

BRIGHTON & HOVE CITY COUNCIL

PLANNING COMMITTEE

2.00pm 3 FEBRUARY 2010

COUNCIL CHAMBER, HOVE TOWN HALL

MINUTES

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

Co-opted Members Mr J Small (CAG Representative)

Officers in attendance: Jeanette Walsh (Development Control Manager), Hamish Walke (Area Planning Manager (East)), Zachary Ellwood (Interim Area Planning Manager (West)), Steve Reeves (Principal Transport Planning Officer), Hilary Woodward (Senior Lawyer) and Penny Jennings (Senior Democratic Services Officer)

PART ONE

198. PROCEDURAL BUSINESS

198A. Declaration of Substitutes

198.1. Councillor Allen was in attendance as substitute Member for Councillor McCaffery.

198B. Declarations of Interest

198.2 Councillor Allen declared a prejudicial interest in Applications BH2009/02615, Windlesham School, 190 Dyke Road and BH2009/02797, 106 Waldegrave Road on which he would be speaking in his capacity as a Local Ward Councillor. Having spoken on each of these applications he would withdraw from the meeting and take no part in the discussion or voting thereon.

198.3 Councillor Caulfield sought advice in relation to Application BH2004/02185, 4-7 & 15-20 Kensington Street enquiring whether as Chairman of the Housing Management Committee she had a prejudicial interest in this application for affordable housing. She confirmed in answer to questions by the Solicitor to the Committee that she remained

of a neutral mind and had not predetermined the application; she would therefore remain present at the meeting and would take part in the decision making process and voting thereon.

- 198.4 Councillor Steedman declared a personal and prejudicial interest in Application BH2009/02970, Community Base, 113 Queen's Road. His employer had recently hired space within the building, although he remained of a neutral mind he it was appropriate in his view for him to withdraw from the meeting during consideration of the application and to take no part in the debate or decision making process.
- 198.5 Councillor Wells also referred to Application BH2004/02185, 4-7 & 15-20 Kensington Street enquiring whether as Deputy Chairman of the Housing Management Committee he had a deemed prejudicial interest in this application for a development comprising affordable housing. In answer to questions by the Solicitor to the Committee he confirmed that he remained of a neutral mind and had not predetermined the application, he would therefore remain present during its consideration and would take part in the debate and decision making process.
- 198.6 The Solicitor to the Committee, Mrs Woodward declared a personal but not prejudicial interest in Application BH2004/02185, 4-7 and 15-20 Kensington Street. Her husband was employed by the applicant's agent.

198C. Exclusion of Press and Public

- 198.7 In accordance with Section 100A of the Local Government Act 1972 ("The Act"), the Planning Committee considered whether the public should be excluded from the meeting during consideration of any item of business on the grounds that it is likely in view of the business to be transacted or the nature of the proceedings, that if members of the public were present during it, there would be disclosure to them of confidential information as defined in Section 100A (3) of ("The Act").
- 198.8 **RESOLVED** - That the Press and Public be not excluded during consideration of any item on the agenda.

199. MINUTES OF THE PREVIOUS MEETING

- 199.1 Councillor Cobb referred to paragraph (11) of the minute relating to Application BH2009/02071, R/o 183 Ditchling Road, Brighton. She had also raised a further question which she would like recorded relating to the distance from the properties refuse bins would need to be carried in order for them to be collected, she had been informed that would be a distance of some 35 metres.
- 199.2 **RESOLVED** – That subject to the amendment set out above the Chairman be authorised to sign the minutes of the meeting held on 13 January 2010 as a correct record.

200. CHAIRMAN'S COMMUNICATIONS

Web casting

200.1 The Chairman explained that afternoon's meeting of the Planning Committee was being web cast. Members were reminded to speak directly into the microphones and to switch them off when they had finished speaking in order to ensure that they could be heard clearly.

201. PETITIONS

201.1 There were none.

202. PUBLIC QUESTIONS

202.1 There were none.

203. DEPUTATIONS

203.1 There were none.

204. WRITTEN QUESTIONS FROM COUNCILLORS

204.1 There were none.

205. LETTERS FROM COUNCILLORS

205.1 There were none.

206. NOTICES OF MOTION REFERRED FROM COUNCIL

206.1 There were none.

207. APPEAL DECISIONS

207.1 The Committee noted the content of the letters received from the planning inspectorate advising of the results of planning appeals which had been lodged as set out in the agenda.

