

BRIGHTON & HOVE CITY COUNCIL

PLANNING APPLICATIONS SUB-COMMITTEE

4 FEBRUARY 2004

2.00PM

COUNCIL CHAMBER, HOVE TOWN HALL

MINUTES

Present: Councillor Carden (Chair); Forester, Hamilton, Hyde, K Norman, Older, Paskins, Pennington (Deputy Chair), Smith, Tonks, Watkins and Wells.

Co-opted Members: Mrs J Turner, Disabled Access Advisory Group(DAAG); Mr J Small, Conservation Areas Advisory Group (CAAG)

PART ONE

138. PROCEDURAL BUSINESS

138A. Declarations of Substitutes

138.1 **Councillor** **for Councillor**

Smith

Mrs Theobald

138B. Declarations of Interest

138.2 There were none.

138C. Exclusion of Press and Public

138.3 The Sub-Committee considered whether the press and public should be excluded from the meeting during consideration of any items contained in the agenda, having regard to the nature of the business to be transacted and the nature of the proceedings and the likelihood as to whether, if members of the press and public were present, there would be disclosure to them of confidential or exempt information as defined in Section 100A(3) or 100 1 of the Local Government Act 1972.

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

138D Urgent Item – Applications BH2003/02820/FP, BH2003/02816/LB & BH2003/03098/AD – Tesco Stores, Palmeira House, 82 Western Road, Hove

138.5 The Chair advised that he had agreed to deal with a report relating to the above applications as an urgent item in order to facilitate enforcement action in respect of the works which had been carried out contrary to the extant Planning Permissions. This was taken up as Item 143A (see below)

139. MINUTES

139.1 Councillor Paskins referred to Paragraph 131.10 stating that the comments attributed to Councillor Watkins in the third sentence (line 7) should refer to the “setting the whole site” into the ground in order to mitigate its visual impact.

139.2 **RESOLVED** - That subject to the amendment set out above, the minutes of the meeting held on 14 January 2004 be approved and signed by the Chair as a correct record of the proceedings.

140. PETITIONS

140.1 No petitions were received.

141. UPDATE ON DECISIONS DELEGATED TO OFFICERS AT PREVIOUS MEETINGS

141.1 The Development Control Manager referred to the recently refused application in respect of Application BH2002/02533/FP, Land adjoining 10 New England Road and r/o 53 New England Street; and Application BH2003/02691/FP, Babylon Lounge, Kingsway, Hove which had been deferred to enable officers to negotiate further with the applicants in respect of various concerns and issues raised by Members. In both instances, further discussions had taken place and further meetings were to take place with the applicants within the next 10 days.

141.2 Reference was made to the recent decision by English Heritage not to provide finance for the restoration of the West Pier in the terms originally envisaged. It was noted however, that English Heritage was keen to promote a less ambitious project which would restore the Pier to its appearance circa 1866 and the partners and funding necessary for such a scheme were currently being explored. The period to September 2004 had been allowed by English Heritage to see whether or not it would be possible to put such a package together.

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

142. TO CONSIDER THOSE APPLICATIONS TO BE THE SUBJECT OF SITE VISITS

142.1 **RESOLVED** - That the following site visits be undertaken by the Sub-Committee prior to determining the applications:-

| <u>APPLICATION</u> | <u>SITE</u> | <u>SUGGESTED BY</u> |
|---|--|--------------------------------------|
| Implemented Site Visit BH2003/03717/FP | 1A Connaught Road 46 Crescent Drive South | Councillor Older Councillor Wells |

[***Note 1:** In answer to questions relative to the above, the Development Control Manager confirmed that given the level of objections received the application was likely to come before the Sub-Committee for a decision and would merit a prior site visit.]

[**NOTE 2:** Item 145 sets out a full list of future site visits.]

143A. Tesco Stores, Palmeira House, 82 Western Road, Hove

143A.1 By reason of the following circumstances the Chair of the Sub-Committee was of the view that this item should be considered at the meeting as a matter of urgency in order to facilitate the taking of enforcement action which was considered necessary.

