



**Brighton & Hove  
City Council**

# Planning Committee

Title:	<b>Planning Committee</b>
Date:	<b>20 August 2008</b>
Time:	<b>2.00pm</b>
Venue	<b>Council Chamber, Hove Town Hall</b>
Members:	<p><b>Councillors:</b>Hyde (Chairman), Wells (Deputy Chairman), Barnett, Carden, Davey, Hamilton, Kennedy, McCaffery, K Norman, Smart, Steedman and C Theobald</p> <p><b>Co-opted Members:</b> Mr J Small (CAG Representative) and Mr R Pennington (Brighton &amp; Hove Federation of Disabled People)</p>
Contact:	<p><b>Penny Jennings</b> Senior Democratic Services Officer 01273 291065 penny.jennings@brighton-hove.gov.uk</p>

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**AGENDA**

**60. PROCEDURAL BUSINESS**

- (a) Declaration of Substitutes - Where Councillors are unable to attend a meeting, a substitute Member from the same Political Group may attend, speak and vote in their place for that meeting.
- (b) Declarations of Interest by all Members present of any personal interests in matters on the agenda, the nature of any interest and whether the Members regard the interest as prejudicial under the terms of the Code of Conduct.
- (c) Exclusion of Press and Public - To consider whether, in view of the nature of the business to be transacted, or the nature of the proceedings, the press and public should be excluded from the meeting when any of the following items are under consideration.

*NOTE: Any item appearing in Part 2 of the Agenda states in its heading the category under which the information disclosed in the report is exempt from disclosure and therefore not available to the public.*

*A list and description of the exempt categories is available for public inspection at Brighton and Hove Town Halls.*

**61. MINUTES OF THE PREVIOUS MEETING**

**1 - 16**

Minutes of the meeting held on 30 July 2008 (copy attached).

**62. CHAIRMAN'S COMMUNICATIONS**

**63. PETITIONS**

To consider any petitions received.

**64. PUBLIC QUESTIONS**

(The closing date for receipt of public questions is 12 noon on 13 August 2008)

**65. DEPUTATIONS**

To consider any deputations received.

**66. WRITTEN QUESTIONS FROM COUNCILLORS**

To consider any written questions received.

## PLANNING COMMITTEE

### 67. LETTERS FROM COUNCILLORS

To consider any letters received from Councillors in addition to those appended to the Plans List.

### 68. NOTICES OF MOTION REFERRED FROM COUNCIL

To consider any Notices of Motion referred from Council.  
*Ward Affected: All Wards*

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

### 70. TO CONSIDER AND DETERMINE PLANNING APPLICATIONS ON THE PLANS LIST DATES 20 AUGUST 2008

(copy circulated separately).

### 71. DETERMINED APPLICATIONS - TO NOTE APPLICATIONS DETERMINED AS SET OUT IN THE PLANS LIST DATED 20 AUGUST 2008

(copy circulated separately).

### 72. APPLICATIONS TO BE THE SUBJECT OF SITE VISITS AND AGREED AS A RESULT OF CONSIDERATION OF APPLICATIONS ON THE PLANS LIST DATED 20 AUGUST 2008

### 73. APPEAL DECISIONS

17 - 18

(copy attached).

### 74. LIST OF NEW APPEALS LODGED WITH THE PLANNING INSPECTORATE

19 - 20

(copy attached).

### 75. INFORMATION ON INFORMAL HEARINGS/PUBLIC INQUIRIES

21 - 24

(copy attached).

To consider whether or not any of the above items and decisions thereon should remain exempt from disclosure to the press and public.

**Members are asked to note that officers will be available in the Council Chamber 30 minutes prior to the meeting if Members wish to consult the plans for any applications included in the Plans List.**

## PLANNING COMMITTEE

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

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Meeting papers can be provided, on request, in large print, in Braille, on audio tape or on disc, or translated into any other language as requested.

For further details and general enquiries about this meeting contact Penny Jennings, (01273 291065, email [penny.jennings@brighton-hove.gov.uk](mailto:penny.jennings@brighton-hove.gov.uk)) or email [democratic.services@brighton-hove.gov.uk](mailto:democratic.services@brighton-hove.gov.uk)

Date of Publication - Tuesday, 12 August 2008



### BRIGHTON & HOVE CITY COUNCIL

### PLANNING COMMITTEE

2.00pm 30 JULY 2008

COUNCIL CHAMBER, HOVE TOWN HALL

### MINUTES

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

**Co-opted Members** Mr J Small (CAG Representative) and Mr R Pennington (Brighton & Hove Federation of Disabled People)

### PART ONE

#### PRESENTATION: LASER MEASURING EQUIPMENT

Before proceeding to the formal business of the meeting a presentation was given by David Maltby of Maltby Land Surveyors demonstrating the practical and wide ranging applications of laser measuring equipment. Such equipment had been used recently when surveying the seafront bandstand prior to restoration works taking place. Following the presentation Members had the opportunity to ask questions.

#### 45. PROCEDURAL BUSINESS

45.1	<u>Councillor</u> Allen Simson	<u>For Councillor</u> Hamilton K Norman
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#### 45B. Declarations of Interest

45.2 Councillor Davey declared a personal and prejudicial interest relative to Application BH 2008/1054, Sackville Trading Estate. He had previously expressed a view relative to the proposed scheme and would therefore leave the meeting during consideration and would take no part in the discussion or decision making thereon.

#### 45C. Exclusion of Press and Public

45.3 The Committee considered whether the press and public should be excluded from the meeting during the 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.

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

**46. MINUTES OF THE PREVIOUS MEETING**

46.1 Councillor Kennedy stated that she rather than Councillor Steedman had proposed the site visit to 17 - 19 Oxford Street. Councillor Mrs Theobald stated that the comments attributed to her in Paragraph 41.10 had been made by another member. She had however made reference to the fact that in her view it would be appropriate to require a pedestrian crossing to be provided as part of any Section 106 Obligation entered into with the applicant.

46.2 Mr Small (CAG) requested that the second line of Paragraph 41.25 be amended as follows :

“ Notwithstanding that the elements of the scheme would be set back he was of the view that the proposed “tower” would be higher than the main entrance building and would be overly dominant of it”.

- 46.3 **RESOLVED** - That the minutes of the meeting held on 9 July 2008 be approved and signed by the Chairman subject to the amendments set out above.

**47. CHAIRMAN'S COMMUNICATIONS**

47. **RESOLVED** - That the position be noted in respect of all of the above.

**48. PETITIONS**

48.1 There were none.

**49. PUBLIC QUESTIONS**

49.1 There were none.

**50. DEPUTATIONS**

50.1 There were none.

**51. WRITTEN QUESTIONS FROM COUNCILLORS**

51.1 There were none.

**52. LETTERS FROM COUNCILLORS**

52.1 There were none.



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

53.1 There were none.

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

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

The following site visits were agreed as set out below: Those suggested by the development control Manager were likely to be on the agenda for 20 August 2008.

<b>APPLICATION</b>	<b>SITE</b>	<b>SUGGESTED BY</b>
BH2008/00565	Stanmer Park Access Road	Councillor Steedman
BH2008/01326	18 Bishops Road	Councillor Barnett
BH2007/04674	68 – 70 High Street	Councillor Mrs Theobald
BH2008/10569	Wellsborne Centre, Whitehawk Road	Development Control Manager

Councillor Steedman stated that he considered it would be beneficial and informative for members to visit the BRE Innovation Park at Watford. The Development Control Manager responded that this could be considered as part of the Member Development and Training Programme.

**55. PLANS LIST APPLICATIONS, 30 JULY 2008**

**(i) TREES**

55.1 There were none.

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

55.2 **Application BH2008/10554, Sackville Trading Estate, Sackville Road**– Demolition of existing buildings with construction of new comprehensive development providing a mix of uses focusing around a new public square, including : an A1 food store. A1 non-food retailing, associated A2 – A5 retailing, residential apartments, offices , underground car parking, associated infrastructure works including improved access, servicing and public realm improvements .

55.3 It was noted that the application had formed the subject of a site visit prior

to the meeting.

- 55.4 Ms Paynter spoke on behalf of objectors to the scheme, stating that notwithstanding that she considered the current scheme inappropriate and an overdevelopment, she also considered the current designation of the site for B1 use should be revisited in the light of current needs and shopping patterns and the fact that in reality the site no longer was an out of town location. Mr Holmes and Mr O'Callaghan spoke on behalf of the applicant in support of their application. It was their belief that the scheme was innovative and would provide a good mix of uses. They considered that the fundamental principles of the scheme were acceptable but that they would be happy for consideration of the application to be deferred in order for further discussions to take place with planning officers to amend some elements of the scheme.
- 55.5 Councillor Kennedy noted that the amenity areas relative to the social housing element within the scheme appeared to be segregated. It was explained that the scheme had been designed in that way at the behest of the potential social landlord. Councillor Steedman enquired regarding any measures which the applicants had taken / intended to take in order to improve permeability through the site. The applicants representatives explained that they had sought to purchase neighbouring properties in order to connect the site with other parts of the local road network and that these would be subject to further negotiations.
- 55.6 Councillor Mrs Theobald enquired whether discussions had taken place with the existing retailers on site regarding its future. It was explained that the leases currently held by existing retailers were due to be renewed in the near future. Following termination and completion of any new scheme they would have the opportunity enter into new lease arrangements for premises on the re developed site .
- 55.7 Councillor Barnett stated that she considered the proposal represented overdevelopment of the site and that the one access from Sackville Road was inadequate for the level of development proposed as was the level of amenity space proposed relative to the social housing on site. She also considered that it was unacceptable to segregate the amenity space in the manner suggested. Councillor Mrs Theobald considered that overall the scheme was too large, and would be overly dominant and would dwarf the neighbouring street scene. Councillor Carden concurred stating that he considered that the scheme would give rise to unacceptable levels of congestion to the adjacent road network. The only access / egress to the site would be from Sackville Road which was already very heavily trafficked . Councillors smart and Wells concurred that the scheme would be too large and would exacerbate existing congestion to the local road network.
- 55.8 Councillors Steedman and Kennedy considered that the lack of permeability through the site and the segregation of the various housing elements made the scheme unacceptable. Councillor Simson stated that she liked the design of the scheme and the mix of business/ residential uses proposed, although she had some concerns regarding the overall scale of the proposed

development.