208. LIST OF NEW APPEALS LODGED WITH THE PLANNING INSPECTORATE

208.1 The Committee noted the list of planning appeals which had been lodged as set out in the agenda.

209. INFORMATION ON INFORMAL HEARINGS/PUBLIC INQUIRIES

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

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

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

Application:	Site Visit Requested by :
BH2009/02941, Arts D & E Buildings, University of Sussex, Falmer	Development Control Manager
BH2009/02911, Roedale, Burstead Close, Brighton	Development Control Manager
BH2009/02797, 106 Waldegrave Road, Brighton	Councillor Kennedy

211. TO CONSIDER AND DETERMINE PLANNING APPLICATIONS ON THE PLANS LIST: 3 FEBRUARY 2010

(i) TREES

211.1 **RESOLVED** - That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in paragraph 6 of the report and resolves to refuse consent to fell the tree referred to in the report as follows:

BH2009/02768, 25 Highview Avenue North, Tree Preservation Order (No10) 1996.

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

A. Application BH2009/02331, Land East of West Pier, Lower Esplanade, King’s Road, Brighton – Temporary use of land for the stationing of a 60 metre high spokeless wheel (the Brighton O) including a dedicated area for the secure storage of boats.

- (1) It was noted that this application had formed the subject of a site visit prior to the meeting.
- (2) The Development Control Manager explained that the application had been withdrawn by the applicants that morning and would not now be considered by the Committee.

211.2 **RESOLVED** – That it be noted that the application has been formally withdrawn by the applicant.

B. Application BH2009/01722, Cardinal Newman Catholic School, The Upper Drive, Hove – Erection of a new detached two storey Design and Technology Building with a small café bar attached.

- (1) It was noted that this application had formed the subject of a site visit prior to the meeting.
- (2) The Interim Area Planning Manager (West), Mr Ellwood gave a presentation detailing the scheme by reference to site plans and elevational drawings showing the orientation of the proposed building and indicating the materials intended to be used. A planting scheme was proposed which would include for replacement of one tree for every tree removed. Although some of the existing parking would be displaced this could be replaced (should the school wish) by using other hard surfacing nearby.
- (3) The Area Planning Manager (West), also explained that the building would not be visible from and would be located at some distance from the nearest residential properties. The building would improve teaching accommodation in context with the neighbouring school buildings without impacting on residential amenity or traffic generation.

Questions/Matters on Which Clarification was Sought

- (4) Councillors Cobb and C Theobald referred to the parking arrangements and sought confirmation regarding the location of an alternative parking area. It was explained that spaces could be marked out on a hard surfaced area nearby if the school so required.
- (5) Councillor C Theobald also sought confirmation regarding the provision of and level of contribution towards public art. It was explained that the scheme was not visually prominent and was not of sufficient scale to warrant a contribution, this had not therefore been sought.

Debate and Decision Making Process

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

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

C. Application BH2009/02423, Varndean College, Surrenden Road - Provision of 7 temporary classroom blocks for a five year period (Retrospective).

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

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

D. Application BH2004/ 02185, 4-7 & 15-20 Kensington Street, Brighton - Construction of 10 affordable residential units consisting of 4 houses at 4 to 7

Kensington Street and 6 flats at 15-20 Kensington Street (Resubmission of withdrawn application BH2004/00530/FP).

- (1) The Area Planning Manager (East), Mr Walke, gave a presentation detailing the scheme by reference to elevational drawings. He explained the differences between the earlier (approved) and current schemes. He explained that the original scheme had been delayed due to ownership and legal matters which meant the Section 106 Obligation had not been completed. Since that time there had been a change in the material planning considerations, and the application was therefore back before the Committee for determination.

Questions/Matters on Which Clarification was Sought

- (2) Councillor Steedman enquired whether the wording of proposed conditions 9 and 10 was a standard wording and it was confirmed that it was.
- (3) Councillor Cobb sought confirmation regarding how the sum of £7,000 requested towards sustainable transport infrastructure was likely to be spent in the vicinity of the site. The Principal Transport Planning Officer, Mr Reeves explained that a number of improvements were proposed in the area including the provision of tactile paving and improved facilities for cyclists along the length of Church Street. It was likely that the sustainable transport contribution would be used towards one of those schemes.

Debate and Decision Making Process

- (4) A vote was taken and on a vote of 10 with 2 abstentions planning permission was granted.

211.5 **RESOLVED** - That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in paragraph 8 of the report and resolves that it is minded to grant planning permission subject to a Section 106 Agreement and to the conditions and informatives set out in the report.

Note: Councillors Caulfield and Cobb abstained from voting in respect of the above application.

(iii) MINOR APPLICATIONS

E. Application BH2009/02228, 28 Marine Drive, Rottingdean – Erection of a block of 6 flats and two town houses (8 units in total) together with associated parking and bin store.

- (1) The Area Planning Manager (East), Mr Walke gave a presentation detailing the proposed scheme. He explained that the same application drawings had been submitted as those which had formed part of the previously approved application (BH2006/01879), save for additional information relating to sustainability and sought to renew that permission. Five car parking spaces were proposed within the site and it should be noted that that number would meet the Council's approved parking standards. The comments of the Sustainable Transport Team regarding the access

road were noted were noted. However, a number of vehicles were already using the existing access road to approach their dwellings.

