions and informatives set out in the report.

**Note: Councillors Littman and Wakefield were not present at the meeting, and Councillor Cox withdrew from the meeting during the consideration and vote on this application (see minute 63.2).**

**I. 128 Church Road, Hove - Full Planning Permission -Change of use of basement and ground floor from Financial (A2) to Restaurant (A3) and Bar (A4). Installation of new shop fronts to front and side elevations. Part excavation to facilitate extension of basement level. Erection of single storey rear extension with external steps and associated roof terrace. (Part Retrospective).**

- (1) The Area Planning Manager, Nicola Hurley, introduced this application and gave a presentation by reference to plans, photographs and elevational drawings. The site related to a part commercial building in the Cliftonville Conservation Area; the ground floor and basement had previously been in A2 use, and a number of unauthorised works had been undertaken. The application sought the change of use to restaurant and bar; it was also noted that a similar scheme had been refused in 2012 in relation to problems with the terrace at the rear. The proposed new scheme also included the shop frontage and a rear extension, and reference was also made to matters on the



Late List. The main considerations related to the impact on neighbouring amenity and the impact on the Conservation Area. It was noted that the proposed extension had been increased in length; whilst the extension would not have an impact on amenity there was concern in relation to the change of use, but Officers in Environmental Protection were satisfied subject to conditions. For the reasons set out in the report the application was recommended for approval.

### Questions for Officers

- (2) It was confirmed for Councillor Carol Theobald that there was a proposed condition to restrict vertical drinking at the premises.
- (3) In response to Councillor Cox's concerns in relation to smokers using the side door it was confirmed that the side door could only be used for emergency access during 2200 – 0100 hours through the recommended condition; however, Officers felt that conditioning the use of the side door for additional hours could be unreasonable, and it was noted that the area outside was public highway and it would be difficult to prevent people smoking there generally.
- (4) It was confirmed for Councillor Gilbey that the disabled access would be at the front of the premises.

### Debate and Decision Making Process

- (5) Councillor Cox stated that the appearance would be an improvement, but had concerns that the application would create another licensed premises in this part of Hove; he appealed to the applicant and operator to be considerate of neighbours and run the premises responsibly.
- (6) Councillor Sykes stated that he was content with the application, and felt that some of the concerns of the Committee would be addressed through the application as part of the licensing regime.
- (7) A vote was taken and planning permission was unanimously granted.

68.9 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in paragraph 11 and resolves to **GRANT** planning permission subject to the conditions and informatives set out in the report.

**Note: Councillors Littman and Wakefield were not present at the meeting.**

**J. BH2013/01938 - 52 Ainsworth Avenue, Brighton - Householder Planning Permission** - Erection of extension to first floor including dormer and window to front, windows to sides and Juliet balconies to rear.

- (1) The Area Planning Manager, Nicola Hurley, introduced this application and gave a presentation by reference to plans, photographs and elevational drawings. The application sought planning permission for a first floor extension to raise the roof of the property. The main considerations related to the impact on the character and appearance on the street scene and the impact on residential amenity. Officers felt that

the proposals would alter the character and appearance by creating a much more bulky building which was considered out of scale. Officers had concerns with the sides of the property; particularly where the roof pitched to each side and the form would appear incongruous. The form, detail and bulk of the rest of the design was not considered to have an impact on neighbouring amenity, but was not acceptable in terms of design. For the reasons set out in the report the application was recommended for refusal.

### **Public Speakers and Questions**

- (2) Mr Childs spoke in support of the application in his capacity as the applicant. He stated that he believed an error had been made in the consideration of the application and asked the Committee to take a more reasoned view. The proposals were considered to be in line with guidance, and the additional gables were design to maintain continuity in the roof form. Mr Childs stated that the application was for a simple remodelling of the existing roof structure, and permission had been granted in 2009 for a development across the road with a much greater impact on amenity. In closing Mr Childs added that he had support for the scheme from his neighbours.

### **Questions for Officers**

- (3) Councillor Sykes asked for Officers to comment on Mr Childs view that something had gone wrong during the application process. In response the Area Planning Manager explained that the Case Officer had left the Council during the lifetime of the application; however, this was not considered out of the ordinary and the departing Case Officer had completed the Committee report before they had left.
- (4) It was confirmed for Councillor Ken Norman that the land at no. 55 opposite was on slightly higher ground.
- (5) Councillor Gilbey asked for more information on some of the wording in the report in relation to the 'existing harmony of the setting.' In response the Area Planning Manager explained that there was concern that the when the bulk of the property, when viewed particularly from the side, would increase the visual massing of the roof form. It was also noted that the application proposed additional gables and flat roof expanse whereas the area traditionally had pitched roofs.