143A.2 The special circumstances for non-compliance with Council Procedure Rule 19, Access to Information Rule 5 and Section 100B(4) of the 1972 Local Government Act as amended (items not to be considered unless the agenda is open to inspection at least 5 days in advance of the meeting) are that unauthorised works to a Listed Building were still taking place at the premises, the extent of which had not been fully ascertained at the time the agenda was despatched.

143A.3 The Sub-Committee considered a report of the Director of Environment setting out details of the unauthorised work that had been carried out at Palmeira House to create a new Tesco Supermarket (for copy see minute book).

143A.4 The Development Control Manager referred to the three applications which had been deferred at the meeting of the Sub-Committee on 14 January 2004, BH2003/02820/FP, BH2003/02816/LB and BH2003/03098/AD, following the receipt of revised plans indicating the proposed location of the cash room/office at the eastern end of the building which had been received the previous day and were considered

unsatisfactory. Notwithstanding that the applications had been deferred in order to enable further negotiations to take place with the applicants agents, these had not to date proved satisfactory and, unauthorised works had continued. It had also subsequently been discovered that a new suspended ceiling had been constructed, the shopfronts as installed were less deep than indicated on the submitted plans, as a result the fascias were deeper, this was to the visual detriment of the property, having regard to the scale and proportion of the building as a whole. Partitions to form the cash office had also been installed.

143A.5 The Development Control Manager referred to letters dated 2 and 4 February received from Alsop Verrill, a Town Planning and Development Consultancy who were acting for Tesco's; the letter dated 4 February was read out to Members. Councillor Watkins as Ward Councillor asked that copies be forwarded to him. It was noted that a representative on behalf of Tesco's was present in the public gallery. The Conservation Team Manager referred to the specific elements of the scheme which had been completed without the benefit of Planning Permission and which were in his view most detrimental to the appearance of the Grade II Listed Building.

143A.6 Members were in agreement that it would be appropriate to issue a Listed Building Notice in respect of the works indicated and, considered it totally unacceptable that Tesco's had continued to undertake works without the appropriate permissions being in place in order to meet their advertised opening date of 16 February. Given that Tesco were a large international company who were professionally advised Members considered that the manner in which they had dealt with these issues was disappointing. Councillor Watkins referred to the works carried out which were at variance to the very high standards to which the upper floor flats had been completed. Several Members referred to the bronze window frames originally in situ referring to their preference that these should be reinstated in place of the marine blue frames that had replaced them. The Conservation Team Manager responded that the view of Officers was that the other issues referred to and the addition of vinyl film displaying the Tesco logo which had been applied to the insides of the windows caused the greatest disruption to the visual symmetry and impact of the building. Councillor Older stated that she had first referred to the removal of the bronze windows a year previously and considered it likely they had been disposed of in the intervening period.

143A.7 Mr Small (CAAG) referred to similarities between this application and earlier works (by another developer) to the Royal Albion Hotel where there had been pressure for works to be completed quickly and where the site had been surrounded by hoardings. Only once these had been removed had the extent of unauthorised works become apparent, if it was possible to institute practical measures to prevent similar problems in relation of other similar sites in future, he was sure this could be beneficial.

The Development Control Manager agreed confirming that measures were being put into place for closer critical monitoring of sites where negotiations appeared to become protracted particularly if work appeared to have started on site. In answer to further questions it was clarified that a Listed Building Enforcement Notice could not prevent the store from opening on its advertised date but would ensure that the required works were subsequently carried out.

143A.8 Councillor Paskins proposed that a condition relating to the removal of vinyl films and reinstatement of the bronze coloured window frames be added, this was seconded by Councillor Norman and was subsequently agreed by the Sub-Committee.