- (2) Mr Shanahan spoke on behalf of neighbouring objectors stating that they considered the development would be an eyesore and over development which would not provide any positive contribution to the area. The existing development at Highcliff Court would be overshadowed and the amenities of those living there would be compromised. The existing access and utility arrangements were at capacity and could not sustain additional vehicular activity, the existing access way was in a very poor state of repair. Additionally, account had not been taken of the close proximity of the proposed development to the cliff face. There were regular rock falls during the winter months, the recent extreme weather conditions were likely to accelerate that, it was possible that building works associated with the development could have a further impact.
- (3) Mr Kitcherside spoke on behalf of the applicant in support of their application. The principle of the development had been established by the earlier permission which the applicant was now seeking to renew. He also cited the earlier decision of the Planning Inspector in relation to site. He explained that arrangements relating to allocation of spaces in the adjacent car park and arrangements for its resurfacing etc beneficial to all users would form the subject of a separate agreement with the Transport Team. It was the intention of the applicant to complete that following grant of planning permission.

Questions/ Matters on Which Clarification was Sought

- (4) The Chairman Councillor Hyde referred to the earlier decision stating that at that time Members had understood that as a condition of the approval there would be a benefit for residents and visitors to Rottingdean, by virtue of the proposed improvements to the car park. She was disappointed to learn that this was not the case and that a condition to that effect had not been included. It was explained that improvements to the car park had not formed a condition of the earlier permission nor been included in the decision notice. It had always been the case this would form part of a separate agreement and was not a matter for the planning authority.
- (5) The Principal Transport Planning Officer, Mr Reeves confirmed that a separate legal agreement had been reached between the highway authority and the applicant in relation to re-surfacing and re-lining of the car park.
- (6) Councillor Cobb referred to the length of the access road into the site and requested details regarding siting of storage bins for refuse/recycling bins and arrangements for their collection. It was explained that the development would have the same collection arrangements as the existing development.
- (7) Councillors Cobb and C Theobald referred to the narrow width of the access way to the site, to the poor road surface and to the fact that there was insufficient parking for each of the proposed units on the development itself. Councillor C Theobald enquired whether the applicant could be required by condition, or as part of a Section 106 Obligation to resurface the access road and to carry out works to the car park. The Solicitor to the Committee confirmed that this was not supported by planning policy and

that arrangements relating to the car park were separate from the Council's role as a planning authority.

- (8) Councillor Smart asked whether the scheme would be unable proceed if all of the units did not have an on-site parking space. Members were informed that was not the case. The Development Control Manager stated that Members needed to determine the application before them re-iterating that this application was the same as that which had received approval in 2006, it would not be appropriate to seek parking in the adjacent car park by condition.

Debate and Decision Making Process

- (9) Councillor Smart referred to the close proximity of the development to the cliff face seeking confirmation whether additional underpinning/protection measures were proposed. It was confirmed that the engineer's report was considered acceptable in consequence no additional measures were proposed. Councillor Smart stated that he remained concerned about potential chalk falls from the cliffs.
- (10) Councillor Cobb stated that she was very concerned regarding potential impact of the development, the cliff formed part of the SSSI she considered that the danger of more rapid erosion/cliff falls arising from the development could be significant. Following the recent exceptionally harsh winter this process had accelerated and the potential impact was likely to be different from when the scheme had originally been agreed.
- (11) Councillor Cobb also expressed grave concerns regarding access/ egress arrangements. In her view the scheme would result in an increase in the flow of traffic onto the A259 from a road which was too narrow and in too poor condition to sustain it. By virtue of its out of town location it was unacceptable to provide insufficient parking for all of the flats on site. She considered the scheme represented an overdevelopment in view of its scale, height and massing and would be detrimental to the amenity of neighbouring residents of Highcliff Court.
- (12) Councillor C Theobald stated that she had previously had concerns that the proposal represented overdevelopment and had grave concerns regarding the level of parking proposed if the applicant could not be compelled to affect improvements to the nearby car park.
- (13) Councillor Wells echoed those comments and was concerned about the potential increase in vehicle movements which could arise from the development.
- (14) Councillor Steedman stated that in his view a number of the comments made were not relevant to consideration of this application given the terms of the earlier approval and appeal decision. Councillor Davey concurred in that view.
- (15) A vote was taken and on a vote to 4 to 4 with 4 abstentions, planning permission was refused on the Chairman's casting vote.