- 55.9 In answer to questions regarding the proposed percentage for art relative to the scheme, the Development Control Manager explained that such monies were worked out in line with Council policy using an agreed formula. The form of the "art" to be provided was decided by a Panel and Local Ward Councillors were consulted in respect of this matter.
- 55.10 A vote was taken and on a vote of 9 for with 1 abstention planning permission was refused on the grounds set out below.
- 55.11 **RESOLVED** - That the Planning Committee having considered the above application considered that planning permission should be refused on the grounds that :

(1) The development by reason of scale, bulk, mix of uses and capacity of the site to accommodate the proposed development reliant on a single access point is considered to represent an overdevelopment of the site. The proposal is therefore contrary to policies TR1, QD1, QD2, QD3, QD27, HO3, HO4, HO5 and HO6 of the Brighton & Hove Local Plan ;

(2) The proposal would be contrary to policy EM3 of the Brighton & Hove Local Plan which seeks to restrict the loss of industrial / office uses unless it has been demonstrated that the use is no longer viable. Applicants are expected to demonstrate active marketing of the unit on competitive terms for a period of twelve months or more. No information has been submitted with the application to demonstrate the use of office space is no longer viable, particularly given the out of date information submitted. Furthermore, if a unit is demonstrated to be redundant , preference is given to alternative employment generating uses or affordable housing;

(3) The applicant has failed to demonstrate that the introduction of 5,488 a square metre food store to 5,155 square metres of retail floor space (with potential for approximately 3600 square metres of mezzanine space) would not have a detrimental impact on existing town and local centres in order to ensure that the vitality and viability is not compromised. The development is therefore considered contrary to PPS 6 and policies SR1 and SR2 of the Brighton & Hove Local Plan ;

(4) Policy SR12 of the Brighton & Hove Local Plan refers to large premises falling within A3 (restaurants and cafes) and A4 (pubs and bars) of the Use Classes order and states new cafes, restaurants, bars or public houses or extensions to such facilities with a total resultant public floor space in excess of 150 square metres will be permitted provided a) the premises would not be within 400m of another establishment falling into the above category ; b) the premises do not, or will not operate within , or abutting, premises containing residential accommodation except that occupied by staff of the premises; c) the use will not cause nuisance or an increase in disturbance to nearby residents by reason of noise from within the premises ; and d) the use is unlikely to result in increased levels of public order disturbance to nearby residents as a result of people leaving the premises late at night and dispersing to transport

and other destinations . No information has been submitted in order to allow an assessment ;

(5) The proposed development, by reason of its form , bulk, scale and positioning in the site and external appearance, would be out of keeping with surrounding development and represents an incongruous feature that fails to respect the context of its setting. The proposal is therefore contrary to policies QD1, QD2, QD3, QD5, HO3 and HO4 of the Brighton & Hove Local Plan ;

(6) Policy HO3 requires developments to incorporate a mix of dwelling types and sizes that reflects and responds to Brighton & Hove's housing need. The proposed mix of residential accommodation fails to provide a sufficient number of three bedroom units. The proposal therefore fails to provide an adequate standard of accommodation to the detriment of future occupiers and the City's housing stock ;

(7) The proposal would result in an unsatisfactory level of private amenity space which would be to the detriment of the living conditions of any future residents of the scheme and is contrary to policies HO5 and QD27 of the Brighton & Hove Local Plan ;

(8) Policy HO6 of the Brighton & Hove Local Plan requires the provision for outdoor recreation space . Where it is not practicable or appropriate for all or part of the space - requirement to be provided on site , contributions to their provision on a suitable alternative site may be acceptable. The proposed communal amenity space fails to provide children's equipped play space and adult / youth outdoor sports facilities . Furthermore, the quality of the space provided is also questioned, given the close proximity of the amenity space to neighbouring commercial units and the service area for the retail units and residential units and the communal amenity space to the north will be overshadowed by the proposed building structures. It would be appropriate and practicable for a proportion of the outdoor recreation space to be provided on site in this location. The proposal would thereby be contrary to the policy , to the detriment of the amenities of the future occupiers of the properties;

(9) Policy HO13 of the Brighton & Hove Local Plan requires new residential dwellings to be built to lifetime homes standards whereby the accommodation can be adapted to meet the needs of people with disabilities without major structural alterations. The scheme fails to incorporate lifetime home standards to the design of the flats and the scheme fails to provide an adequate number of wheelchair accessible flats and does not meet the required standards;

(10) the proposed development would by reason of its height, scale and positioning in close proximity to the north west boundary of the site lead to a significant overbearing effect and increased sense of enclosure to neighbouring properties to the detriment of the living conditions of existing occupiers. Furthermore, the development by reason of height and scale of the proposed blocks would have a detrimental impact on the amenity of future occupiers. The proposal would therefore be contrary to planning policies QD1, Qd2, and

QD27 of the Brighton & Hove Local Plan;

(11) the application proposes internal bathrooms throughout the development which would be reliant on artificial lighting and mechanical ventilation to an unacceptable level. The proposed development is therefore contrary to policy SU2 of the Brighton & Hove Local Plan and SPGBH16: Renewable Energy and Energy efficiency in New developments ;

(12) The applicant has failed to demonstrate that the proposed CHP plant would deliver a reduction of 29% in carbon emissions as suggested in the supporting documentation and will not have a detrimental impact on neighbouring amenity by reason of noise and disturbance. The proposal would therefore be contrary to planning policies SU2, SU10 and QD27 of the Brighton & Hove Local Plan ;

(13) A high proportion of the site falls into noise category C location for noise exposure. The applicant has failed to demonstrate that the proposed residential occupiers will not be unduly affected in terms of noise, disturbance and vibration from neighbouring industrial uses together with traffic from Old Shoreham Road and Sackville Road. It is thereby prohibiting a full assessment of the impact of neighbouring amenity and the applicants have failed to establish that the development is in accordance with policies QD27 and SU10 of the Brighton & Hove Local Plan;

(14) Policy TR1 of the Brighton & Hove Local Plan requires developments to provide for the demand for travel that is created. The level of parking provided fails to provide for the demands generated by the development and the accompanying Transport Assessment fails to consider the ability of public transport and cycling networks to accommodate the increased demand. The application is therefore contrary to planning policy TR1 of the Brighton & Hove Local Plan;

(15) the applicant has failed to demonstrate how the car parking, disabled car parking and cycle parking will be allocated to the proposed uses of the development. Furthermore, the spacing of cycle stands is not adequate. The proposal is therefore contrary to policies TR14., Tr18 and Tr19 of the Brighton & Hove Local Plan;

(16) The applicant has failed to establish whether the proposed traffic signal controlled junction and surrounding junctions can work effectively and maintain the free flow of traffic on a strategic route for the city. The application is therefore contrary to policy TR1 of the Brighton & Hove Local Plan;

(17) Policy TR16 of the Brighton & Hove Local Plan states that planning permission will only be granted for developments that will not affect the use of the railway sidings and coal depot adjacent to Hove Station, together with the road and rail access to them, because they have been identified as a potential site for the transfer of waste onto the railway system by policy WLP7 of the East Sussex and Brighton & Hove Waste Local Plan. Insufficient information has been submitted in support of the application to ensure the future protection of the allocated site to the south of the application site.

Informatives :

1. This decision is based on drawings submitted on 15 May 2008.(a list (a list would be provided on the Additional Representations List).

[**Note 1** : Having declared a personal and prejudicial interest in respect of the above application Councillor Davey left the meeting during its consideration and took no part in the discussion or voting thereon].

[**Note 2:** Councillor Simson abstained from voting in respect of the above application].

- 55.12 **ApplicationBH2008/00955,Woodingdean Business Park, Bexhill Road, Woodingdean** – Continuation of master plan, with construction of 6 light industrial (B1) units in two buildings and the provision of 30 parking spaces and associated landscaping.
- 55.13 There was a presentation from the Senior Planning Officer.It was noted that this application had formed the subject of a site visit prior to the meeting.
- 55.14 Councillors Kennedy and Steedman sought clarification regarding provision of acoustic screening and the requirements placed on the applicant in meeting such conditions. It was explained that the applicant would be required to provide full details and an independent assessment prior to occupation of an independent assessment prior to occupation of the development. They were of the view that the additional condition suggested by the officer in her presentation would be appropriate i.e. to add a condition to provide acoustic / visual screening between the boundaries of the site and 576 Falmer Road and 21 - 39 Sandhurst Road inclusive.
- 55.15 Councillors Simson and Wells welcomed the scheme which represented further development of the site. Councillor Simson referred to the existing acoustic screen that had been provided elsewhere in the development concurring with the views of Councillors Kennedy and Simson and stating that this had been very effective in preventing noise breakout from the site to neighbouring residential properties.
- 55.16 Mr Pennington (Brighton & Hove Federation of Disabled People) sought confirmation regarding provision of disabled parking spaces on the site. It was confirmed that such spaces would be available to any who were mobility impaired and was not solely for use by blue badge holders.
- 55.17 Councillor Steedman formally proposed that an additional condition be added requiring addition acoustic fencing to be provided, this was seconded by Councillor Kennedy and approved by Members of the Sub Committee.
- 55.18 A vote was taken and Members voted unanimously that planning permission be granted in the terms set out below.
- 55.19 **RESOLVED** - That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in Paragraph 8 of the report and subject

to a further condition to the effect that :

Notwithstanding the approved plans prior to commencement of development full details of boundary treatment shall be submitted to and approved in writing by the Local Planning Authority . The development shall be implemented in accordance with the approved plans and the boundary treatment shall be retained as such thereafter. Such details shall in particular provide for acoustic and visual screening between the boundaries of the site and 576 Falmer Road and 21 - 39 Sandhust Road inclusive .

**(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 30 JULY 2008**

- 55.20 **Application BH2008/01357, 17 - 19 Oxford Street, Brighton** – Change of use of ground and first floor from class A2 (finance and professional services) to class A3 (restaurant and café) and A4 (drinking establishment) with associated internal alterations and rear roof terrace.
- 55.21 There was a presentation from the senior Planning Officer. It was noted that this application had formed the subject of a site visit prior to the meeting .
- 55.22 Mr Merrington spoke on behalf of neighbouring objectors stating that the proposed use a café/ bar/ restaurant would operate from premises directly adjoining a terrace of residential dwelling houses. It was proposed that these premises would operate until 2.00am 7 days a week and it was considered that this would result in an unacceptable loss of amenity and noise disturbance which would be detrimental to the quality of life of those living in the neighbouring dwelling houses. There were children living in all of the neighbouring dwelling houses and six bedroom windows were located in close proximity to the proposed terrace at first floor level which would be in use until 10.00pm and as a smoking terrace thereafter.
- 55.23 Ms Badain spoke on behalf of the applicants in support of their application and explained that that the premises were intended to provide a high quality brasserie for use by local people and would display art work by local students. The crime rate within the area was relatively high and the current semi derelict condition of the building detracted from the area. Licensed door staff would be on employed at weekends and the applicant had worked closely with officers of the environmental health department to ensure that the premises would operate in a neighbourly manner and would not give rise to nuisance.
- 55.24 Councillor West spoke in his capacity as a Local Ward Councillor setting out his objections to the scheme, which he considered were completely unacceptable in such close proximity to domestic dwellings. He reiterated the concerns of local residents.
- 55.25 Councillor Kennedy queried whether it had been established that a suitable use within the existing use class could not be found this was suited to the sites location whereas it was arguable whether the proposed use would be.