143A.9 **RESOLVED** - That the following action be authorised in respect of the ground floor of Palmeira House:

- (1) Subject to the Head of Law being satisfied with the evidence, legal action be taken in respect of unauthorised alterations to a Grade II Listed Building; and
- (2) A Listed Building Enforcement Notice be issued in respect of the following works which have been carried out without the benefit of Listed Building Consent and which are considered to adversely affect the appearance and character of the building, namely:-
 - (i) the construction of an internal suspended ceiling to the shop;
 - (ii) the formation of internal partitions to create a cash office;
 - (iii) the insertion of enlarged fascias above the shop windows, and the consequential reduction in the size of the shop windows;
 - (iv) the construction of new entrance doors; and
 - (v) the new window frames and the vinyl film attached thereto.

143. PLANS LIST APPLICATIONS, 4 FEBRUARY 2004 (SEE MINUTE BOOK)

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

Application BH2002/00817/FP - 23 Coleridge Street/22-24 Shakespeare Street, Hove

143.1 It was noted that this application had been the subject of a site visit prior to the meeting.

143.2 The Planning Officer referred to requests which had been received that the architecture on both frontages should blend with the existing and that parking for the offices be off road, thus leaving space for residential parking, explaining that the residential terrace was of similar design to the existing. The proposed commercial façade would be of similar scale and massing to the existing terrace but would be of a more contemporary

design. No off street parking was proposed. This was previously proposed but had been subsequently deleted mainly in response to public objections to the loss of on street parking which would have resulted from the creation of the necessary cross over points. The scheme before the Sub-Committee had undergone various amendments in order to address concerns of local residents. Councillors Hyde and Wells stated that they would have preferred traditional style houses to both frontages but considered that overall the scheme was acceptable.

143.3 **RESOLVED** - That Planning Permission be granted by the Council subject to the conditions set out in the report.

Application BH2003/03692/FP – Land r/o Whichelo Place

143.4 It was noted that this application had been the subject of a site visit prior to the meeting.

143.5 Mr Ravenett spoke on behalf of objectors to the scheme and Mr Hughes spoke on behalf of the applicant.

143.6 The Planning Officer referred to various earlier applications which had been refused and to the most recent application for a bungalow (with a smaller footprint than that currently proposed), at the site which had been refused on the grounds of over development, overlooking and loss of privacy. A subsequent appeal against that refusal had been dismissed on appeal. The dismissed appeal was considered to be an important material planning consideration and should be taken into account when determining the current application. Although it had been indicated that the site would be partially excavated to achieve more uniform levels it was considered that the proposed development could not be accommodated on site without giving rise to the anticipated problems that had been supported by the appeal process. The recommendation was therefore for refusal.

143.7 Councillor Hyde considered that the concerns raised by the Inspector in dismissing the earlier appeal had now been addressed and referred to Policies HO13 and HO15 which supported the supply of suitable housing for those with disabilities, particularly fully accessible homes for those who were wheelchair bound. The proposed bungalow would represent a significant improvement on the existing site usage and the need to provide suitable accommodation (of which there was a shortage) to a vulnerable section of the Community in her view outweighed the Inspector's earlier concerns.

143.8 Mrs Turner (DAAG) considered that the proposal should be welcomed, particularly given that the applicant had indicated a

willingness to allow the Council to have nomination rights. As the property was to be set down within the site she did not consider that there would be undue overlooking of neighbouring properties. The provision of one dwelling would cause less disruption to neighbours than the current usage for car parking/sales. Mrs Turner reiterated her earlier comments regarding the apparent willingness of the applicant to enter into an appropriate agreement with the Council. There was a significant lack of suitable housing for the disabled across Brighton and Hove. It would be necessary for the proposed dwelling to have a larger floorplate in order to accommodate the spatial requirements for a wheelchair.

143.9 The Development Control Manager referred to the apparent current usage stating planning records did not confirm that there was any permitted use as a vehicle scrap yard. The permitted use was therefore disputed and should not therefore form part of Members' considerations. The application before them needed to be assessed on merit and not measured against the current use of the site.