211.6 **RESOLVED** – That the Committee resolves to refuse planning permission on the grounds that

- (1) The proposed scheme is considered to be over development by way of the massing, size, height and scale of the building, and the density of the proposed units and, as such, the proposal is contrary to policies QD1, QD2, QD3 and HO4 of the Brighton & Hove Local Plan;
- (2) The proposed development, by reason of its height and proximity to Highcliff Court, would cause an unacceptable loss of light and have an adverse impact on the amenities enjoyed by residents of Highcliff Court and, as such, is contrary to policy QD27 of the Brighton & Hove Local Plan;
- (3) The proposed development, by reason of its close proximity to the cliff, would be vulnerable to coastal erosion and would have an adverse impact on the Brighton to Newhaven Cliffs Site of Special Scientific Interest. The proposal is therefore contrary to policies SU7, SU8 and NC2 of the Brighton & Hove Local Plan;
- (4) The proposed development, due to its relatively inaccessible location away from the city centre, contains insufficient car parking for residents and visitors and, as such is contrary to policy TR19 of the Brighton & Hove Local Plan and Supplementary Planning Guidance BH4-Parking Standards;
- (5) The un-adopted access road by reason of its width, is considered to be inadequate and likely to cause increased danger to vehicle users and pedestrians and the proposal is therefore contrary to policy TR7 of the Brighton & Hove Local Plan; and
- (6) The proposed development does not blend into the surrounding area by reason of its design and materials and, as such, is contrary to policies QD1, QD2 and QD4 of the Brighton & Hove Local Plan.

Note 1: A vote was taken and on a vote of 4 to 4 with 4 abstentions planning permission was refused on the Chairman's casting vote.

Note 2: Councillor Caulfield proposed that planning permission be refused on the grounds set out above, this was seconded by Councillor Cobb. A recorded vote was then taken. Councillors Carden, Hamilton, Kennedy and Steedman voted that planning permission be granted. Councillors Allen, Davey, Smart and Wells abstained. Councillors Caulfield, Cobb Hyde (Chairman) and C Theobald voted that planning permission be refused. The Chairman exercised her casting vote and planning permission was therefore refused.

F. Application BH2009/02231, 21/22 Queen's Road, Brighton - Erection of 2 three storey semi detached dwellings with new ironwork entrance gates (Part Retrospective).

- (1) It was noted that this application had formed the subject of a site visit prior to the meeting.
- (2) The Area Planning Manager (East), Mr Walke gave a presentation detailing the scheme. He referred to the earlier planning permission granted in 2004 explaining that the principle of development had already been established. Photographs were shown indicating the changes in level across the site. The main changes between the current and previous schemes were shown including that proposed to the frontage to Crown

Gardens, where there would be a central access to the building. The current proposals were considered to represent an improvement to the extant scheme and approval was therefore recommended.

- (3) Mr Beresford spoke on behalf of neighbouring objectors setting out his objections to the scheme. He explained that in his view the proposed form of development would be overly dominant and would result in overlooking, loss of privacy, overshadowing and loss of light. The development would not enhance or preserve the character of the conservation area, walls had been demolished in breach of the earlier permission.
- (4) Mr Turner spoke on behalf of the applicant in support of their application. He stated that since grant of the earlier permission the applicant had been successful in acquiring an adjacent plot of land enabling them to improve on the original scheme. Frontages had been realigned to be more in keeping with the prevailing building line. Where possible the development had been set back and further away from the neighbouring dwellings. Day lighting and sun lighting studies had been commissioned and although it was recognised that there would be a degree of mutual overlooking this would be from bedrooms and would not worsen the existing situation. There was already a degree of mutual overlooking due to the close proximity of the existing dwellings.
- (5) Councillor West spoke in his capacity as a Local Ward Councillor setting out his objections and in support of the points made by the earlier speaker. Accommodation was now proposed within the roof space which would represent increased levels of overlooking. Whilst some elements of the scheme would be scaled back the current scheme would have a more detrimental impact on the properties located opposite it at in 3 and 4 Crown Gardens. As the site had good access to the City centre and to public transport, his preference would be for the development to be designated car free if planning permission were to be granted.

Questions/Matters on Which Clarification was Sought

- (6) Councillor Cobb referred to the lack of on-site parking and requested to know why it was not proposed for the development to be car free. It was explained that the applicant had indicated a willingness to provide a contribution towards transport infrastructure requirements and that designation of the development as car free could compromise its viability. It was not possible for off-street parking to be provided and as a requirement for the development to be car free had not been placed on the original permission and the current proposals represented a significant improvement to that earlier scheme it was considered that it would serve no material planning purpose to preclude future occupiers from applying for parking permits.
- (7) Councillor Davey sought confirmation that any future occupiers wishing to apply for parking permits would need to apply and be added to any waiting list as appropriate and it was confirmed that would be the case.
- (8) Councillor C Theobald referred to the land to the rear of the proposed development expressing concern regarding potential overlooking from the rear balconies or as a result of accommodation to be located in the roof space. It was explained in answer to further questions that the area of land referred to was in the ownership of the applicant.

Debate and Decision Making Process

(9) A vote was taken and on a vote of 11 with 1 abstention planning permission was granted.

211.7 **RESOLVED** – That the Committee has taken into consideration and agrees with the recommendation set out in paragraph 8 of the report and resolves that it is minded to grant planning permission subject to the applicant entering in to a Section 106 Obligation and to the conditions and informatives also set out in the report.