- 55.26 Councillor Barnett queried the requirement for door supervisors at the premises at weekends, given the type of establishment proposed. It was explained that such staff would be employed in order to contain any potential for noise or other nuisance. Although permission had been sought of the licensing authority to operate until 2.00am it was not intended that the premises would be open until that Time every evening . In response to further questions it was also explained that the tables and chairs on the roof terrace would be moved inside the first floor restaurant at 10.00pm each evening and that thereafter the terrace would be used to accommodate those wishing to smoke (no more than four would be permitted at any time), The roof space was fully enclosed and an acoustic wall would be provided to that area.
- 55.27 Councillor Kennedy enquired whether the roof terrace would be covered . The Environmental Health Officer explained that it would not but that the applicant would be required to provide full details regarding the acoustic screen and other soundproofing arrangements to be applied to the party walls with the neighbouring residential properties prior to the premises opening for business. In response to a question of Councillor Mrs Theobald regarding the number of diners permitted to be seated at tables upstairs and throughout the establishment as a whole it was explained that a maximum of 30 diners could be served upstairs, although it was envisaged that the actual number would often be fewer than that. In answer to questions of Councillor Smart it was explained that in view of the use class for that part of the building alcohol could only be consumed at first floor level by those who were purchasing a meal. The ground floor would operate as a bar .
- 55.28 Councillor Barnett stated that when visited the site it had been apparent that the premises would abut well maintained family homes . in her view she did not consider that it would be possible to operate as suggested without detriment to the neighbouring residential properties . Given the close proximity of a number of bedroom windows these neighbours would effectively be prevented from opening their windows irrespective of the weather as in doing so they would be subject to noise and fumes from those smoking on the terrace. Councillors Smart, Mrs Theobald and Wells concurred in that view . They were also of the view that there appeared to be a lack of clarity regarding the use to which the first floor was actually to be put given that reference had been made to it both as a conference / meeting space and as a restaurant . It was not considered that the available space was such that it could be used for both .
- 55.29 Councillors Davey, Kennedy and Steedman were of the view that irrespective of whether or not an acoustic wall was to be provided there would inevitably be noise break out if the terrace was not covered. Four people using the terrace to smoke could still generate a significant level of noise late at night . Overall Members were of the view that the amenity of residents should be respected and that the proposal ultimately ran contrary to planning policy and should be rejected .
- 55.30 A vote was taken and on a vote of 7 to 1 with 3 abstentions planning permission was refused on the grounds set out below.



55.31 **RESOLVED** – That having taken into consideration the reasons for the recommendation set out in the report Members are resolved to refuse planning permission on the grounds that the rear roof terrace and use of the building as a late night drinking establishment would, by reason of noise disturbance, unduly impact on the living conditions and amenity of the residents and occupiers of the neighbouring properties and as such the proposal is contrary to policies SU9, Su10, QD2, QD27 and SR12 of the Brighton & Hove Local Plan 2005.

[ **Note 1** : A vote was taken and on a vote of 7 to 1 with 3 abstentions Members voted that planning permission be refused on the grounds set out above].

[ **Note 2** : Councillor Kennedy proposed that planning permission be refused . This was seconded by Councillor Davey . A recorded vote was then taken. Councillors Allen, Barnett, Davey, Kennedy, Smart, Steedman and Mrs Theobald voted that planning permission be refused. Councillor Simson voted that planning permission be granted. Councillors Hyde (The Chairman), Carden and Wells abstained . Therefore on a vote of 7 to 1 with 3 abstentions planning permission was refused on the grounds set out ].

#### **(iv) Other Applications**

55.32 **Application BH2007/01574, Hove Rugby Club, Hove Recreation Ground, Shirley Drive**, – Extensions to clubhouse to provide additional changing rooms, new clubroom and entrance porch .

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

55.34 Councillor Carden sought confirmation regarding the actual size of the hard standing around the clubhouse, that shown on the submitted plans appeared to be different from that indicated when the Development Control Manager had paced that area out during the course of the previous day's site visit. Councillor Steedman concurred that the actual area to be used for that purpose appeared to be significantly larger than that indicated by the plans . The Development Control Manager confirmed that there would need to be encroachment onto the existing hard standing area. It was agreed that Members would defer consideration of the application pending clarification of this matter .

55.35 **RESOLVED** - That consideration of the above application be deferred pending clarification regarding the actual change to and size of the hard standing around clubhouse.

55.36 **Application BH2008/00565, Stanmer Park Access Road, (off A270 Lewes Road), Brighton** – Upgrade and widening by up to 1 metre of Stanmer Park access road. To join with approved link road into Sussex University. This is an additional application to the approved Falmer Community Stadium application (ref : BH2001/02418).

- 55.37 Members considered that it would be beneficial to carry out a site visit prior to determining the above application.
- 55.38 **RESOLVED** - That consideration of the above application be deferred pending a site visit .
- 55.39 **Application BH2007/004483, R/o 63/ 65 Hove Park Road, Hove** - Demolition of existing garage and erection of single detached dwelling.
- 55.40 Councillor Mrs Theobald sought confirmation regarding the distance from the proposed dwelling house to the neighbouring property, regarding trees on site which were protected by tpo's and whether or not the frontage of the dwelling for which permission was sought respected the existing building line. The Planning officer explained that the space to the nearest dwelling was approximately five metres and that none of the existing on site trees were subject to tpo's. There would be a slight breach of the existing building line which was considered acceptable.
- 55.41 Councillor Mrs Theobald considered the proposal to be unacceptable in that the existing building line would not be respected , and as such would be detrimental to the prevailing street scene. She also objected to any diminution of the existing gardens forming the application site which would occur should planning permission be granted .
- 55.42 A vote was taken and on a vote of 10 to 1 planning permission was granted in the terms set out below.
- 55.43 **RESOLVED** - That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in Paragraph 8 of the report and resolves to grant planning permission subject to the Conditions and Informatives set out in the report.
- [**Note** : Councillor Mrs Theobald wished her name to be recorded as having voted that planning permission be refused .
- 55.44 **Application BH2008/01326, 18 Bishops Road, and Hove** - First floor extension and alterations to convert bungalow to two storey house (re submission).
- 55.45 Members considered that it would be beneficial to carry out a site visit prior to determining the above application.
- 55.46 **RESOLVED** - That consideration of the above application be deferred pending a site visit .
- 55.47 **Application BH2008/00939, Land on The Elms, The Green, Rottingdean** - Proposed new courtyard dwelling.
- 55.48 The Planning Officer gave a detailed presentation detailing the reasons refusal was recommended .

Mr Harris spoke as a neighbouring objector on behalf of objectors to the scheme and Rottingdean Parish Council . He stated that notwithstanding that the

grounds of The Elms were not open to the public they still formed part of Rudyard Kipling's original garden and as such their present form should be respected. It was considered that proposal would be detrimental to their setting, the setting of the listed building and to the surrounding conservation area. Mr Moore spoke on behalf of the applicant in support of their application. He explained that the proposals had received strong local support and would result in an attractive development which would meet all lifetime homes criteria to a very high standards. The development would only be visible from within the sites own boundaries.

55.49 Mr Small (CAG) reiterated the Group's objections stating that they objected to development of the site in principle bearing in mind its architectural and historical significance. Much of the original garden had been eroded over time and any further loss should be resisted. Councillor Kennedy stated that although in her view the scheme was sensitively it was inappropriate on the site proposed .

55.50 Councillor Wells considered the proposal to be unacceptable . if approved the scheme could set an unfortunate precedent which could make it difficult to resist further development taking place in the vicinity of this important site . Councillors Barnett and smart concurred in that view .

55.51 A vote was taken and Members voted unanimously that planning permission be refused on the grounds set out below .

55.52 **RESOLVED** - That the Committee has taken into consideration and agrees with the reasons for the recommendation hereunder and resolves to refuse planning permission for the following reasons:

(1) The proposal would result in a substantial loss of the green character of "The Elms" and historic original village green. It would intrude into the setting and views off the Kipling Gardens and the village green, detracting from the character and appearance of these important open spaces and this part of the Conservation Area, contrary to policies QD2, QD\$, Qd20 and HE6 of the Brighton & Hove Local Plan;

(2) if this proposal were permitted the Local Planning Authority would be likely to find it more difficult to resist similar proposals in the vicinity, the cumulative effect of which would be to significantly alter the historic form and layout of properties within the immediate locality to the serious detriment of the character of this part of the Conservation Area, contrary to policy HE6 of the Brighton & Hove Local Plan;

(3) The principle of developing a new dwelling in the original cartilage of "The Elms", which is considered to be of significant historical merit and prime importance to the setting of this Listed Building in its entirety, is considered to be inappropriate and unacceptable, and would result in harm to the setting of the Grade 11 Listed Building, contrary to policy HE3 of the Brighton & Hove Local Plan ;

(4) The proposed dwelling by virtue of its size and position would result in a

substantial loss of the historic cartilage and open garden setting of “The Elms” representing intrusion upon the views of and from the house, detracting from this Grade 11 Listed Building, contrary to policy HE3 of the Brighton & Hove Local Plan.

(5) Having regard to the existing built form and layout of the adjoining properties which comprise residential dwellings set within spacious plots, the proposed dwelling by way of its limited site area and close proximity to Kipling Cottage and the Elms would represent a form of development which would be out of keeping with the present character of the area and detrimental to the quality of amenity currently experienced by neighbouring properties as a result of enclosing the existing space between the buildings contrary to policies QD1, QD2 and QD27 of the Brighton & Hove Local Plan; and

(6) The applicant has failed to demonstrate that the proposed dwelling would incorporate measures to ensure a satisfactory level of sustainability and has failed to demonstrate that the development would meet a minimum BREEAM / Echomes rating of at least “very good”, or a Code for sustainable Homes rating of Level 3. As such the proposal is considered to be contrary to policy SU2 of the Brighton and Hove Local Plan.

Informative :

1. This decision is based on drawing nos.FW1/10.11.12,13B,14,15B,16B, 17B, 19B,20, 21B and 22, Design & access Statement and SAP & Environmental Impact Certificate all submitted on 14 March 2008.

55.53 **Application BH2008/00940, Land on The Elms, The Green, Rottingdean –** Proposed new courtyard dwelling on land at The Elms. .

55.54 A vote was taken and Members voted unanimously that listed building approval be refused on the grounds set out below.

55.55 **RESOLVED –** That the Committee has taken into consideration and agrees with the reasons set out hereunder and resolves to refuse listed building consent, for the following reasons :

(1) The principle of developing a new dwelling on the original cartilage of “The Elms”, which is considered to be of significant historical merit and prime importance to the setting of this Listed Building in its entirety, is considered to be an unacceptable form of development resulting in harm to the setting of the Grade II Listed Building, contrary to policy HE3 of the Brighton & Hove Local Plan;

(2) The Proposed dwelling by virtue of its size and position would result in a substantial loss of the historic cartilage and open garden setting of “The Elms” representing an intrusion in the views of and from the house, detracting from the setting of the Grade II Listed Building, contrary to policy HE3 of the Brighton & Hove Local Plan ; and

(3) Insufficient information has been submitted by the applicant , in the form of

a method statement for the retention and protection during and after works, of the listed flint wall on the northern and eastern boundary of the application site. Therefore, the applicant has failed to demonstrate that the proposal would not result in harm to the structural integrity of this wall and would not harm its character, appearance and architectural and historic interest, contrary to policy HE1 of the Brighton & Hove Local Plan.

Informative :

1. This decision is based on drawing no. W1 /10, 11, 12, 13B, 14, 15B, 16B, 17B, 18B, 19B, 20, 21B and 22. Design & Access Statement , and SAP & Environmental Impact Certificate all submitted on 14 March 2008 .