143.10 Councillor Tonks stated that he considered the proposal represented a modest two bedroom development which would not be detrimental to the amenity of neighbouring properties as it was to be set down within the site and should be welcomed. Councillor Wells agreed considering the number of objections received to be small. Councillor Smith considered the application to be acceptable provided that its use as disabled accommodation and nomination rights to the Council could be conditioned as part of a Section 106 Obligation or other appropriate agreement.

143.11 **RESOLVED** - That Planning Permission be granted by the Council subject to the completion of a Section 106 Obligation to ensure that the constructed bungalow would be made available to a wheelchair user, that the Council's Housing Department would have nomination rights to the property and subject to conditions requiring submission and approval of materials and details relating to the provision of refuse storage facilities. A condition would also be imposed requiring the retention of the existing fence and the installation of a new fence around part of the site.

[**Note:** Councillor Smith proposed that Planning Permission be granted subject to the satisfactory completion of a Section 106 Obligation on the terms set out above. This was seconded by Councillor Tonks. On a vote Councillors Carden (Chair), Hamilton and Paskins voted that the application should be refused. Councillors Hyde, K Norman, Older, Smith, Tonks, Watkins and Wells voted that the application be granted. Councillors Forester and Pennington abstained. On a vote of 7 to 3 the application was granted.]

Application BH2003/01328/FP - 14 Ship Street

143.12 It was noted that this application had been the subject of a site visit prior to the meeting.

143.13 Ms Hix spoke as an objector to the scheme and Mr Heath, the applicant, spoke in support of his application.

143.14 In answer to Members' questions it was noted that whilst there had been problems of neighbourliness, due to noise disturbance in the past that these had been addressed latterly. Ms Hix confirmed that the proposals were acceptable provided the sound proofing and other works proposed were carried out in strict accordance with the submitted plans in order to avoid noise nuisance to neighbouring dwellings. Mr Heath indicated that it would be problematic for the works to be completed within the four month period proposed.

143.15 Councillors Norman and Watkins were of the view that if the works were carried out as specified that this would address residents' concerns regarding any potential noise nuisance. It was proposed that a period of six months be allowed for completion of the works, but that if the works were not satisfactorily completed within that extended timeframe that enforcement action should be taken. Councillor Watkins accepted this suggestion whilst stating that he would have preferred a four month period to be imposed.

143.16 **RESOLVED** - That the Council is minded to grant Planning Permission subject to the receipt of amended plans showing a satisfactory ventilation system for the conservatory and to the conditions set out in the report save that a period of six months rather than four be allowed for the works to be completed in their entirety.

Application BH2003/01329/LB - 14 Ship Street

143.17 **RESOLVED** - That the Council is minded to grant Listed Building Consent subject to the receipt of amended plans showing a satisfactory ventilation system for the conservatory and to the conditions set out in the report and to the amendment set out in Paragraph 143.16 set out above.

(ii) DECISIONS ON MINOR APPLICATIONS LIST DATED 4 FEBRUARY 2004

143.18 The recommendations of the Director of Environment were agreed with the exception of those reported in parts (iii) and (iv) below and items deferred for site visits as set out in the agenda items below and following the Plans List.

(iii) DECISIONS ON MINOR APPLICATIONS WHICH VARY FROM THE RECOMMENDATIONS OF THE DIRECTOR OF ENVIRONMENT AS SET OUT IN THE PLANS LIST (MINOR APPLICATIONS) DATED 4 FEBRUARY 2004

Application BH2003/03929/TA – 4 Applesham Avenue, Hangleton, Hove

143.19 The Planning Officer explained that based on the submitted drawings that it was recommended that prior approval was not required for the installation of three antennas within a GRP shroud at the ground based cabinets on an existing telecoms site.

143.20 Councillor Paskins requested information regarding where the beam of maximum intensity from the proposed masts would fall and the proximity of other masts to this location. Councillor Paskins stated that agreement had been given to provide this information and that to date this had not been forthcoming. The Planning Officer explained that the undertaking referred to had been given at a recent Members' training session, that this information was still being prepared and this and other applications before Members at this meeting had been received prior to that.