Note: Councillor C Theobald abstained from voting in respect of the above application.

G. Application BH2009/01746, Land at R/o 43-45 Norway Street, Portslade –
Construction of a new three storey building comprising 4 self-contained flats, with roof lights and rear dormers. Provision of bin and cycle stores.

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

(2) The Interim Area Planning Manager (West), Mr Ellwood gave a presentation referring to photographs, plans and elevational drawings. He showed those elements of the neighbouring site which had already been developed. The earlier approved application related to a mixed use of the site for conversion of the front building into 2 houses and development of the rear into 4 office units, the two houses had been built. The applicant had subsequently advised that this latter (office) element was not viable and was seeking permission to erect flats instead. As the earlier permission had not sought to secure the office development either by a condition or Section 106 Obligation it was considered it would be difficult to sustain insistence that this part of the site be retained as commercial/industrial land.

(3) Mr Bartha spoke on behalf of neighbouring objectors. He showed photographs indicating the close proximity of the proposed development and seeking to illustrate the degree of overlooking which in his view would result from the proposed form of development as residential rather than office accommodation. The area was characterised by terraced houses of a modest size and scale with modest sized back gardens, this scheme was completely at variance with that and would be overdevelopment; the applicant was seeking to squeeze too much onto a small site.

(4) Mr Theobald spoke on behalf of the applicant in support of their application. He explained that the original light industrial user had re-located elsewhere within the area and that the applicant had been unsuccessful in finding an office user for the site. The proposed flats had been carefully designed in order to minimise any potential for overlooking and the rendered fenestration and timber detailing had been chosen to reflect details which could be seen elsewhere in the locality.

(5) Councillor Harmer-Strange spoke in his capacity as a Local Ward Councillor setting out his objections and reiterating those of the earlier speaker. He considered the scheme was completely out of keeping with the area, was overdevelopment, would be far too close to neighbouring dwellings and in consequence would have a significantly

detrimental impact on their amenity resulting in loss of light, overshadowing and loss of privacy.

- (6) Councillor Davey requested to see drawings showing the extent of site coverage of the proposed development.

Questions/Matters on Which Clarification was Sought

- (7) Mr Small (CAG) referred to the proposed cladding materials and enquired regarding the finish proposed. Untreated Cedar had been used on some other developments elsewhere in the city and Members had observed that this did not appear to weather well, whereas locally coppiced chestnut (to which a finish did not need to be applied) appeared to weather better. He was advised that if Members were so minded in addition to the proposed condition requiring details of materials to be submitted an informative to that effect could also be added.
- (8) Councillor Caulfield sought further details regarding the scheme as previously approved and also enquired regarding the reference to there being contaminated land on the site, asking what type of contamination was being referred to. It was confirmed that this was unknown but that Environmental Health had advised that this could be overcome by condition.
- (9) Councillor Cobb made reference to the same point considering that if there was a possibility that land was contaminated Members should be aware as to what that contamination might be and it should be the subject of a desk top study which should be referred to in any report put before them.
- (10) Councillor Smart enquired regarding whether the units would meet life time homes standards and as to the level of sustainability which could be achieved. It was confirmed that these were two separate things and in answer to further questions it was explained that white render would be used with the timber cladding. Raised planters would be erected at sufficient height to ameliorate overlooking of the neighbouring site.

Debate and Decision Making Process

- (11) Councillor Hamilton stated that he considered it very regrettable that a condition had not been applied to the earlier permission seeking to ensure its use as office space. There was a requirement for office space elsewhere within the vicinity and he considered it unfortunate that the earlier permission had enabled the applicant to play the system and come back with the current application. He considered that there was a significant difference between an office use which would be occupied during the day and a residential one which would result in properties in use throughout the day/night 7 days a week in very close proximity to other residential properties. He considered this use would result in significant overlooking and loss of privacy and that neither its scale nor design was in keeping with the area.
- (12) Councillor Smart stated that he considered that the proposed balcony screening would be insufficient and that an unacceptable level of overlooking and loss of amenity would

still occur, the height of the development would also block out light from neighbouring dwellings.

(13) Councillor Cobb stated that she considered that the lack of on site parking/details regarding the neighbouring CPZ was an omission, on-street parking was already at a premium and the size/ scale of the development was too large.

(14) A vote was taken and on a vote of 8 to 1 with 3 abstentions planning permission was refused.

211.7 **RESOLVED** - That the Committee resolves to refuse planning permission on the grounds that:

(1) The introduction of 4 residential units into a site of restricted size is an overdevelopment by reason of its bulk, size and intensity of use. The proposal is thereby contrary to the provisions of policies QD1, QD2 and QD4 of the Brighton & Hove Local Plan; and

(2) The introduction of external balconies at first floor level extending across the entire width of the building would result in an increased level of actual and perceived overlooking to neighbouring gardens to the south and would thereby be materially detrimental to the amenities of the occupants of these properties contrary to the provisions of policies QD3 and QD27 of the Brighton & Hove Local Plan.