55.56 **Application BH2007/04674, 68 - 70 High Street, Rottingdean** – Redevelopment of site to provide 9 three bedroom town houses with integral garages, built in 2 blocks, with accommodation on four floors (Amendment to previously approved scheme BH2007/00617 omitting the 4 visitor parking spaces)

55.57 Members considered that it would be beneficial to carry out a site visit prior to determining the above application .

55.58 **RESOLVED** - That the above application be deferred pending a site visit.

55.59 **(v) DECISIONS ON APPLICATIONS DELEGATED TO THE DIRECTOR OF ENVIRONMENT**

55.60 **RESOLVED** – Those details of the applications determined by the Director of Environment under 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 the legislative requirements].

[**Note 2 :** A list of representations, received by the Council after the Plans List reports had been submitted for printing had been circulated to Members on the Friday preceding the meeting. (For copy see minute book). Where representations were received after that time they would be reported to the Chairman and Deputy Chairman and it would be at their discretion whether these should (in exceptional cases), be reported to the Committee. This in accordance with resolution 147.2 of the then, Sub Committee held on 23 February 2005].

**56. SITE VISITS**

56.1 The following site visits were agreed:

<b>APPLICATION</b>	<b>SITE</b>	<b>SUGGESTED BY</b>
BH2008/00565	Stanmer Park Access Road	Councillor Steedman
BH2008/01326	18 Bishops Road	Councillor Barnett

BH2007/04674 68 – 70 High Street, Councillor Mrs Theobald  
Rottingdean

BH2008/10569 Wellsborne Centre, Development Control Manager  
Whitehawk Road

Councillor Steedman requested that consideration be given to arranging a Members visit to the BRE innovation Park at Watford as he considered that this would be interesting and informative. The Development Control Manager stated that this could be considered as an item for the Member Development Programme.

**57. APPEAL DECISIONS**

57.1 The Committee noted letters received from the Planning Inspectorate advising on the results of planning appeals which had been lodged as set out on the agenda.

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

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

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

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

The meeting concluded at 6.00pm

Signed

Chair

Dated this

day of

**APPEAL DECISIONS**

	<b>Page</b>
<b>A. SOUTH PORTSLADE WARD</b>	
Application BH2007/01172, 7 Symbister Road, Portslade. Appeal against refusal to grant planning permission for demolition of the existing building containing a mixed use comprising a business unit (Class B1) and 9 one bedroom apartments. <b>APPEAL DISMISSED</b> (copy of the letter from the Planning Inspectorate attached).	<b>21</b>
<b>B. CENTRAL HOVE WARD</b>	
Application (A) BH2007/02201, 4 - 6 Vallance Road, Hove. Appeal against refusal to grant planning permission for a single residential unit – 2 floors, part in ground. <b>APPEAL DISMISSED</b> (copy of the letter from the Planning Inspectorate attached).	<b>27</b>
<b>C. REGENCY WARD</b>	
Applications (A) BH2007/03924, and (B) BH2007/04175, 46 - 48 King's Road, Brighton. Appeal against refusal to grant permission for a shroud incorporating an externally illuminated open weave mesh advertisement display (A) <b>APPEAL DISMISSED</b> but alternative proposal <b>APPEAL ALLOWED</b> . (B) <b>APPEAL DISMISSED</b> (copy of the letter from the Planning Inspectorate attached).	<b>33</b>
<b>D. PRESTON PARK WARD</b>	
Application BH2007/02477, Land R/o 22 Florence Road, Brighton. Appeal against refusal to grant planning permission for construction of a two storey three bedroom house. <b>APPEAL DISMISSED</b> (copy of the letter from the Planning Inspectorate attached).	<b>39</b>
<b>E. ST. PETER'S AND NORTH LAINE WARD</b>	
Application BH2007/01607, 45 – 47 Cheapside, Brighton. Appeal against refusal to grant planning permission for an extension of two additional storeys to the existing block to create 5 additional two bedroom flats and 1 additional one bedroom flat. Also, upgrading of existing block by re cladding and replacing doors and windows. <b>APPEAL DISMISSED</b> (copy of the letter from the Planning Inspectorate attached).	<b>41</b>

## F. REGENCY WARD

Application BH2007/02759, 6 Pool Valley, Brighton. Appeal against refusal to grant planning permission to make modifications to an existing shop front to provide a separate entrance to the flat above. **APPEAL DISMISSED** (copy of the letter from the Planning Inspectorate attached). **43**



South Portslade Ward Item 73(A)



## Appeal Decision

Hearing and site visit held on 14 May 2008

by **M F Aldous** BA (Hons), Dip Mgt, MRTPI

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

20 JUN 2008

The Planning Inspectorate  
4/11 Eagle Wing  
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Decision date:  
18 June 2008

**Appeal Ref: APP/Q1445/A/07/2061105**

**7 Symbister Road, Portslade, Brighton BN41 1GP.**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
- The appeal is made by Kingsbury Estate Ltd against Brighton & Hove City Council.
- The application Ref BH2007/01172, is dated 21 March 2007.
- The development proposed is the demolition of the existing building and redevelopment to provide a part 2.5 storey building and part 4 storey building containing a mixed use comprising a business unit (class B1) and 9 one bedroom apartments.

### Application for costs

1. At the Hearing an application for costs was made by the Appellant against the Council. This application is the subject of a separate Decision.

### Procedural matter

2. Although the Council is not the decision maker in this case, it did indicate the reasons for refusal upon which it would have been reliant had that not been the case. I have of course given full consideration to these in formulating the main issues and in my determination of the appeal.

### Decision

3. I dismiss the appeal.

### Main issues

4. I consider the main issues in this case to be:
  - i) Whether the proposal is consistent with the adopted development plan with regard to the safeguarding of employment land, or the re-use of such land should it be proven to be redundant for that purpose;
  - ii) The effect of the proposal on the character and appearance of the surrounding area; and
  - iii) Whether the proposal would provide for satisfactory living conditions for future occupants with particular regard to living space, amenity space and Lifetime Homes Standards.

## **Reasons**

5. The appeal site is covered by an old, and rather complex building, previously used for employment purposes (mainly storage), but unused for some time. At the time of my site visit the building, which contains accommodation on two levels, was empty and disused. It occupies what might be described as a backstreet location, within what is now a primarily residential area, but close to the centre of Portslade which offers a range of shopping, public transport and other services. The location therefore has good sustainability credentials.
6. The adjoining site to the east has recently been redeveloped from its former employment use, and now provides for flatted accommodation as well as providing a range of modern B1 type business units, most of which are occupied or have been let. To the west, the site directly abuts a row of modest terraced houses, and there are similar properties within Franklin Road to the rear.

## **Safeguarding Employment Land**

7. The site has an established industrial use, probably B8 in nature. However, the premises are old and rather outdated for modern business purposes. In places they are somewhat dilapidated, and there is also internal evidence of water penetration and other problems. The Appellant tabled the results of a thorough structural survey which catalogued these issues and provided financial estimates of the cost of rectifying such deficiencies. I have no reason to consider these to be unreasonable estimates.
8. The Appellant argues that the site has been actively marketed for continued business use for some time but with little interest and no offers. They suggest that the building has outlived its useful lifetime for business use, and given the limitations of its location, design, fabric, layout, facilities and lack of car parking it is highly unlikely to attract a new business occupier. They also point to the significant change that has occurred to the east, and the nature of the mixed form of redevelopment on that site, which appears to have been successful.
9. Notwithstanding the nature of the Council's concerns about the nature of the marketing campaign undertaken by the Appellant, and the absence in its view of sufficient information to support the conclusions reached by them, I broadly endorse the Appellant's judgement that the building in its current form is ill suited to attract a new occupier without a very significant, and perhaps improbable, injection of investment.
10. The proposal seeks a mixed form of redevelopment which retains a ground floor B1 employment unit of about 166 square metres net floorspace, together with nine small one bedroom apartments arranged over four floors. However, the proportion of the site retained for employment usage is well below that which currently exists, amounting to about a three quarters reduction. This is well below Council aspirations for what is a reasonably sized and long established employment site. The Council seeks its retention in line with its strategic desire to retain employment land, of which there is a shortage in the city, in order to support local economic objectives.
11. Policy EM3 of the Brighton & Hove Local Plan (local plan) is of direct relevance in this case. It seeks to retain industrial land unless it has been assessed and

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found to be unsuitable for modern employment needs. As indicated above, I share the Appellant's view that in its current form the building is essentially unattractive for this purpose. However, that does not mean that the site could not be used for a more modern form of employment redevelopment of a B1 kind, which could co-exist quite happily with the adjoining residential uses. There is local evidence on the adjoining site that there is a demand for modern B1 units at this location.

12. The Appellant indicated informally at the hearing that this was considered to represent an uneconomic scenario. However, no substantive information or conclusive financial assessment was presented to support this view. Neither had the Appellant appeared to give any detailed consideration to other Council preferences as set out within policy EM3 for the provision of either live / work units or affordable housing.
13. The Appellant pointed out that affordable housing requirements usually relate to sites with a housing capacity of ten or more units, and that only nine units were proposed under this scheme. However, under an affordable housing redevelopment the site is well capable of accommodating considerably more than the minimum ten units set out under policy HO2.
14. In my view these represent inherent and serious defects with the proposal before me. In the absence of convincing argument or evidence that a complete employment redevelopment or the alternatives set out within policy EM3 are unrealistic or uneconomic, the current proposal, which seeks to retain only a very modest form of employment usage, must be held to be inconsistent with the recently adopted local plan.

***Character and Appearance***

15. The Council had some reservations about the proposed design of the replacement buildings. These appeared to mostly relate to the proposed roof form on the road frontage. The appeal site is sandwiched between a traditional terrace of small houses and a very new and much larger modern block of flats.
16. There is no dissent that in their current form the buildings are visually unattractive and deteriorating, representing a negative component within the street scene. This is given enhanced prominence by the fact that the building is set well forward within the site close to the public highway.
17. The proposed replacement would set the new building back to respect the general building line. This is an improvement. In addition, the new building would have a varied roofline to producing a transition between the flanking buildings, setting the lower part adjacent to the terraced housing to avoid undue over dominance. The fenestration proportions and disposition would also respect the nature of the detailing found on the houses to the west.
18. The roof detailing and openings sizes and design on the larger part of the building would pick up on the design influence of the modern building to the east. The whole frontage would be varied and respectful of the scale of adjoining buildings, and in my view would create an interesting and pleasing variation that would enhance the visual qualities of this part of the road.

19. This arrangement would be further enhanced by the use of differing materials of external construction, control over which could be exerted by appropriate condition. Overall, I consider the proposal to represent good external design that would represent a significant improvement over the existing situation. As such I consider it to be in accordance with the requirements of policies QD1 and QD2 of the local plan.