143.21 Several Members reiterated their concerns regarding health issues in relation to the siting and installation of masts and to a recent High Court ruling indicating that local authorities should take health considerations into account as a material factor when considering whether or not to grant planning permission for mast applications. Members also considered that there would be a loss of amenity due to the perception of increased health risks arising from this type of development. The Solicitor to the Sub-Committee confirmed her previous advice that whilst local authorities could consider risks to health/perceived risks to health as a material consideration, in this instance the proposed installation(s) conformed to ICNIRP public exposure guidelines. Therefore, according to Central Government Planning Policy Guidance Note 8 - Telecommunications – if such a compliance notice accompanied an application it was not necessary for local authorities to pursue health concerns further. Notwithstanding this the authority's Environmental Health Officer had considered the proposal, relevant legislation and advice and had concluded that no objection could be raised on grounds that the development could be prejudicial to health or a nuisance.

143.22 Some Members remained of the view that health concerns were a relevant issue for consideration and were in agreement that the development required approval by the local planning authority and that was unacceptable.

143.23 **RESOLVED** - That prior approval for installation of the proposed antennas at the above location be refused and that Planning Permission for the development is required on the grounds that the proposed mast would result in loss of amenity because of the perception of increased health risks associated with this type of development and lack of

information provided as to the proximity of residential dwellings, schools and places of employment. The proposal would therefore be contrary to policies BE20 of the Hove Borough Local Plan and policies QD23 and QD27 of the Brighton and Hove Local Plan Second Deposit Draft.

[**Note:** Councillor Tonks proposed that the development required prior approval and was unacceptable. Councillor Smith seconded this. A vote was taken and Councillors Carden (Chair), Forester, Hamilton and Pennington voted that prior approval not be required. Councillors Hyde, K Norman, Older, Smith, Tonks, Watkins and Wells voted that prior approval was required and that the proposal was unacceptable. Councillor Paskins abstained.]

Application BH2004/00047/FP - Christian Outreach Centre, North Street, Portslade

143.24 The Planning Officer referred to the application which was for the erection of three pole mounted antennas on the roof of the building stating that it was recommended that Planning Permission be granted subject to the conditions set out in the report.

143.25 Councillor Paskins reiterated her earlier concerns regarding the position and range of the beam of maximum intensity and the point at which this fell. Members expressed concern regarding the potential risks to health and following discussions Members agreed to defer consideration of the application pending receipt of information regarding the beam of maximum intensity, proximity to schools, business premises and residential housing. The Development Control Manager and Solicitor to the Council reiterated their earlier advice and the need for robust grounds for refusal to be given if ultimately the Sub-Committee were minded to refuse any mast application.

143.26 **RESOLVED** - That consideration of the application be deferred pending receipt of further information as set out in Paragraph 143.25 above.

[**Note:** Councillor Pennington requested that it be recorded that he had abstained from voting in respect of the above decision.]

(iv) OTHER APPLICATIONS

Application BH2003/03899/FP – 41 Juniper Close

143.27 In answer to questions, the Planning Officer explained that access from the corner of Juniper Close was considered acceptable as there was good visibility splays. No new vehicular access was proposed. In terms of outlook, given the distance from the proposed dwelling and neighbouring properties, it was not considered that the proposals would materially affect

the outlook currently enjoyed by occupiers of those properties. Councillor Older noted that the existing cherry tree which was in a poor condition would be replaced and hoped that officers would ensure that this was done.

143.28 **RESOLVED** - That Planning Permission be granted by the council subject to the conditions set out in the report.

Application BH2003/03654/FP - 37 Cranleigh Avenue, Rottingdean

143.29 **RESOLVED** - That Planning Permission be refused by the Council for the following reasons:

1. The proposed extension by virtue of its scale, bulk, mass and siting would appear excessively prominent and would detract from the character of the existing building and locality, contrary to ENV.3 and ENV.5 of the Brighton and Hove Local Plan Second Deposit Draft.
2. It is considered that the proposed extension will be overbearing on neighbouring properties at 39 Cranleigh Avenue and 41 Grand Crescent resulting in loss of amenity, contrary to policy QD27 of the Brighton and Hove Local Plan Second Deposit Draft and ENV.3 of the Borough Local Plan.