Note 1: A vote was taken and on a vote of 8 to 1 with 3 abstentions planning permission was refused.

Note 2: Councillor Hamilton proposed that planning permission be refused on the grounds set out above, this was seconded by Councillor Smart. A recorded vote was then taken. Councillors Allen, Carden, Caulfield, Cobb, Hamilton, Hyde (Chairman), Smart and C Theobald voted that planning permission be refused. Councillor Davey voted that planning permission be granted. Councillors Kennedy, Steedman and Wells abstained. Therefore on a vote of 8 to 1 with 3 abstentions planning permission was refused.

H. Application BH2009/02915, Windlesham School, 190 Dyke Road, Brighton – Alterations to existing classroom including removal of 1 roof light and lowering of the east section of the building with new mono-pitched roof (part retrospective).

(1) The Area Planning Manager (East), Mr Walke gave a presentation showing the location of the temporary classroom as erected. He explained that an amendment was being sought as it had not been built in accordance with the approved scheme and was sited closer to the eastern and southern boundaries of neighbouring residential properties. Three domed roof lights had also been installed rather than ones which were flush within the roof slope. The current application sought to reduce the bulk of the building where it abutted the eastern boundary by introducing a sloping roof including a section of the roof overhang to the front of the structure. Removal of one of the roof lights was also proposed.

- (2) Ms Barry spoke on behalf of neighbouring objectors and showed photographs taken showing the appearance of the building as built when viewed from the neighbouring properties to the rear. They considered that the 35sqm building erected was incapable of being located within the space available on site without encroaching unacceptably close to neighbouring residential dwellings. It was understood that it was not planned to build the replacement permanent buildings at present. The height of the building was at its greatest where the neighbouring garden wall was at its lowest, which compounded the close proximity of the building to the wall and the lack of planting.
- (3) Mrs Bennett-Odlum spoke on behalf of the applicants in support of their application. She explained that she was aware of concerns relating to the existing temporary classroom and was happy to address those concerns, including the provision of blinds to the roof lights to shut out any extraneous light. The classroom was not in use outside the agreed hours although it was acknowledged that cleaners had access to the buildings at a later hour. Sympathetic materials had been used (locally sourced chestnut) and the school was happy to agree the planted screening to be provided in consultation with neighbouring residents.
- (4) Councillor Allen spoke in his capacity as a Local Ward Councillor setting out his objections to the scheme reiterating the concerns of neighbours. The structure as built towered over and completely dominated neighbouring properties and he considered that it would be appropriate for a site visit to be held prior to determining the application. In answer to queries from Councillor Cobb as to why he had not requested a site visit under Item 210 on the agenda, he responded that he had considered it inappropriate as he was intending to speak in his capacity as a Local Ward Councillor. Having spoken Councillor Allen then withdrew from the meeting during the debate and decision making process.

Questions/Matters on Which Clarification was Sought

- (5) Councillor Smart enquired whether the timescale by which the building would cease to be used as a temporary classroom remained the same as agreed in connection with the earlier permission and it was agreed that it did.
- (6) Councillor C Theobald asked when the works had been completed. It was explained that they had been carried out during the summer holidays and that the use had commenced at the start of the autumn term. It was confirmed that planted screening had yet to be put into place.
- (7) Councillor Smart enquired when the photographs showing lights on the building had been taken, he was mindful that it became dark earlier during the winter months. The hours during which the building could be used as a classroom were confirmed and Ms Barry confirmed that the photograph had been taken at 6.00pm (outside those hours).
- (8) Councillor Kennedy sought confirmation regarding the frequency with which the condition relating to hours of use had been breached. Ms Barry explained that this had occurred less frequently recently but that there had been a number of instances during the Autumn Term. There had been light spillage from the existing roof lights and the lights had been left on for a protracted period.

- (9) Councillor Caulfield enquired regarding when the school intended that the current temporary use would cease and whether longer term use was anticipated beyond 2012. Mrs Bennett-Odlum, the applicant stated that it was anticipated that the building would revert to use for storage by 2012.
- (10) Councillor Caulfield referred to the application and that considered earlier in relation to Application BH2009/01746, Land R/o 43-45 Norway Street asking why amended applications had been brought back to Committee and enforcement action had not been sought. The Development Control Manager explained that applicants were permitted to submit revised applications for developments which could then be determined by the Committee. In appropriate instances the Committee could also be asked to consider authorising Officers to take enforcement action in instances where it was considered appropriate and serious breaches of planning conditions/regulations had occurred.
- (11) Councillor Kennedy stated that on the basis of the information provided she wished to propose that a site visit take place.