***Living Space, amenity open space and Lifetime Homes Standards***

20. These issues also represent significant concerns of the Council. The proposed units are very small at about 47 square metres overall, containing one bedroom and a combined kitchen, dining and living room area. All units are essentially the same. The Council indicated that it looks for a minimum of around 51 square metres, although it conceded that this is not a firm standard or one contained within the adopted local plan. Within the new development to the east it is estimated that the smallest units have around 53 square metres of habitable accommodation.
21. However, I have no doubt that there is a market for small residential units of this kind, although given the severe limitations on space I have reservations about their ability to meet, or be capable of meeting, all of the Council's Lifetime Homes Standards as set out in its Planning Advice Note PAN 03. In this regard I share the Council's concerns.
22. Furthermore, policy HO3 of the local plan requires that new residential development incorporates a mixture of unit types. The proposal before me fails to achieve this requirement. The proposal is not designed to meet the needs of persons with special accommodation needs and neither is the site so limited in terms of its size or location to justify an exception to this policy requirement. The proposal does not meet the needs of policy HO3.
23. I also consider the external amenity space provision to be poor in both quantitative and qualitative terms. The proposed area would be very small and directly overlooked at close quarters by the bedroom window to proposed unit 1 on the ground floor, and by a range of windows to various habitable rooms at upper levels. Given the severe limitations on the space made available, and the juxtaposition of amenity space with habitable rooms within the building, I do not consider that these defects could be overcome by either landscaping or more formal enclosure arrangements. No flats would have balconies which might in part overcome these limitations.
24. Given these facts I conclude that the amenity area shown on the plans would represent an inadequate, unattractive and insufficiently private space for informal recreation by future occupants, and as such does not meet the requirements of adopted local plan policy HO5. The Appellant drew my attention to a nearby park, but I formed the view that this was not very conveniently located in relation to the site, and would certainly not overcome the desire for casual outside relaxation that might be needed by future occupants in periods of clement weather, from the confines of their limited internal accommodation.



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### Other Matters

25. The neighbour at number 6 Symbister Road has some misgivings about the impact of the redevelopment on her property. This is quite understandable given the physical relationship between the two sites and the very substantial walling which separates them, which would need to be removed.
26. However, providing normal good demolition and building practice was adhered to during what would be an inevitably uncomfortable period for the adjoining neighbours, I do not consider that there would be any long term adverse impact. Indeed, the substitution of a primarily residential redevelopment for a long established B8 use, which could potentially be resurrected at any time, must be seen as a probable improvement to local living conditions in the longer term.
27. The nature of the replacement walling between the appeal site and number 6, which is a sensitive issue, could be agreed and implemented by employing a suitable planning condition.
28. Other neighbours to the rear of the site expressed some concerns about privacy and overlooking. However, the position of the rear elevation of the proposed housing in relation to housing in Franklin Road would reflect the existing relationship in terms of distance. I acknowledge that the proposed flats would be taller than the two storey terraced properties within Symbister Road, but I do not consider that the net effect would be to cause loss of amenity to existing residents such as to justify resistance to the proposal in these terms. I note that this view is shared by the Council.
29. Some reservations were also expressed about the level of car parking proposed. At present the building has no real off road car parking. The proposal makes provision for four off street spaces, given the proposed set back arrangements for the replacement building. Some of this would need to relate to the proposed B1 unit.
30. Whilst off street provision is modest, there is no objection from the Council in this regard. Given the locational characteristics of the site, close to a range of public transport and other services, and also in light of the very small nature of the flats proposed, the arrangements proposed are, I consider acceptable, and in line with contemporary planning policy which is designed to reduce the overall level of movements by car. The proposal also makes provision for a secure bicycle store in line with policy TR14, which should also assist in this regard.

### Conclusions

31. Although I have not found against this proposal in terms of its effect upon the character and appearance of the surrounding area, I consider it to be inconsistent with the adopted development plan with regard to the retention or reuse of employment land. In my view this is the definitive issue in this case. I have also identified deficiencies arising from the lack of housing mix, inadequate internal space and external communal amenity space, which indicate a degree of overdevelopment under this proposal and add further weight to the view that in its current form it is unacceptable. For the reasons

set out above, and having had full regard to all other matters raised, I therefore conclude that this appeal should not succeed.

*Michael Aldous*

INSPECTOR



## Appeal Decision

Site visit made on 26 March 2008

by **B D Bagot** BA(Arch) MCP MRTPI

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

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Decision date:  
8 May 2008

**Appeal Ref: APP/Q1445/A/07/2059018**

**4-6 Vallance Road, Hove, East Sussex (rear of 60 St Aubyns)**

- The appeal is made under Section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by HR Investments against the decision of the Brighton & Hove City Council.
- The application, Ref: BH2007/02201 dated 5 June 2007, was refused by notice dated 16 August 2007.
- The development proposed is a single residential unit – 2 floors part in ground.

### Decision

1. The appeal is allowed and planning permission granted for a single residential unit – 2 floors part in ground – on land at 4-6 Vallance Road, Hove, East Sussex (rear of 60 St Aubyns), in accordance with the terms of the application No BH2007/02201 dated 5 June 2007 and the plans submitted therewith, subject to the conditions set out in the attached schedule.

### Main Issue

2. The main issues are whether the proposed dwelling would preserve or enhance the character or appearance of the conservation area, and whether there would be sufficient amenity space both for the adjoining dwellings at 60 St Aubyns Road, and for the proposed dwelling.

### Reasons

3. The appeal site is an area of land on the south-east side of a bend in Vallance Road. The greater part of the site was formerly part of the rear garden of the end of terrace house at 60 St Aubyns Road, and a small part of the front garden of 4 Vallance Road is also included. The site is within the Old Hove Conservation Area, which extends to the north and south and mainly includes late C19 housing, together with some earlier and later development.
4. The proposed dwelling would be flat roofed and would have a split cross-section, with a single storey section on the frontage facing towards Vallance Road, and a 2 storey section at the rear that would be excavated into the ground. It would represent an ingenious and original design, making good use of the limited size of the site, and not resulting in any overlooking, overshadowing or loss of privacy for adjoining or nearby occupiers.
5. The style of the proposal would be different from that of the surrounding development, which is largely of 2 storey inter-war villas in Vallance Road, and taller classically proportioned terraces in St Aubyns Road and in Church Road to the north. However the imitation of earlier styles is generally discouraged, both by policy QD1 of the Brighton and Hove Local Plan adopted

in 2005, and by government advice regarding new buildings in conservation areas, in Planning Policy Guidance Note 15, Planning and the Historic Environment. The immediate surroundings of the site do not feature such a distinctive historic style of architecture that the replication of an existing style or pastiche design might be justified under the terms of the local plan policy. The architectural style of the proposed design is not an overriding reason for refusing planning permission.

6. The front of the dwelling would follow the stepped building line of existing structures between 4 and 6 Vallance Road, and its height would represent a stepping down from the single storey side extension to 4 Vallance Road towards the garages to the south. The dwelling would have a rendered finish like some other buildings in the vicinity, and its simple lines would act as a foil for the more ornate character of nearby older houses. It would not appear alien or out of keeping with the scale of the neighbouring houses, but would fit in well with the context of the site. The circumstances of this site seem to me quite different from those at 46 Highdown Road, Hove, to which the Council have referred. The proposed dwelling would not be harmful to the character or appearance of the conservation area as a whole.
  7. The amount of amenity space available for the occupiers of the dwelling would consist of a grass and patio area at the front, an internal courtyard and a patio at the rear of the site. The overall area would amount to 53 square metres, which would compare favourably with an area of 49 square metres that was considered adequate for a 2 bedroomed house in the case of another appeal decision concerning land in Brighton. The combined site coverage of the proposed house and the existing building at 60 St Aubyns Road would not be excessive in relation to the intensity of development in the locality.
  8. Because the appeal site is in separate ownership, it is not available for the use of the occupiers of the flats at 60 St Aubyns Road. However the amount of amenity space remaining for those occupiers is similar to that at other properties in the terrace, at Nos 64 to 68, where there is a garden wall separating those properties from adjoining properties in Vallance Road. That wall is on the same line as the close-boarded fence forming the south-east boundary of the appeal site with 60 St Aubyns Road. There is no evidence that if this appeal were dismissed, the land would effectively be put to use as additional garden land for the occupiers of 60 St Aubyns Road (see *Secretary of State for the Environment v British Waterways Board* [1985] AC 676). This case also differs from that at 202-204 Preston Road, Brighton, where the proposed development site was in same ownership as that of the main house at the time of the application.
  9. The greater part of the site is at present unused, and it is said to attract wildlife, including foxes. There is no access from the street, and the site provides no more than an incidental green space in the appearance of the surrounding area. Because of its low height, the proposed dwelling would maintain the general appearance of an open gap between the adjoining dwellings in Vallance Road. The implementation of a planting scheme for the front part of the site, including a new tree to replace the existing sycamore tree, would restore the contribution to the area made by the existing greenery on the site.
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10. No car parking would be provided on the site, but it has good access to public transport and local services, and is within a car parking zone where there are on-street parking controls. According to the appellants, there is no waiting list for residents' parking permits in the car parking zone, and the demand for on-street parking can be met in the area. The development would conform to local plan policy HO7 regarding car free housing.
11. The design of the proposed dwelling would be of a high standard, as required by policy QD1 of the local plan, and it would not conflict with the objective expressed in policy QD2 that all new developments should emphasise and enhance the positive qualities of the local neighbourhood. The proposal would make efficient and effective use of vacant land in accordance with policy QD3 and government objectives in Planning Policy Guidance Note 3, Housing. The intensity of development would be appropriate to the locality. Adequate amenity space would be provided, as required under policy HO5 of the local plan, and the dwelling would not appear cramped on its site. The proposal would preserve the overall character and appearance of the conservation area, and would be in accordance with policy HE6.
12. I conclude that the proposed dwelling would preserve the character and appearance of the conservation area, and that there would be sufficient amenity space both for the adjoining dwellings at 60 St Aubyns Road, and for the proposed dwelling.
13. I have considered the conditions suggested by the Council if the appeal is to be allowed and planning permission granted. It is reasonable to require the submission and approval, before the development is begun, of the colour of the proposed external rendering, and of a landscaping scheme for the front of the site (including a replacement tree). Conditions to require compliance with local plan policies regarding lifetime homes standards, efficiency in the use of energy, water and materials, and the minimisation of construction waste, may also reasonably be imposed. The provision of refuse and recycling facilities and cycle storage on the site is necessary before the dwelling is first occupied.
14. Because of the need to preserve the attractive appearance of the conservation area, it is reasonable to prevent the fixing of cables, wires, and other paraphernalia to the elevation of the building facing towards Vallance Road. The compact nature of the site and the proposed dwelling, and its proximity to other nearby dwellings, amount to exceptional reasons to justify the Council seeking to control further enlargement of the dwelling and the insertion of additional exterior windows or rooflights, that might otherwise be permitted under the terms of the Town and Country Planning (General Permitted Development) Order 1995 as amended.
15. I note that the appellants have completed an agreement with the Council regarding a contribution towards the Sustainable Transport Strategy and payment to amend the relevant Traffic Regulation Order to ensure that the development remains car free.