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

- (6) Councillor Cox stated that he had understood the point the Case Officer was trying to make when he had visited the property on the site visit; however, the overall context of the wider area was very mixed in terms of the design of the houses. He was not of the view that what was being proposed was out of keeping, and the applicant had gone to lengths to ensure the proposals would fit in. He stated that he would not support the Officer recommendation.
- (7) Councillor Carol Theobald stated that she agreed with Councillor Cox in relation to the varied nature of the street scene, and she did not feel the application would be detrimental as many houses in the area already had large extensions.

- (8) Councillor Wells stated that he could not see an issue with the application, although he would have preferred a barn end rather than a gable, he did not feel the roof form was incongruous, and would be voting against the Officer recommendation.
- (9) Councillor Gilbey stated that she agreed with Councillor Wells, and that there was mix of buildings in the area; she added that she would not support the Officer recommendation.
- (10) A vote was taken and the recommendation to refuse was not carried on a unanimous vote against the recommendation. Councillor Cox proposed reasons for refusal and these were seconded by Councillor Wells. The reasons for approval were then read to the Committee and it was agreed that they reflected what had been put forward by Members. A recorded vote was then taken and Councillors: Jones, Ken Norman, Carden, Cox, Duncan, Gilbey, Hamilton, Sykes, Carol Theobald and Wells voted that planning permission be granted.
- 68.10 **RESOLVED** – That the Committee has taken into consideration the Officer recommendation, but resolves to be **GRANT** planning permission for the reason set out below, and authority was delegated to the Head of Development Control to agree conditions

Reason for Approval:

- i. The proposed development is of a good design and is not out of keeping, or too incongruous, with the variety of housing styles found in Ainsworth Avenue. Moreover the proposed development has no adverse impact by way of overshadowing.

**Note: Councillors Littman and Wakefield were not present at the meeting.**

- K. BH2013/02139 - 3 Royal Crescent, Brighton - Full Planning Permission -**  
Demolition of existing garage/store in rear garden and erection of garden room.
- (1) The Area Planning Manager, Nicola Hurley, introduced this application and gave a presentation in relation to application BH2013/02139 for full planning permission and application BH2013/02140 for listed building consent by reference to plans, photographs and elevational drawings. The property was located on the northern side of Marine Parade, and the parent building was a four storey Regency style property which was Grade II listed and located in the East Cliff Conservation Area. Permission was sought for the demolition of the existing garage to the rear and the erection of a garden room. Attention was drawn to matters on the Late List, and the main considerations related to the impact on the listed building and the wider impact on the Conservation Area, and the impact on neighbour amenity. The application sought a new garden room to replace the garage which would be of modern design apart from where it faced out onto the mews; with this approach the character of the Conservation Area was considered to be preserved. Whilst the garden room would have a greater mass and bulk the impact on amenity was considered acceptable. For the reasons set out in both reports the applications were recommended for approval.

**Public Speakers and Questions**

- (2) Mr Shuttleworth spoke in objection to the application in his capacity as a local resident; he stated he was representing the views of householders on Royal Mews. The report described the existing building as a garage or store, and residents were of the view that it was not in use as a garage. It was also felt that if the proposed new building were to be used as a garden room then it would not need the wide doors proposed onto the mews; there was also concern that the proposal would destroy the traditional wall and the mature planting along it. It was also explained that there was parking for cars in Royal Mews for the six properties, and these proposals would further impact on the parking restrictions there. The report also stated that the loss of the attractive flint wall would be disappointing, and the removal of the planting would have a detrimental impact on the view from Royal Mews. In closing Mr Shuttleworth asked that the application be deferred to although for a compromise position to be agreed by all parties.
- (3) In response to a query from Councillor Ken Norman it was explained by Mr Shuttleworth that the planting referred to made a positive contribution to the visual amenity of the Mews – if the doors were kept as they were currently then the planting could be retained. It was also confirmed that the vegetation was in the Mews rather than in the garden of no. 3.
- (4) Mr Cronshaw spoke in support of the application in his capacity as agent for the applicant. He stated that the planning history identified the building as a garage, and drew attention to the mismatch nature of the rear of the properties on Royal Crescent. The planting that had been referred to was out of control, and the roof of the existing garage was in too poor of state to allow the vegetation to be properly pruned. The wall was also in a poor state of repair and had large areas of concrete to repair it; instead the proposals sought to improve the wall. It was also explained that the applicant wanted to use the proposal as a garden room only, and they owned the whole building and had no need for additional parking in the garage. Lastly it was stated that the impact of the glazed roof lantern would be minimal and the garden room would be some distance from the main house.
- (5) Councillor Carol Theobald asked if the garden room could be built without the need to change the existing wall; in response Mr Cronshaw explained that the room sought to take advantage of the southern aspect and needed to be up against the northern boundary. The intention had been to improve the rear of the garden and close work had been undertaken with the Conservation Officer to achieve this.

**Questions for Officers and Decision Making Process**

- (6) Councillor Cox asked about possible conditions that could be added to protect the use as a garden room, and in response the Deputy Development Control Manager explained that the permission would allow the garden room to be used for purposes ancillary to the parent building.
- (7) It was confirmed for Councillor Ken Norman that the use would be ancillary, and could include an office or bedroom.

(8) It was confirmed for Councillor Gilbey that the matter had to be determined by the Committee as eight letters of objections had been received.

(9) A vote was taken and planning permission was granted on a vote of 8 to 1 with 1 abstention.

68.11 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in paragraph 11 and resolves to **GRANT** planning permission subject to the conditions and informatives set out in the report.

**Note: Councillors Littman and Wakefield were not present at the meeting.**

**L. BH2013/02140 - 3 Royal Crescent, Brighton - Listed Building Consent - Demolition of existing garage/store in rear garden and erection of garden room.**

(10) A vote was taken and listed building consent was granted on a vote of 8 to 1 with 1 abstention.

68.12 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in paragraph 11 and resolves to **GRANT** listed building consent subject to the conditions and informatives set out in the report.

**Note: Councillors Littman and Wakefield were not present at the meeting.**

**M. BH2013/02475 - 33 Redhill Drive, Brighton - Full Planning Permission - Erection of two storey rear extension.**

68.13 The application was deferred to allow a site visit to take place.

**N. BH2013/01800 - Park Manor, London Road, Brighton - Full Planning Permission - Roof extension to form 4no one bedroom flats and 2no two bedroom flats with private roof gardens and creation of 4no car parking spaces, 1no disabled car parking space and new cycle store.**

(1) The Area Planning Manager, Nicola Hurley, introduced this application and gave a presentation by reference to plans, photographs and elevational drawings. The application site related to a seven storey block of 45 flats, and it was noted that there was already an existing permission to create an additional floor. This application proposed a similar scheme, but was considered an improvement as it provided set backs and additional glazing; additional parking would also be provided at the rear of the site for the new units. The main considerations related to the principle of the scheme; the design and highway safety. It was highlighted that the existing permission on the site could still be implemented and there similar examples of such schemes in the wider area. In terms of amenity the scheme would not impact on current or other residents and for the reasons set out in the report the application was recommended for approval.

**Questions for Officers**

- (2) It was confirmed for Councillor Duncan that the application was not an outline permission, and much of the detail in the report and the proposed s106 was in line with similar applications of this nature.
- (3) The Area Planning Manager confirmed the location of the additional parking space for Councillor Ken Norman.
- (4) It was confirmed for Councillor Sykes that the level of sustainability was in line with guidance.
- (5) It was confirmed for Councillor Carol Theobald that there were two lifts in the building, but it was not known if they both served the whole of the building.

**Debate and Decision Making Process**

- (6) Councillor Carol Theobald stated that she did not like the scheme, and drew attention to the 94 letters of objection from residents. She did not feel it was right to build on top of existing flats and noted that the current resident did not want the scheme.
- (7) Councillor Ken Norman noted that he did not agree with this type of proposal in general. He noted the number of objections and stated this type of development was unethical and he would not support the Officer recommendation.
- (8) A vote was taken and planning permission was granted on a vote of 7 to 3.

68.14 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in paragraph 11 and resolves to **GRANT** planning permission subject to the conditions and informatives set out in the report.

**Note: Councillors Littman and Wakefield were not present at the meeting.**

**O. BH2013/00647 - Brighton Beach Market, Lower Esplanade, King's Road, Brighton - Full Planning Permission + Temporary change of use from lower seafront promenade to open air market (during construction of i360 development).**

- (1) A vote was taken and planning permission was granted on a vote of 9 in favour with 1 abstention.

68.15 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in paragraph 11 and resolves to **GRANT** planning permission subject to the conditions and informatives set out in the report.

**Note: Councillors Littman and Wakefield were not present at the meeting.**

**M. TO CONSIDER ANY FURTHER APPLICATIONS IT HAS BEEN DECIDED SHOULD BE THE SUBJECT OF SITE VISITS FOLLOWING CONSIDERATION AND DISCUSSION OF PLANNING APPLICATIONS**

69.1 There were none.

**N. INFORMATION ON PRE APPLICATION PRESENTATIONS AND REQUESTS**

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

**O. LIST OF APPLICATIONS DETERMINED UNDER DELEGATED POWERS OR IN IMPLEMENTATION OF A PREVIOUS COMMITTEE DECISION (INC. TREES MATTERS)**

71.1 That the Committee notes the details of applications determined by the Executive Director Environment, Development & Housing under delegated powers.

[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.]

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

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

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

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

**R. APPEAL DECISIONS**

74.1 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.

The meeting concluded at 5.46pm

Signed

Chair

Dated this

day of