Debate and Decision Making Process

- (12) A vote was taken and on a vote of 8 to 3 Members voted to carry out a site visit prior to determining the application.
- (13) Councillor Hyde, the Chairman explained that as it had been decided that a site visit take place following public speaking no further public speaking would be permitted on this application by any of the parties including the Local Ward Councillor.
- 211.8 **RESOLVED** – That consideration of the above application be deferred for consideration at the next scheduled meeting of the Committee.

Note: Having spoken in his capacity as a Local Ward Councillor, Councillor Allen withdrew from the meeting and took no part in the subsequent discussion.

I. Application BH209/02797, 106 Waldegrave Road, Brighton – Erection of bicycle shelter to front of the property.

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

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

J. Application BH2009/02715, The Studio, 4 Dean Court Road, Rottingdean - Erection of a single storey to South elevation.

- (1) The Area Planning Manager (East), Mr Walke gave a presentation detailing the scheme by reference to plans and photographs showing the development permitted by the extant permission and the scheme as currently proposed.

Questions/Matters on Which Clarification was Sought

- (2) The Chairman, Councillor Hyde referred to the fact that a number of applications relating to various proposals had been made in respect of the application site. She sought clarification regarding whether their potential cumulative impact had been assessed. The Chairman also referred to the comments received from the Planning Inspector in 2006 relating to the removal of permitted development rights following the outcome of a planning appeal lodged at that time. Mr Walke confirmed that permitted development rights had been removed so that any extensions to the property could be considered by the local planning authority. The removal of the permitted development rights did not mean the property could not be extended merely that any extension should be assessed.
- (3) Councillor Smart requested to see photographs/plans detailing the previously approved scheme and that currently proposed. The Area Planning Manager confirmed that the previous application had sought permission for a much larger dwelling.
- (4) Councillor Cobb enquired whether there was a precise definition for a “studio” unit. The Area Planning Manager explained that the “studio” was the name of the property and confirmed that the residential property was a self contained unit in planning terms.

Debate and Decision Making Process

- (5) A vote was taken and on a vote of 7 to 5 planning permission was granted.

211.10 **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: Councillors Caulfield, Cobb, Hyde (Chairman), Smart and C Theobald voted that planning permission be refused.

K. Application BH2009/02970, Community Base, 113 Queen’s Road, Brighton – Display of externally illuminated mesh type banner to North elevation.

- (1) The Area Planning Manager (East), Mr Walke referred to additional letters of support which had been received following closure of the “Late Representations List” and referred to the planning history of the site. He explained that the Council would not normally approve permanent advertisement hoardings on listed buildings or within conservation areas or their immediate settings. The site had high prominence when walking from the train station to the sea front and, it was considered that such a large advertisement feature would not be in keeping with the visual appearance that the city was seeking to portray to visitors. For those reasons it was recommended that advertisement consent should be refused.
- (2) Mr Chalmers the applicant spoke in support of his application and showed photographs of the area where it was proposed advertisements would be displayed and of a similar hoarding located nearby. The Community Base building housed 27 charitable and voluntary groups which provided a valuable local resource. The income from

advertising would provide a significant funding stream. The building itself located within a conservation area was not attractive, particularly the stark blank wall proposed for advertising. The wall would not be in constant use and the type of advertising displayed would be vetted. The Council obtained income itself from advertisements placed along the side elevation of the building.

- (3) Councillor West spoke in his capacity as a Local Ward Councillor in support of the application. He considered that the building provided a valuable community resource and that account needed to be taken of that. In his view given that the Council obtained income from advertising material displayed along the side elevations of the building approval to this application would represent a consistent approach.

Questions/matters on Which Clarification was Sought

- (4) Councillor Kennedy sought confirmation regarding the standard conditions applied to advertising consents and asked whether the impact to a charitable organisation of loss of income from advertising material could be considered a material planning consideration.
- (5) Councillor Wells referred to the large advertisement hoarding located nearby and it was explained that this location which had been used for advertisements for some years was outside the conservation area.
- (6) Councillors Smart and C Theobald enquired whether it would be possible to add a condition to any permission granted, controlling the type of advertisement displayed. The Development Control Manager explained that the content of advertisement material was not a material planning consideration. Refusal was recommended on the basis of the impact on visual amenity as it was in a very prominent position. In answer to further questions, the Solicitor to the Committee advised that the appropriate material considerations relate to amenity (visual and aural) and highway safety as set out in the report. The planning considerations that could be taken into account in relation to an advertisement application were more restricted than for a planning application.

Debate and Decision Making Process

- (7) Councillor Allen referred to the statement that the advertisement sign was not in keeping with the image that the city wished to portray to visitors, he considered this was an ambiguous statement. The Community Base building itself was not in keeping with the character of the conservation area. He considered advertising material displayed on this large blank wall would add colour and visual interest and would actually represent an improvement.
- (8) Councillor Davey considered that there were a number of other advertisements displayed in the vicinity and elsewhere on the building. The building was itself unremarkable and was surrounded by other unremarkable buildings. No objections had been received from the North Laine Community Association (the local amenity society). Advertisements would add interest to a dull elevation and if considered appropriate a permission could be granted allowing advertisements to be displayed for no more than

six months at a time. Personally, however he did not consider any restrictions should be placed on advertising at that location.