*Brian Bagot*

INSPECTOR

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### **Schedule of Conditions**

- (1) The development hereby permitted shall be begun before the expiration of 3 years from the date of this decision.
- (2) No development shall take place until details of the colour of the rendering to be used in the construction of the external surfaces of the development hereby permitted has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- (3) No development shall take place until there has been submitted to and approved by the local planning authority a scheme of landscaping for the front part of the site facing towards Vallance Road, which shall include details of a tree to replace the existing sycamore tree on the site.
- (4) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building or the completion of the development, whichever is the sooner. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written consent to any variation.
- (5) No development shall take place until details to show how the proposed dwelling can be adapted to meet the needs of people with disabilities without major structural alterations have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- (6) No development shall take place until details to demonstrate that a high standard of efficiency in the use of energy, water and materials, equivalent to an EcHomes rating of "Very Good" or higher or a Code for Sustainable Homes rating of "Level 3" or higher, will be used in the construction and use of the dwelling hereby permitted. Development shall be carried out in accordance with the approved details.
- (7) No development shall take place until a written statement showing how demolition and construction waste will be recovered and reused on site or at other sites has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved statement.
- (8) The dwelling hereby permitted shall not be occupied until the refuse and recycling storage and cycle parking facilities shown on the approved plans have been provided and made available for use. Those facilities shall thereafter be retained for use.
- (9) No cables, wires, aerials, pipework, meter boxes or flues shall be fixed to the elevation of the building facing towards Vallance Road.
- (10) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting

that Order with or without modification), no extension, enlargement or other external alteration shall be made to the building, and no windows, dormer windows or rooflights shall be constructed in the external walls or roofs other than those expressly authorised by this permission.

*Brian Bagot*

INSPECTOR





## Appeal Decision

Hearing held on 3 June 2008  
Site visit made on 3 June 2008

by David Leeming

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

The Planning Inspectorate  
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Decision date:

16 JUN 2008

### Appeal Ref: APP/Q1445/H/08/1202639

#### 46-48 Kings Road, Brighton East Sussex BN1 1NA (Appeal A)

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent.
- The appeal is made by blowUP media UK Ltd against the decision of Brighton & Hove City Council.
- The application Ref BH2007/03924, dated 16 October 2007, was refused by notice dated 13 December 2007.
- The proposal is for a shroud incorporating an externally illuminated open weave mesh advertisement display.

### Appeal Ref: APP/Q1445/H/08/1202640

#### 39 Kings Road, Brighton East Sussex BN1 1NA (Appeal B)

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent.
- The appeal is made by blowUP media UK Ltd against the decision of Brighton & Hove City Council.
- The application Ref BH2007/04175, dated 7 November 2007, was refused by notice dated 3 January 2008.
- The proposal is for a shroud incorporating an externally illuminated open weave mesh advertisement display.

### Decision (Appeal A)

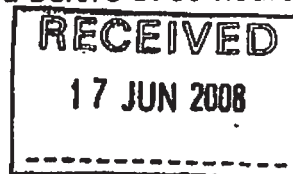
1. I dismiss the appeal in so far as it relates to the original proposal for a shroud incorporating an advertisement display measuring 10m by 10m. I allow the appeal in respect of the alternative proposal, and grant express consent for a shroud incorporating an externally illuminated open weave mesh advertisement display measuring 8m by 8m. The consent is for 6 months commencing on 6 October 2008 and is subject to the five standard conditions set out in the Regulations and the following additional conditions:

(1) The shroud advertisement display shall be permanently removed at the end of the 6 months period of express consent or upon completion of external building works at the premises, whichever is the sooner, unless a further temporary period of consent has been obtained.

(2) Other than the area occupied by the advertisement, the shroud shall at all times depict a full scale representative 1:1 image of the front façade of the appeal premises.

(3) The intensity of the illumination of the advertisement display shall not exceed 600 candelas per square metre.

(4) The advertisement display shall not be illuminated before 0700 hours or after 2300 hours on any day.



**Decision (Appeal B)**

2. I dismiss the appeal.

**Procedural Matters**

3. At the hearing the appellants submitted an alternative proposal for Appeal A, reducing the size of the advertisement to comply with the Council's adopted Supplementary Planning Document (SPD) Advertisements (2007) in respect of shroud advertising. With the agreement of the Council at the hearing, I have considered both this and the original proposal in respect of 46-48 Kings Road.
4. Since consent is sought for a period of 6 months only and I am advised that the refurbishment work at 46-48 Kings Road will not start until 6 October 2008, I propose to exercise the power available to me in regulation 14 (8) and specify this date as the date when the period of consent, for the permitted alternative display, begins.

**Main issues**

5. The main issues in this appeal are the visual impact of the proposed advertisement displays and public safety concerns about their stability in windy conditions.

**Reasons - Appeal A**

*Public Safety*

6. The public safety concern, which applies equally to Appeal B, is that, given the particularly high wind speeds that can occur on the seafront, the material from which the shroud advertisements would be made would inhibit the free passage of air, creating a wind sail effect, leading to instability and possible scaffold collapse.
7. In support of their case, the Council refer to safety concerns raised by members of the general public to a former temporary display erected by the appellants on the seafront at 54-55 Kings Road. They also refer to a scaffold shroud advertisement on another site adjacent to the seafront, where a wind sail effect was observed resulting in the collapse of the scaffolding. However, no supporting evidence has been presented documenting the public safety concerns regarding the appellants' former display in question and the appellants advised that they were not informed of any such concerns whilst that display was in place. In the other case, where the scaffolding had collapsed, the appellants' agent advises that the shroud in question (not one erected by the appellants) had not been erected in accordance with the submitted plans. At the hearing, my attention was drawn to other shroud displays that had been erected on the seafront, apparently without any public safety concerns, including one on a clock tower.



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8. The appellants advise that they are a professional company with considerable experience in erecting shroud displays throughout the country, at high level and many being in exposed locations, without concerns about public safety arising from wind being raised previously. I note that it is a requirement, by way of a standard condition in the Regulations, that advertisements shall not be sited or displayed so as (among other things) to endanger persons using the highway. A further standard condition requires that any structure erected for the purpose of the display of advertisements shall be maintained in a condition that does not endanger the public.
9. Taking the above matters together, I am not persuaded by the Council's case that shroud advertisement displays of the type proposed by the appellants would be inherently unsafe in windy conditions experienced along Brighton seafront. On the contrary, given proper professional care in their erection, including the scaffolding, and appropriate maintenance thereafter, I see no reason to believe that they would present any public safety risk at all.

*Amenity*

10. As to amenity, the site is within the Old Town Conservation Area where section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention must be paid to the desirability of preserving or enhancing the character or appearance of the area. A strict control over the display of outdoor advertisements should therefore be maintained.
11. The proposed shroud advertisement would be fixed to scaffolding during the planned period of restoration work to the building. The erection of scaffolding and the provision of a shroud screen to the upper elevations, whether plain or incorporating an advertisement, would obscure the building and effectively remove any perceived contribution that it currently makes to the street scene. However, the provision of a significant advertisement on such a shroud, displayed above the general level of advertising within the street, would inevitably introduce a feature, albeit intended to be temporary, which would draw particular attention to the frontage and stand out in the surroundings.
12. Whilst the terrace of which the premises form a part contains tall and prominent buildings, the upper elevations generally reflect a domestic scale and appearance. Despite that, the area is predominantly commercial in character and is one where the Council accept, in principle, that suitably sized advert displays on shrouds would comply with their approved advertisement guidelines.
13. The original proposal for 46-48 Kings Road, as illustrated on the appellants' submitted drawing, involves an advertisement display extending across a majority of the upper floors, both in terms of the width and height of the appeal frontage. This advertisement would form about 80% of the total area of the shroud, rather than the maximum area of 50% specified in the SPD. Although, I agree with the appellants that these guidelines should not be prescriptive, they do reflect the considered views of the Council as to what and what is not acceptable in terms of visual amenity. In my view, the display, as originally proposed would, by reason of its size, overwhelm the frontage and appear unduly dominant in views from the seafront.

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17 JUN 2008

14. On the other hand, the alternative proposal would bring the size of the display within that considered acceptable under the Council's SPD guidelines. In my view, the proposed smaller advertisement would not overwhelm the proportions of the frontage and, as an obviously temporary display associated with the refurbishment work, would be acceptable on that basis.
15. The Council have expressed some concern about the impact of the lighting units, by reason of their forward projection and number. Given the smaller size of the alternative display, I understand that the appellants would reduce the number of lights from 4 to 3. However, I do not think that the impact of the lighting units, whether 3 or 4, or their degree of forward projection over the shroud, would be such as to create any material harm to amenity.
16. Having regard to my findings above, I consider that the proposed alternative display would not, as a temporary feature, have such an impact as to materially detract from the character and appearance of the Old Town Conservation Area.

### Planning Policy

17. I have carefully considered Policies QD12 and TR7 of the Brighton & Hove Local Plan, to which the Council refer, as well as the SPD referred to above. In the circumstances outlined above, I consider that the alternative smaller sized advertisement proposed at 46-48 Kings Road complies with the Council's policies and guidelines but that, in any event, this alternative display is acceptable and that I should permit it. My decision does not mean that a similar advertisement displayed in another location would necessarily be acceptable. Each case is decided on its own merits.

### Other Matters

18. On the evidence before me I am satisfied that, in the case of both appeals, the proposal to erect scaffolding and a shroud at each site is to enable on-going refurbishment works. In this respect, the appellants pointed out at the hearing that the scaffolding and a protective shroud would be erected whether or not the appeals were successful. This addresses the Council's concerns in their other reason for refusal on both appeals.

### Conditions

19. Since it is my understanding that the upper floors of the premises would continue to be occupied for residential accommodation during the period of the work, I consider it appropriate to impose conditions limiting the intensity and hours of the illumination. In my view, the intensity should be no greater than 600cd/m<sup>2</sup>, the maximum recommended for such a location by the Institution of Lighting Engineers in their Technical Report No. 5 *Brightness of Illuminated Advertisements* (Third Edition). As to hours of illumination, I agree that, given the evening opening hours of the commercial uses at street level, it would be reasonable for the advertisement to be lit until 23:00 and then again from 07:00, as requested by the appellants, rather than being unlit between 22:00 and 08:00 as suggested by the Council. For the avoidance of any doubt, I also propose to impose a condition requiring the shroud incorporating the advertisement to display a full scale representative image of the building façade.



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**Appeal B**

20. As regards Appeal B, the proposal is for a 1:1 image across the frontage of the southern elevation of 39 Kings Road, facing the seafront, with an advertisement measuring 9m by 13m on the side elevation to Ship Street. The latter would have a narrow 1:1 image around the sides and at the top. The advert display would cover a majority of the side elevation but the appellants consider that the SPD guidelines are met because the combined area of the shroud across the two elevations would not exceed 50%. My view, like the Council's, is that the 50% figure applies to each elevation. Be that as it may, I consider that the size of the proposed advertisement would be such as to dominate the side elevation to an unacceptable degree. Whilst the display would primarily be presented to view along the seafront rather than Ship Street, the more forward projection of the advertisement, on the front of the scaffold screen, would give it some prominence along the narrow, historic looking and low key commercial setting of Ship Street from where I consider that, even as an obviously temporary feature, its impact would be obtrusive.
21. As regards views within Kings Road, the advertisement would face across the frontage of a hotel, dominating and terminating the view from the footpath fronting that building. The impact of the large display would be accentuated by its right angled alignment to the seafront, affording considerable visibility in the approach from the east. I consider that, because of its size, height and exposure to view, the proposed display would be unacceptably dominant and intrusive, even in this mainly commercial street scene.
22. I accept that the proposed 1:1 image on the whole of the upper part of the Kings Road frontage and the more limited 1:1 image on the Ship Street elevation would create some visual interest and be preferable to a plain shroud during the renovation work. However, this does not provide sufficient justification to permit the proposed advertisement.