Informative :

1. There appears to be a discrepancy on the Ordnance Survey site plan, as to where the boundary line between properties lies and/or where the houses are situated on the plot compared to where they are depicted on the site plan.
2. This decision is based on Peter Overhill Ass. Drawing nos. 7653/02/03 submitted on 17 November 2003.

Application BH2003/03787/FP - 14 Highdown Road

143.30 The Planning Officer explained that the application was recommended for refusal on the grounds that it would be detrimental to the impact, character and design of the existing dwelling and surrounding streetscape and was contrary to ENV.3 and ENV.5 of The Brighton Borough Local Plan and QD2 QD14 of the Brighton and Hove Local Plan Second Deposit Draft and SPG BHI - Roof Alterations and Extensions. It was therefore recommended for refusal.

143.31 Mr Tugwell, the applicant, spoke in support of his application, referring to the attempts that had been made to create a loft conversion which was sympathetic to the area and, mirrored that of nearby properties. Reference was also made to letters of support from neighbours and to the fact that had works not been undertaken to a derelict garage at the application site prior to the current application that works could have been undertaken as permitted development.

143.32 Having considered the issues raised Members were of the view that it would be appropriate to defer consideration of the application pending a site visit.

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

Application BH2003/03659/FP - 1 The Old Church Hall, 15 Ditchling Rise

143.34 The Planning Officer explained that satisfactory revised drawings had been received and that the recommendation was therefore to grant Planning Permission subject to the condition set out in the report.

143.35 **RESOLVED** - That Planning Permission be granted by the Council subject to the condition set out in the report and to accompanying informative.

(v) TREES

143.36 Councillor Older stated that she had received notification from Councillor Giebeler regarding the removal of trees protected by TPO'S associated with building works taking place at 4 The Upper Drive. There appeared to be several anomalies in that a tree granted a TPO in July 2003 had been removed (with permission) in October 2003 and there appeared to be no record of a TPO protecting a Holly tree at the site. It was noted that the Council's Arboriculturist was dealing with this matter.

143.37 No applications in relation to felling of trees were placed before this meeting of the Sub-Committee and the decisions on tree works taken by the Director of Environment under Delegated Powers or in Implementation of a previous Committee decision were noted.

(vi) DECISIONS ON APPLICATIONS DELEGATED TO THE DIRECTOR OF ENVIRONMENT

143.38 **RESOLVED** - That the decisions of the Director of Environment, on other applications using her delegated powers be noted.

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

[**Note 2:** A list of the representations, received by the Council after the Plans List reports had been submitted for printing was circulated to Members (for copy see minute book). Representations received less than 24 hours before the meeting were not considered in accordance with resolutions 129.7 and 129.8 set out in the minutes of the meeting held on 16 January 2002.]

144. SITE VISITS

144.1 **RESOLVED** - That the following site visits be undertaken by the Sub-Committee prior to determining the applications:-

| <u>APPLICATION</u> | <u>SITE</u> | <u>SUGGESTED BY</u> |
|------------------------|-------------------------|---------------------|
| Implemented Site Visit | 1A Connaught Road | Councillor Older |
| | 46 Crescent Drive South | Councillor Wells |
| BH2003/03787/FP | 14 Highview Road | Councillor Hyde |

145. PROGRESS ON CURRENT APPEALS

145.1 The Development Control Manager circulated a sheet giving details of forthcoming planning inquiries or appeal hearings.

146. APPEAL DECISIONS

146.1 The Sub-Committee noted letters from the Planning Inspectorate advising on the results of Planning Appeals, which had been lodged as set out in the agenda.

147. APPEALS LODGED

147.1 The Sub-Committee noted the list of Planning Appeals, which had been lodged as set out in the agenda.

The meeting concluded at 4.45pm

Signed

Chair

Dated this

day of

2004