- (9) Councillor Kennedy stated that she supported the application considering that clemency should be shown in this instance. She was conscious that there were 27 voluntary and community groups sited in the building, many of whom worked in tandem with the Council's own services. The end of the building was in her view ugly and block like, the placement of advertisements there would not be detrimental.
- (10) Councillor Cobb stated that the building was in a highly visible location, the area was heavily used by pedestrians and vehicular traffic and advertisements could provide a dangerous distraction. She was unable to support the application.
- (11) A vote was taken and on a vote of 6 to 5 (1 Member of the Committee being absent when the vote was taken), planning permission was refused.

211.11 **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 refuse Advertisement Consent for the informative set out in report.

Note1: Having declared a personal and prejudicial interest in respect of the above application, Councillor Steedman left the meeting during its consideration and took no part in the discussion or voting thereon.

Note2: Councillors Allen, Carden, Davey, Hamilton, and Kennedy voted that the application be granted.

L. Application BH2009/01873, 14 Cranbourne Street, Brighton – Change of use of ground and basement floors from retail (A1) to restaurant/café (A3) and hot food take away (A5) including installation of rear extract duct.

- (1) The Interim Area Manager (West), Mr Ellwood explained that in addition to the objections set out in the Late Representations List 2 further letters of objection had been received. Diagrams detailing the proposed internal layout and floor plans were shown and it was explained that the applicant had sought to reduce the visual impact of the extract duct by setting it back.
- (2) There were a number of properties in the vicinity including a separate maisonette above the premises which could be affected by the proposal, however, Environmental Health had been consulted and had raised no objection subject to the conditions proposed and it was therefore considered the development would not result in material detriment to neighbouring properties provided suitable safeguards were put into place.

Questions/Matters on Which Clarification was Sought

- (3) Councillor Hyde, the Chairman referred to the issues raised by objectors citing their concerns regarding the potential impact if home deliveries were to be made from the premises using what was potentially a pedestrian street and sought clarification as to how that could be controlled. It was confirmed that the applicant had indicated that they had no intention of operating a home delivery service at the present time.

- (4) Councillor Davey echoed the Chairman's concerns enquiring regarding any measures that could be taken to limit any nuisance which could arise should the applicant decide to provide this service in future.
- (5) Councillor C Theobald enquired whether it would be possible to add a condition to any permission granted to curtail such use.
- (6) The Principal Transport Planning Officer, Mr Reeves explained that a "Prohibition of Waiting Order" applied to Cranbourne Street itself, any vehicle parking there would be subject to a parking fine (ticket) and any vehicle wishing to load/unload would need to use the loading bays in Farm Road.
- (7) Councillor Smart enquired whether any restrictions applied to use of the bay in Farm Road and it was explained that loading/unloading was only permitted between specified times. The Development Control Manager advised that a condition would be inappropriate to any permission granted which would prevent home deliveries from taking place, The loading bays located in Farm Road were available for use by any business/residents within the area.

Debate and Decision Making Process

- (8) Councillor Steedman enquired regarding the hours of operation of the business and was informed that it would be permitted to stay open until midnight. He considered that such long opening hours were inappropriate in view of the close proximity of residential properties including the self-contained maisonette located directly above the premises.
- (9) Councillor Carden considered the proposed hours of operation to be appropriate given the premises city centre location.
- (10) Councillor Kennedy stated that she felt unable to support the loss of the current retail use as this would add to the proliferation of fast food outlets which already existed in the area.
- (11) A vote was taken and on a vote of 4 to 4 with 4 abstentions planning permission was granted on the Chairman's casting vote.

211.12 **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.

212. TO CONSIDER ANY FURTHER APPLICATIONS IT HAS BEEN DECIDED SHOULD BE THE SUBJECT OF SITE VISITS FOLLOWING CONSIDERATION AND DISCUSSION OF ITEMS ON THE PLANS LIST

212.1 **RESOLVED** – that the following site visits be undertaken by the Committee prior to determining the applications:

Application:	Site Visit Requested by:
BH2009/02941, Arts D & E Buildings, University of Sussex, Falmer	Development Control Manager
BH2009/02911, Roedale, Burstead Close	Development Control Manager
BH2009/02979, 106 Waldegrave Road, Brighton	Councillor Kennedy
BH2009/02615, Windlesham School, 190 Dyke Road, Brighton	Councillor Kennedy

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

213.1 **RESOLVED** – That those details of applications determined by the Director of Environment under delegated powers be noted.

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

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

The meeting concluded at 7.10pm

Signed

Chairman

Dated this

day of