**Conclusions**

23. For the reasons given above, I conclude that Appeal A should be dismissed in so far as it relates to the originally sized proposal but allowed in respect of the smaller alternative. I further conclude that Appeal B should be dismissed.

*David Leeming*

INSPECTOR





## Appeal Decision

Site visit made on 18 February 2008

by **J Mansell Jagger MA(Cantab) DipTP**  
MRTPI IHBC

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

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Decision date:  
5 March 2008

**Appeal Ref: APP/Q1445/A/07/2057789**

**Land at rear of 22 Florence Road, Brighton BN1 6DJ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
- The appeal is made by Mr Robin Cross against the decision of Brighton and Hove City Council.
- The application ref: BH2007/02477 is dated 28 June 2007.
- The development proposed is construction of a two-storey, three-bedroom house.

### Decision

1. I dismiss the appeal.

### Main issue

2. The main issue in this appeal is the effect of the proposal on the character and appearance of the conservation area.

### Reasons

#### *Preliminary matters*

3. The Council has indicated that, had it been in a position to do so, it would have refused the application for the following reasons:
  - 1) The proposal would result in significant detriment to the spacious nature of the site and surrounding area, which is one of the key positive attributes of this part of the Preston Park Conservation Area.
  - 2) The design of the proposed house fails to relate to the main building on the site or neighbouring development and so fails to provide a high standard of design, resulting in a building with a bland and featureless appearance.
  - 3) The requirement to provide a lower floor below ground level and the limited residual garden area resulting from the large footprint of the proposed dwelling are indications that the proposal constitutes an overdevelopment of the site. These aspects also compromise the ability of the proposal to provide acceptable living conditions for future occupiers.

#### *Character and appearance*

4. The appeal site is part of the rear garden of 22 Florence Road, a substantial detached house now converted into flats. The *Preston Park Conservation Area Character Statement* notes that Florence Road is a wide tree-lined road that is notable for its impressive detached and semi-detached late 19<sup>th</sup> century houses and two churches. Like the other properties in Florence Road, no.22 has a large rear garden, though at present part of it is taken up with a number of garages and a parking area for the flats.

5. Policies QD1 and QD2 of the Brighton and Hove Local Plan 2005 require new developments to be of a high standard of design that takes into account local characteristics. Policy QD3 seeks to ensure the maximum use of sites, whilst avoiding town cramming and providing suitable design and quality of spaces around buildings. Policy HO4 encourages full and effective use of sites whilst respecting the capacity of the local area to accommodate additional dwellings. Policy HE6 sets out the requirements to preserve or enhance the character or appearance of the conservation area.
6. The proposal would have a very limited impact on the appearance of the conservation area as seen from the street, but it would have a significant effect on the historic character and layout of the area, which remains largely intact. The rear gardens of the properties on this side of Florence Road adjoin those of houses in Springfield Road and, with their trees and shrubs, the gardens have a spacious character and create a pleasant visual amenity for residents. I accept that the garages are unattractive and that the appearance of the area would benefit from their removal; however, they are ancillary to the use of the present house and are seen as subsidiary elements in the rear garden space.
7. In comparison, the proposal would subdivide the garden and create a separate residential unit with its own curtilage that would effectively develop the rear half of the site. This would dramatically reduce the curtilage of the existing house and the sense of spaciousness that, even despite the presence of the garages, is still a feature of the present layout. It would fail to provide an appropriate setting for the existing building.
8. In order to reduce the impact of the development, the lower, bedroom floor would be largely below ground level and lit by light wells that would provide only a very limited outlook. This would result in a form of development quite out of character with the area and I agree with the Council that this is an indicator of overdevelopment and of the unsuitability of this backland site for this scale of development.
9. Whilst a contemporary design might be acceptable, I do not believe that the proposed design would be sympathetic to the area. Suitable landscaping might soften and help screen the new building, but it is likely that the mono-pitch aluminium clad roof would stand out and be over-assertive in views from the upper floors of neighbouring houses.
10. The appellant has drawn attention to backland development in nearby Preston Park Avenue. However, I am not aware of the circumstances of those developments and cannot afford them any great weight. In any event, I have judged this proposal on its own particular merits.
11. In my view, the proposal would neither preserve nor enhance the character of the conservation area and would conflict with the adopted planning policies set out above. Further, if this proposal were permitted, it would be likely to set an undesirable precedent for further proposals for the subdivision and development of rear gardens in the area, which it would be difficult for the Council to resist and which would severely harm the character of the conservation area.
12. I have taken into account all other matters raised, but find no compelling reason to alter my conclusion that this proposal should not be allowed.

*J Mansell Jagger*

INSPECTOR

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## Appeal Decision

Site visit made on 2 June 2008

by **Andrew M Phillipson** BSc CEng FICE  
MIHT

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

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Decision date: 09 June  
2008

### Appeal Ref: APP/Q1445/A/08/2066884 45-47 Cheapside, Brighton BN1 4GD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Westfield Investments Ltd against the decision of Brighton & Hove City Council.
- The application Ref BH2007/01607, dated 23 April 2007, was refused by notice dated 14 August 2007.
- The development proposed is an extension of two additional storeys to the existing block to create 5 additional two-bedroom flats and 1 additional one-bedroom flat. Also upgrading the existing block by re-cladding and replacing doors and windows.

### Decision

1. I dismiss the appeal.

### Main Issue

2. No 45-47 Cheapside is a three-storey block of flats. There is no dispute that the additional two storeys which it is proposed to add to the block would, in combination with the other alterations proposed, be acceptable in the street scene. The sole matter at issue is the effect the proposal would have on the living conditions of the occupiers of the adjoining house at No 44.

### Reasons

3. No 44 Cheapside is a modest two-storey dwelling, at the rear of which is a small courtyard garden. The courtyard is surrounded by development on all sides and heavily shaded at present; indeed calculations submitted by the architects acting for the appellant show that sunlight currently does not reach the ground floor living room window that looks out into the courtyard. The kitchen window, which also faces the courtyard, only receives partial sunlight in the late morning in the summer months. As a consequence, the interior of the rear of the house is relatively gloomy. The courtyard, whilst pleasantly planted and maintained, is overlooked from the fire escape and back windows of the first and second floor flats on the appeal site.
4. With the development proposed, the limited sunlight which currently reaches the kitchen window would be blocked by the additional two storeys of flats. Importantly, the area of sky visible from the kitchen and living room windows and from the courtyard would also be materially reduced, thereby reducing the amount of daylight reaching them. The potential for overlooking, which to my

mind is already at or beyond the normal levels of acceptability, would also be increased materially by the additional flats proposed. Notwithstanding that the flats would be refurbished and re-clad with lighter materials, the overall effect would, in my judgement, be overbearing and harmful to the living conditions of the occupiers of No 44 to a degree that would bring the proposal into clear conflict with policy QD27 of the Brighton and Hove Local Plan.

5. In reaching this conclusion, I have taken into account all other matters raised. I have noted in particular that the refurbishment works proposed to the existing flats would significantly improve their appearance as seen from No 44, and accept that the lighter coloured cladding proposed to the extended block would, to some degree, offset the loss of daylight resulting from the reduction in the visible area of sky. These considerations do not, however, individually or in combination with the other benefits that the development would bring to the area, outweigh the harm that I have identified. I accordingly conclude that the appeal should be dismissed.

*Andrew M Phillipson*

Inspector





## Appeal Decision

Site visit made on 21 July 2008

by **V F Ammoun** BSc DipTP MRTPI FRGS

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

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Decision date:  
5 August 2008

**Appeal Ref: APP/Q1445/A/08/2071424**

**6 Pool Valley, Brighton, BN1 1NJ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Nicola King against the decision of Brighton & Hove City Council.
- The application Ref BH2007/02759, dated 17 July 2007, was refused by notice dated 24 September 2007.
- The proposal is *modification to shop front to provide separate entrance to flat*.

**Decision: The appeal is dismissed.**

### Planning Policy and Main issues

1. The site is within the Old Town Conservation Area where well established policies of the Development Plan reflect the statutory requirement that special attention be given to the need to preserve or enhance the character or appearance of the area. Shopfront supplementary planning guidance dated 2005 in part states that consent will not be granted for the removal of an original or historic shop front. A 1979 Old Town Conservation Area assessment/guidance document states in part that residential uses should be encouraged, and also refers to the problem of upper floors remaining unused and seeks to encourage their appropriate use. The 2005 Local Plan contains a policy HO8 "Retaining Housing" which the Appellant considers significant in its entirety, and the Plan refers to the need for housing and small dwellings.
2. No.6 is a shop at ground floor level with two floors above that have been rated as in residential use. Both shop and maisonette are stated to have been vacant since 2006. Access to the maisonette is through the shop. From my inspection of the site and area and consideration of the representations made I have concluded that the main issues in this case are whether the proposed shopfront modification would preserve or enhance the character or appearance of the Conservation Area, and if not, whether the failure to do so would be outweighed by improved access to the upper floors of the building.

### Reasons

3. The present shopfront has a centrally located door recess, and a shop window on either side. The abutting shop fronts on either side at Nos. 5 and 7 have the same pattern of central entrance and flanking windows. Nos.5, 6 and 7 also have near identical bay windows at first and second floors, strongly suggesting that the three properties or at least the front elevations thereof were built to a common design. It also follows that the shopfronts at Nos.5, 6 and 7 are the original ones, in design if not in all physical materials. The appeal proposal would relocate a new recessed entrance to one side of the frontage, and the

two shop windows would be replaced by a single shop window to one side of the new door. It follows that even though the fascia and a partially reconstructed stall riser would remain, and appropriate materials be used throughout, the original shopfront design would be lost. This would be contrary to the 2005 guidance. The significance of retaining the original form of shop front in this case is reinforced by it being part of a group of three properties that not only have the same original shopfronts but also have original and matching first and second floor elevations above. I consider that the proposal would result in a loss of symmetry and historic form to the building Nos. 5-7.

4. There are examples of a door to upper floors being provided to one side of a shop window within Brighton town centre and in Pool Valley on either side of the block Nos. 5 to 7. What is at issue in the present case, however, is not so much the merit of the proposed shopfront considered in isolation, as the fact that it involves the loss of the original design of shopfront and block.
5. The south side of the street is a blank rear wall of a cinema. This directly reflects a feature mentioned in the 1979 document, of the contrast between the characteristic buildings for the most part of domestic scale with the grander, more obviously organised scale of building at the periphery. The north side of the street including the appeal premises has the characteristic domestic scale and form, so this part of Pool Valley is a point of entry/transition between the bus station and the main part of the Conservation Area to the west. I thus do not attach particular weight to the presence of a contrasting built form opposite the appeal site. I have concluded on the first issue that the proposed change would cause harm to rather than preserve or enhance the character or appearance of the Conservation Area. I therefore turn to the second issue.
6. The Appellant considers that without a separate entrance, a business use of the upper floors will be necessary, contrary to Council policy to retain smaller dwellings. I note that policy HO8 includes as one of the exceptional circumstances likely to support a loss of a residential use where "*a separate access to the residential accommodation is impracticable;*" It follows that the Council recognises that dwellings need separate accesses, and that housing retention policies need not prevail in such cases. There is an acknowledged link between viable uses and successful conservation and property maintenance, but there are no figures before me to indicate that the appeal premises would be non-viable if the proposed separate entrance were not provided, either in respect of retention of a dwelling lacking such access, or if the whole building were put to a non-residential use in line with policy HO8.
7. In all these circumstances I have concluded on the second issue that the harm to the Conservation Area would not be outweighed by the improved access to the upper floors of the building. Having regard to the weight given to the protection of Conservation Areas both in local and national policy and legislation, I conclude that the appeal should fail.

*V F Ammoun*

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# PLANNING COMMITTEE

## Agenda Item 2

Brighton & Hove City Council

### NEW APPEALS RECEIVED

**WARD**

APPEALAPPNUMBER

ADDRESS

DEVELOPMENT\_DESCRIPTION

APPEAL STATUS

APPEAL RECEIVED\_DATE

APPLICATION DECISION LEVEL

**CENTRAL HOVE**

BH2007/04688

116 Church Road Hove

Erection of rendered wall to east boundary of site. Retrospective consent for the retention of the covered pergola to rear of proposed wall.

APPEAL LODGED

10/07/2008

Delegated

**WARD**

APPEALAPPNUMBER

ADDRESS

DEVELOPMENT\_DESCRIPTION

APPEAL STATUS

APPEAL RECEIVED\_DATE

APPLICATION DECISION LEVEL

**ROTTINGDEAN COASTAL**

BH2008/01353

128 Longhill Road Brighton

Construction of four houses. Existing dwelling to be demolished.

APPEAL LODGED

11/07/2008

Delegated

**WARD**

APPEALAPPNUMBER

ADDRESS

DEVELOPMENT\_DESCRIPTION

APPEAL STATUS

APPEAL RECEIVED\_DATE

APPLICATION DECISION LEVEL

**ST. PETER'S & NORTH LAINE**

BH2007/03632

69-70 Queens Head Queens Road Brighton

Partial change of use of 1st and 2nd floors from solely A4 (incorporating staff accommodation) to mixed use A3, A4 and sui generis. Also proposed new 3rd floor mansard roof with A4 use.

APPEAL LODGED

16/07/2008

Delegated

**WARD**

APPEALAPPNUMBER

ADDRESS

DEVELOPMENT\_DESCRIPTION

APPEAL STATUS

APPEAL RECEIVED\_DATE

APPLICATION DECISION LEVEL

**EAST BRIGHTON**

BH2007/04464

27 Rugby Place Brighton

Conversion of existing 3 storey 3 bedroom maisonette into 1 x 1 bedroom flat and 1 x 2 bedroom maisonette.

APPEAL LODGED

15/07/2008

Delegated

**WARD**

APPEALAPPNUMBER

ADDRESS

DEVELOPMENT\_DESCRIPTION

APPEAL STATUS

APPEAL RECEIVED\_DATE

APPLICATION DECISION LEVEL

**WOODINGDEAN**

BH2007/03985

Petrol Filling Station 10-18 Warren Road Brighton

Proposed variation to planning condition 10 of permission BH2002/01916/FP dated 14 November 2002, to permit fuel deliveries between 0630 and 2200 hours daily.

APPEAL LODGED

15/07/2008

Delegated

**WARD**

APPEALAPPNUMBER

ADDRESS

DEVELOPMENT\_DESCRIPTION

APPEAL STATUS

APPEAL RECEIVED\_DATE

APPLICATION DECISION LEVEL

**PRESTON PARK**

BH2008/00500

114 Hythe Road Brighton

Conversion of four storey dwelling house into 2 maisonettes.

APPEAL LODGED

10/07/2008

Delegated

**WARD**

APPEALAPPNUMBER

ADDRESS

DEVELOPMENT\_DESCRIPTION

APPEAL STATUS

APPEAL RECEIVED\_DATE

APPLICATION DECISION LEVEL

**QUEEN'S PARK**

BH2008/00953

115 St James's Street Brighton

1 No.externally illuminated projecting signs. 1 No. externally illuminated fascia lettering sign and 1 No. externally illuminated logo sign and associated lighting.

APPEAL LODGED

21/07/2008

Environmental Services Planning (Applications) Committee

**WARD**

APPEALAPPNUMBER

ADDRESS

DEVELOPMENT\_DESCRIPTION

APPEAL STATUS

APPEAL RECEIVED\_DATE

APPLICATION DECISION LEVEL

**WITHDEAN**

BH2007/03843

Land East of 55 Highcroft Villas Brighton

Erection of an apartment building containing 24 flats with parking and access.

APPEAL LODGED

29/07/2008

Environmental Services Planning (Applications) Committee



**Brighton & Hove  
City Council**

### INFORMATION ON INFORMAL HEARINGS / PUBLIC INQUIRIES 20 August 2008

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

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#### **Land at SW Corner Portland Street & Church Street Brighton**

Planning application no: BH2007/01058  
Description: Mixed use development accommodated on 6 floors consisting of 5 studio flats, 24 one-bedroom flats, 10 two-bedroom flats and 1 three-bedroom flat, 7 office units (Portland Street), 4 retail units (Church Street) and 21 carparking spaces. Resubmission and revised scheme following withdrawal of application BH2006/01813.  
Decision: Non-determination  
Type of appeal: Public Inquiry  
Date: 24, 25 & 26 September 2008  
Location: Council Chamber, Brighton Town Hall

#### **57 Shirley Drive, Hove**

Planning application no: BH2007/02609  
Details of application: Construction of two semi-detached houses.  
Decision: Delegated  
Type of appeal: Informal Hearing  
Date: 8 October 2008, 10am  
Location: Committee Room 2, Hove Town Hall

#### **46-48 Kings Road, Brighton**

Planning application no: BH2007/03924  
Details of application: Display of externally illuminated advertisement banner.  
Decision: Delegated  
Type of appeal: Informal Hearing  
Date:  
Location:

#### **Bali Brasserie, Kingsway Court, First Avenue, Hove**

Planning application no: BH2007/04314  
Details of application: UPVC canopy to rear of building to provide smoking shelter (retrospective)  
Decision: Delegated  
Type of appeal: Informal Hearing  
Date:  
Location:

### **Bali Brasserie, Kingsway Court, Queens Gardens Hove**

Planning application no: Enforcement case 2007/0547  
Details of application: Construction of smoking shelter.  
Decision: N/A  
Type of appeal: Informal Hearing  
Date:  
Location:

### **128 Church Road Hove**

Planning application no: BH2007/02378  
Details of application: Change of use of first floor with second floor extension, with additional accommodation in the roof space to form five flats.  
Decision: Delegated  
Type of appeal: Informal Hearing  
Date:  
Location:

### **124 Church Road Hove**

Planning application no: BH2007/02379  
Details of application: Alterations and extensions to form part 2, part 3 storey building with roof accommodation to form four flats above existing retail.  
Decision: Delegated  
Type of appeal: Informal Hearing  
Date:  
Location:

### **Norfolk Court, Norfolk Square**

Planning application no: BH2007/02515  
Details of application: Gambrel roof extension to form 1 bedroom flat and external alterations to existing building.  
Decision: Delegated  
Type of appeal: Informal Hearing  
Date:  
Location:

### **Albany Towers, St Catherines Terrace, Kingsway Hove**

Planning application no: BH2007/03305  
Details of application: Roof extension to provide 2 penthouse flats with 2 car parking spaces and new secure cycle store.  
Decision: Delegated  
Type of appeal: Informal Hearing  
Date:  
Location:

### **Land to the rear of 48 & 50 Old Shoreham Road**

Planning application no: BH2007/04047  
Details of application: Construction of two three storey, four bedroom houses.  
Decision: Delegated  
Type of appeal: Informal Hearing  
Date:  
Location:

### **9 Station Road, Portslade**

Planning application no: BH2007/04148  
Details of application: Proposed roof extensions and alterations, including provision of mansard roof to provide additional floors creating two additional flats and bike/bin storage at entrance.  
Decision: Delegated  
Type of appeal: Informal Hearing  
Date:  
Location:

### **32 Redhill Drive, Brighton**

Planning application no: BH2007/02980  
Details of application: Demolition of existing house and construction of a pair of semi-detached houses - resubmission of refused application BH2007/00041.  
Decision: Delegated  
Type of appeal: Informal Hearing  
Date:  
Location:

### **87 Cowley Drive, Woodingdean, Brighton**

Planning application no: BH2008/00443  
Description: Outline application for a detached dwelling.  
Decision: Delegated  
Type of appeal: Informal Hearing  
Date:  
Location:

### **5 The Sett Portslade**

Planning application no: BH2008/00585  
Description: Proposed 2 storey side extension.  
Decision: Delegated  
Type of appeal: Informal Hearing  
Date:  
Location:

### **7 Welesmere Road Rottingdean Brighton**

Planning application no: BH2008/00892  
Description: Change of use of an existing 'granny annex' to a detached dwelling.  
Decision: Delegated  
Type of appeal: Informal Hearing  
Date:  
Location:

### **Site Address: 2 Northgate Close Rottingdean**

Planning application no: BH2008/00177  
Description: First floor and side extensions. Retrospective.  
Decision: Delegated  
Type of appeal: Informal Hearing  
Date:  
Location:

**Site Address: 106 Longhill Road**

Planning application no: BH2007/03875

Description: Demolition of existing house and garage. Construction of a five-bedroom detached house with integral annexe and a detached double garage.

Decision: Delegated

Type of appeal: Informal Hearing

Date:

Location:

**Site Address: Land At Church Street/Portland Road, Brighton**

Planning application no: BH2007/01058

Description: Mixed use development accommodated on 6 floors consisting of 5 studio flats, 24 one-bedroom flats, 10 two-bedroom flats and 1 three-bedroom flat, 7 office units (Portland Street), 4 retail units (Church Street) and 21 carparking spaces. Resubmission and revised scheme following withdrawal of application BH2006/01813..

Decision: Planning Committee

Type of appeal: Public Inquiry

Date:

Location:

**69-70 Queens Head, Queens Road, Brighton**

Planning application no: BH2007/03632

Description: Partial change of use of 1st and 2nd floors from solely A4 (incorporating staff accommodation) to mixed use A3, A4 and sui generis. Also proposed new 3rd floor mansard roof with A4 use.

Decision: Delegated

Type of appeal: Informal Hearing

Date:

Location:

**Land east of 55 Highcroft Villas**

Planning application no: BH2007/03843

Description: Erection of an apartment building containing 24 flats with parking and access.

Decision: Committee

Type of appeal: Public Inquiry

Date:

Location: