

### BRIGHTON & HOVE CITY COUNCIL

#### PLANNING COMMITTEE

2.00pm 13 OCTOBER 2010

COUNCIL CHAMBER, HOVE TOWN HALL

#### MINUTES

**Present:** Councillors Hyde (Chairman), C Theobald (Deputy Chairman), Carden (Opposition Spokesperson), Alford, Cobb, Davey, Hamilton, Kennedy, McCaffery, Simson, Smart and Steedman

**Co-opted Members** Philip Andrews ((Chairman) Conservation Advisory Group)

**Officers in attendance:** Paul Vidler (Deputy Development Control Manager), Nicola Hurley (Area Planning Manager (West)), Hamish Walke (Senior Team Planner (East)), Steve Reeves (Principal Transport Planner), Hilary Woodward (Senior Lawyer) and Jane Clarke (Senior Democratic Services Officer)

#### PART ONE

#### 118. PROCEDURAL BUSINESS

##### 118a. Declaration of Substitute Members

118.1 There were none.

##### 118b. Declarations of Interests

118.2 There were none.

##### 118c. Exclusion of the Press and Public

118.3 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.

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

**119. MINUTES OF THE PREVIOUS MEETING**

119.1 **RESOLVED** – That the Chairman be authorised to sign the minutes of the previous meeting held on 22 September 2010 as a correct record.

**120. CHAIRMAN'S COMMUNICATIONS**

120.1 There were none.

**121. PETITIONS**

121.1 There were none.

**122. PUBLIC QUESTIONS**

122.1 There were none.

**123. DEPUTATIONS**

123.1 There were none.

**124. WRITTEN QUESTIONS FROM COUNCILLORS**

124.1 There were none.

**125. LETTERS FROM COUNCILLORS**

125.1 There were none.

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

126.1 There were none.

**127. APPEAL DECISIONS**

127.1 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.

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

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

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

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

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

130.1 The Committee noted the position regarding Pre Application Presentations and Requests.

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

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

Application:	Requested by:
BH2010/01966, Mitre House, 149 Western Road	Deputy Development Control Manager
BH2009/03105, Medina House, King's Esplanade, Hove	Deputy Development Control Manager

**132. TO CONSIDER AND DETERMINE PLANNING APPLICATIONS ON THE PLANS LIST**

**(i) TREES**

132.1 There were none.

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

**A. Application BH2010/01824, 112-113 Lewes Road, Brighton** – Erection of four storey building providing retail space on ground and first floors and student halls of residence (39 units) on ground and upper floors.

(1) The Senior Planning Officer, Mr Thatcher, introduced the application and presented plans and elevational drawings. The site had been the subject of a previous approval in 2009 but the schemes were identical in height, bulk, scale and massing. Section 106 contributions had been recommended by statutory consultees and these were included in the report. The previous scheme had been considered acceptable and there were no significant changes in material planning terms to the new scheme. There were no policies in the Local Plan regarding student accommodation and so the scheme was acceptable in principle subject to normal development control considerations.

There would be a communal roof terrace provided with the scheme, but separation distances were adequate and so there would be no undue overlooking. Any additional noise and disturbance as a result of the scheme was dealt with by condition 22 to ensure that party walls were insulated above Building Regulations requirements. The scheme would not increase parking demands to the detriment of public safety and a Section 106 agreement would include contributions to Saunders Park and a public art contribution. The scheme would achieve a BREEAM excellent level for sustainable homes and a land contamination study and air quality study were completed. In terms of air quality it was recognised that a ventilation system would need to be provided.

**Questions/Matters on Which Clarification was Sought**

- (2) Councillor Smart asked if the scheme was only for the use of university students. Mr Thatcher replied that the Section 106 agreement would stipulate that the building would only be for the use of university students and staff.
- (3) Councillor Smart asked if there would be a warden on site and Mr Thatcher replied that there would not be, but a management plan would be part of the Section 106 agreement to deal with the day-to-day running of the site.
- (4) Councillor Alford asked where the main access would be and Mr Thatcher replied that it would be from Newmarket Road.
- (5) Councillor Alford asked if the occupiers would be first year students and Mr Thatcher believed this would be the case.
- (6) Councillor Mrs Theobald asked if the units were of a standard size for university accommodation, whether they were accessible for disabled people, what the public art contribution would be spent on, how refuse and recycling would be dealt with and how the commercial units would be controlled.

Mr Thatcher replied that the units were of a typical size for the type of accommodation they were and there would be lift access to all floors. There was no scheme submitted as yet for the public art money, but there would be a £12,500 contribution. Refuse and recycling issues were dealt with by requirements in condition 4 of the report and the commercial units would be controlled through operating hours of 07:00 to 23:00.

- (7) Councillor Simson asked if other halls of residence in the city typically operated with a management plan or whether they had wardens provided. Mr Thatcher replied that he was not able to answer this question.
- (8) Councillor Davey asked questions around the use of retail space with the scheme and Mr Thatcher demonstrated the layout of the space and replied that the main entrance to the retail space would be on Lewes Road.
- (9) Councillor Davey asked what size the space was and what the business hours of the retail space would be. Mr Thatcher replied that there were 182 square metres of floor space on the ground floor and 55 square metres on the first floor, and the business hours were controlled by condition 13 and would be from 07:00 to 23:00 hours.
- (10) Councillor Cobb asked if there would be any sound insulation for the roof terrace and whether it could be used at all hours. She asked questions around the size of the motorcycle parking bay, which she felt was a more sustainable type of transport for students than cars, and noted that car parking was particularly difficult in the area. Mr Thatcher replied that the management plan would control the use of the terrace so that it would not be used all through the night. He added that the motorcycle parking bays could be retained through the Section 106 agreement and used partly for motorcycle parking and partly for car parking.

- (11) Councillor Cobb asked how the use of the terrace could be controlled if there was no warden on site. Mr Thatcher replied that if the Local Planning Authority was not satisfied that the management plan could adequately control this, it would not be agreed by the officers.
- (12) Councillor Smart asked if any screening would be provided with the roof terrace. Mr Thatcher replied that there would be a 1.1 metre high boundary wall with vegetation screen on top.
- (13) Councillor Steedman believed that there was a restriction on student parking within a certain radius of the Varley Halls scheme, and asked if this could be implemented for this scheme. The Principal Transport Planner, Mr Steve Reeves replied that a condition was recommended for a travel plan to be submitted, and parking could be managed through this.
- (14) Councillor Mrs Theobald asked what the size measurements of the rooms were and raised concerns over the lack of a warden on site to manage the students. Mr Thatcher replied that the typical layout was 3.2 metres and 5.1 metres.
- (15) Councillor Kennedy stated that she had been a student in the city and it was not normal for university accommodation to have a site manager.
- (16) The Chairman noted that there had been a scrutiny review on Phoenix Halls recently regarding the problems with students there, and asked how many students were at Phoenix Halls. Councillor Kennedy replied that there were hundreds of students who lived in Phoenix Halls, but the Council had a lot of success in working recently with the students and the university to better manage the premises.
- (17) Councillor Alford noted that this accommodation was in the centre of Brighton and felt that the management of these halls needed to be carefully considered. He felt that supervision was needed and that the definition of this supervision needed to be clear. He asked that the Committee Members be assured that the contents of the management plan were stringent enough. The Senior Solicitor, Mrs Woodward, replied that it was unusual for Section 106 matters to return to Committee, and the Chairman suggested that she, the Deputy Chairman and the Opposition Spokesperson consider the Section 106 agreement before it is agreed.

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

- (18) Councillor Davey stated that he had concerns over the hours of use for the retail unit, and felt the hours should be reduced.
- (19) Councillor Hamilton felt that this was a very good location and within easy reach of the university. He felt the rooms were a good size and the people living nearest to the site had not objected so he felt able to support the application.
- (20) Councillor Steedman did not believe this was a town centre site, but was convenient for the university. He felt that restrictions on student parking should be added as the area was well served by public transport.

- (21) Councillor Carden agreed that there was good public transport here, but did not think that students would be able to afford cars to park them in the area.
- (22) A vote was taken and on a vote of 10 for and 2 against, minded to grant planning permission was agreed subject to a Section 106 agreement, the conditions and informatives in the report and additional requirements and conditions, namely that the Chairman, Deputy Chairman and Opposition Spokesperson be consulted on the Site Management Plan prior to agreement, that the opening hours of the retail premises shall be 08:00 until 20:00 hours and that the parking bays shall be split on a 50:50 ratio between car parking and motorcycle parking.
- 132.2 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in paragraph 8 of this report and resolves that it is minded to grant planning permission subject to the applicant entering into a Section 106 Agreement and to the conditions and informatives listed in the report.

**B. Application BH2010/02012, 25-28 St James’s Street, Brighton** – Redevelopment of first floor and airspace above to form residential development of 33 flats (including 13 affordable flats) over four floors above existing retail.

- (1) Mr Thatcher introduced the application and demonstrated plans and elevational drawings. A previous approval was identical in terms of size, bulk, scale and massing, with an extension over 24 Dorset Gardens. The units had been reduced by one and the principal of the development was acceptable. The revised scheme had an increase in amenity space and met lifetimes homes standards. The units were car free and a contribution to sustainable transport was sought. Thirteen of the units were affordable housing, and nine were wheelchair accessible. There was a public art contribution sought and this would likely be used along the frontage of Dorset Gardens. Code Level 3 for sustainability was sought.

**Questions/Matters on Which Clarification was Sought**

- (2) Councillor Steedman asked what the colours of the panels would be. Mr Thatcher replied that all external materials were to be approved by the local planning authority and there would be glazing on the balconies.

**Debate and Decision Making Process**

- (3) A vote was taken and on a vote of 9 for, 2 against and 1 abstention minded to grant planning permission was granted subject to a Section 106 agreement and the conditions and informatives listed in the report.

- 132.3 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in paragraph 9 of this report and resolves that it is minded to grant planning permission subject to the applicant entering into a Section 106 Obligation and to the conditions and informatives listed in the report.

**C. Application BH2010/02344, The Royal Pavilion, 4-5 Pavilion Buildings, Brighton**  
– Temporary ice rink on the Royal Pavilion Eastern lawns. Structure to include ancillary buildings for a restaurant, crèche, café, toilet facilities and skate hire. Proposed dates are 26 October 2010 to 23 January 2011 including set up and break down, with resurfacing to be completed by 23 February 2011.

(1) The Senior Team Planner (East), Mr Walke, introduced the application and demonstrated plans and elevational drawings. He noted that the current scheme was very similar to last year's scheme. There would be a new public access viewing area included for tourists to continue to view the Pavilion and English Heritage had not raised an objection, however some views of the Pavilion would be obscured, and the Conservation Advisory Group had objected and felt that a different location could be more appropriate.

The Conservation and Design Team recognised the harm to the Pavilion, but felt that as the application was temporary, and the landscape would be restored after use, it was acceptable in this instance. The Environmental Health Team had considered issues to do with noise and lighting intrusion and felt the application was acceptable. The Arboriculturists had raised concerns about the impact on the trees on site and had proposed ring fencing those trees most vulnerable whilst the ice rink was in situ. It was noted that energy use on site would be monitored to assist plans for renewable energy for future applications, if approval was obtained.

#### **Questions/Matters on Which Clarification was Sought**

- (2) Councillor Steedman asked that an informative be included to ensure that information was gathered regarding the energy use of the scheme.
- (3) Councillor Smart asked if the ice rink users would have to walk on grass paths to access the site and whether the viewing area was raised and if the public had to pay to use this. Mr Walke replied that temporary grass-crete paths had been proposed with the scheme. There were limited views available from the proposed viewing area for the Pavilion, but this would be freely available to all. Mr Walke believed there would be a charge for the viewing area provided for the ice skating rink.
- (4) Councillor Alford asked for confirmation that the operator would restore the site after use and Mr Walke agreed, but added that this would form part of the lease agreement with the Pavilion.
- (5) Councillor Theobald asked if there would be extra lighting provided with the scheme and Mr Walke confirmed this, stating that there would be a Christmas tree on site and lights in the existing trees.
- (6) Councillor McCaffery asked how much of the Pavilion would be obscured by the scheme. Mr Walke demonstrated photographs and plans of the site and stated that part of the northern elevation of the Pavilion would be obscured. The temporary structures that formed part of the scheme would be up to 4 metres in height.

**Debate and Decision Making Process**

- (7) Councillor McCaffery felt this was an exciting idea but was concerned by the amount of the Pavilion that would be obscured. She did not feel it was necessary to have a café on site and was concerned by the number of temporary buildings that were needed.
- (8) Councillor Kennedy fully supported the scheme. She appreciated the concerns but noted that the application was temporary. She added that it was part of the strategy for the Pavilion to make better use of the gardens and would provide money to keep the Pavilion well maintained.
- (9) Councillor Carden welcomed the application and looked forward to seeing the ice rink in situ. He felt that proper skating provision was desperately needed for the city.
- (10) Councillor Theobald agreed that it was an exciting project and it would be wonderful to see skating brought back into the city.
- (11) A vote was taken and on a unanimous vote planning permission was granted subject to the conditions and informatives listed in the report, with an additional informative regarding collection of energy use data.

132.4 **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 in the report, and an additional informative to read:

- (1) The applicant is requested to monitor the energy usage of the ice rink during the period of its operation. This will be helpful in the consideration of any future planning applications and related energy use.

**D. Application BH2010/02400, 2 Montefiore Road, Hove** – Change of use of office building (B1) to Clinical Diagnostic and Treatment Centre with overnight patient accommodation (C2).

- (1) The Area Planning Manager (West), Mrs Hurley, introduced the application and presented plans and elevational drawings. She stated that an application had been approved in May 2010 for a Sports Orthopaedic Clinic with D1 class use.

The new application sought to change the class use to C2, to include overnight accommodation for patients. The office floor space proposed with the previous application would be removed under the new proposals. Policy EN5 of the Local Plan sought to retain office space unless it could be proved that the space was redundant. Whilst there was a loss in office space and net loss in jobs with the new scheme, Officers felt that as the jobs provided would be of a higher value, this was acceptable.

The scheme would meet community use requirements and had no additional impact on amenity or traffic flows to the previously approved scheme. One letter of support and one letter of objection had been received for the scheme.



- (2) Local Ward Councillor, Councillor Fallon-Khan, spoke in support of the scheme and stated that it would bring health care back into the community setting. The scheme would help to regenerate the economy and to boost the local economy bringing high value jobs into the area. There was an actual need for this type of facility in the area, and the building had been vacant for around five years. Councillor Fallon-Khan also noted that as more people led more active lifestyles, sports injuries would become more common and community treatment facilities were vital to ensure that hospital A&E departments did not get filled up with this type of injury unnecessarily. There were no particular objections to the scheme from statutory consultees and it would provide easier access to treatment for a large proportion of the population than would the Royal Sussex County Hospital.
- (3) Councillor Davey asked if Councillor Fallon-Khan felt there was enough parking provided with the scheme. Councillor Fallon-Khan noted that there was no difference between this scheme and the approved scheme in May 2010 in terms of parking. He added that residents in the city could easily reach this site through public transport and it was not a great distance from Hove train station.

#### **Questions/Matters on Which Clarification was Sought**

- (4) Councillor Smart noted that there was no extra parking with this scheme and felt that people with injuries of this type would be likely to rely on cars or taxis to access the clinic. He asked if there was anywhere on site where extra parking could be added. Mrs Hurley noted that there would be no increase in floor space for this scheme compared to the previous scheme, and added that there was nowhere on site for extra parking to be included.
- (5) Councillor Mrs Theobald asked if there was a drop off point or ambulance space provided with the scheme. Mrs Hurley replied that the area was a controlled parking zone and there would be spaces on street that patients could pay to use. She added that there would likely be a drop off space near the clinic but not an ambulance space as patients would be attending as out-patients and not as emergencies in ambulances.

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

- (6) Councillor Mrs Theobald noted that the site had been vacant since 2005 and this was a good use for an attractive building that was an asset for the city.
- (7) A vote was taken on a vote of 11 for and 1 abstention, full planning permission was granted subject to the conditions and informatives listed in the report.

132.5 **RESOLVED** – That the Committee had taken into consideration and agrees with the reasons for the recommendation and resolves to grant planning permission subject to the conditions and informatives listed in the report.

**(iii) MINOR APPLICATIONS**

**E. Application BH2010/02005, 30 Hove Park Road, Hove** – Installation of part pitched and part flat roof to rear extension with ridge skylights, rooflights to rear elevation and alterations to patio doors and windows. Installation of raised deck (part retrospective).

- (1) Mrs Hurley introduced plans and elevational drawings and noted that the application was for changes to a previously submitted scheme, which was allowed at appeal. She added that it was relevant to note an application for a non-material amendment to the previously approved scheme. A split decision had been issued regarding the changes, and those that required further planning permission had come back to Committee for consideration. Letters of objection had been received regarding the impact on the building and surrounding area and the amenity of neighbours. There was potential for overlooking but the views were limited and would not warrant a reason for refusal. No overlooking would result from the decking area and it would not appear incongruous and so was acceptable.
- (2) Mr Neil, a neighbour, spoke in objection to the scheme and stated that the gap between his property and the applicant's property had been critical to receiving approval on appeal. The current gap was not appropriate however and was 2 inches at the smallest point. The proposed rear window also increased overlooking onto his garden and the appeal decision stated that there should be no overlooking, and that obscured glass would prevent this. The proposed window was clear glazed however. He asked that the Committee ensure there was a wider gap between the properties, that the windows overlooking his property be obscured with fixed openings and that the proposed eastern elevation window be removed.
- (3) Councillor Cobb asked if the gap would be acceptable if the existing boundary wall was removed. Mr Neil replied that the building material from the demolished garage should have been removed to provide a wider gap, but he was unsure if this would be wide enough anyway.
- (4) Councillor Smart asked if the application would be more acceptable if the new proposed window was obscurely glazed and Mr Neil agreed.
- (5) Mr Murray, the applicant, spoke in favour of the application and stated that there had been no gap between the properties before the building work was done as the garage abutted the existing boundary wall. The appeal decision recommended a 0.5 metre gap between the boundary and a 2.5 metre gap between the gable ends of the properties. Planning Officers had confirmed that what was existing was appropriate. The changes to the application included a reduction in the roof size of the extension and removal of three east elevation windows. The southern window had been increased in size, but this conformed with what was already typically existing in the area.
- (6) The Chairman asked if it was the recommendation of the Planning Inspector to have a smaller south facing window fitted. Mr Murray replied that the increase in window size formed part of the new application that had not been assessed by the Inspectorate.

- (7) Councillor Kennedy asked if there were plans to improve the look of the boundary gap as it appeared very unfinished. Mr Murray replied that he had not been permitted access by his neighbour to finish the works properly but would like to do so.
- (8) Councillor Cobb asked if there would be no overlooking if the application conformed to the Inspector's recommendations and Mr Murray confirmed this, but stated that the larger hipped roof as previously proposed was not desirable for the area and it was beneficial to all that this was reduced.
- (9) Councillor Smart asked if the window size was changed on Officer advice and Mr Murray replied that it was not.
- (10) Councillor Alford asked where the gap between the boundaries was measured from and Mr Murray replied it was from the east side of the boundary wall. An independent surveyor had been engaged to assess the correct line of the boundary.
- (11) Councillor Alford asked if the boundary line was disputed as the boundary wall currently took up part of the 0.5 metre gap. Mr Murray noted that his neighbour's porch was built up to and overhung the boundary wall, but that the two gable ends were 2.5 metres apart.
- (12) Mrs Hurley confirmed that the size of the extension was not something that the Committee could consider since the extension was allowed at appeal and the only matters of consideration were the changes now proposed. It was also confirmed that Enforcement Officers had visited the site and were satisfied that the 0.5 metre gap was appropriate and the scheme was built in accordance with the approved drawings.

#### **Questions/Matters on Which Clarification was Sought**

- (13) The Chairman asked the Officer's view on the enlarged window and Mrs Hurley replied that it was felt that the enlargement was not large enough to warrant a reason for refusal.
- (14) Councillor Theobald asked if a smaller window could be conditioned and Mr Vidler replied that Councillors needed to consider the application before them.

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

- (15) Councillor Cobb felt there was very increased overlooking to the neighbours garden and the appeal decision highlighted that there should be no overlooking. She did feel that there was overlooking generally in the area however and felt that if the window size was reduced in height this would be more acceptable. She added that if the roof size had remained the same this would have obscured any views.
- (16) Councillor Smart noted that if the roof size had remained the same the applicants would not have been able to have an enlarged window.
- (17) Councillor Theobald felt that the enlarged window was very large and gave views onto the neighbour's patio. She added that the boundary wall was very messy and unfinished and needed to be rendered properly.

- (18) Councillor Steedman noted that the Inspector had not removed Permitted Development rights with the scheme and so if the window had been constructed as per the Inspector's recommendations, there was nothing to stop the applicant inserting a larger window at a later date.
- (19) Mr Vidler clarified that the Inspector would have considered the plans before him and views would have been obscured by the previously approved roof. It was not possible to know what the Inspector would have decided with the new application, and it was for Committee Members to assess this based on the application's merits. Officers did not feel the application increased overlooking to the point where the application could be refused on these grounds, and the existing character of the area had been taken into account when determining this.
- (20) A vote was taken and on a vote of 5 for, 2 against and 4 abstentions planning permission was granted subject to the conditions and informatives listed in the report.
- 132.6 **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 listed in the report.

**Note:** Councillor Simson was not present during the debate and voting of this application.

**F. Application BH2010/00391, 37-41 Withdean Road, Brighton** – Demolition of three existing detached houses and construction of 3no. new detached dwellings.

- (1) Mrs Hurley introduced the application and demonstrated plans and elevational drawings. She noted that a scheme of five dwellings had already been approved and this application sought to reduce that to four dwellings.

**Questions/Matters on Which Clarification was Sought**

- (2) Councillor McCaffery asked if the profile of the houses would dominate the skyline and Mrs Hurley replied that the house that had already been built would be the most prominent and the others would recede away from this,
- (3) Councillor Smart asked why the trees had been removed at the front of the site. Mrs Hurley replied that some trees had been removed that should have remained and this information would be passed onto the Enforcement Team to investigate further.
- (4) Councillor Theobald asked how far away the dwellings would be from the road and Mrs Hurley replied that they would be approximately 6 metres from the frontage. She added that additional planting of trees would take place.

**Debate and Decision Making Process**

- (5) The Chairman felt that the removal of the trees would have a significant impact on the street scene and felt these needed to be replaced.

- (6) Councillor Theobald felt the dwellings were out-of-character and that the replanting would soften the look of the dwellings.
- (7) Councillor Steedman did not like the application and did not feel it was an efficient use of land, but as approval had already been given for 5 dwellings he did not feel he could justify a refusal.
- (8) Councillor McCaffery raised concerns over the accuracy of the drawings and felt that the Officers needed to pay further attention to this.
- (9) Mr Vidler addressed the Committee and stated that the removal of some of the trees would be investigated further for a more accurate assessment but that Officers would endeavour to ensure that as many trees as possible were retained on site.
- (10) A vote was taken and on a vote of 4 for, 1 against and 4 abstentions planning permission was granted subject to the conditions and informatives listed in the report.

132.7 **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 listed in the report, and an additional condition to read:

- (1) No development shall take place until a retention and planting schedule for trees across the site has been submitted to and approved in writing by the Local Planning Authority. Those trees that area to be retained shall be retained as such thereafter. All planting comprised in the approved scheme shall be carried out in the first planting seasons following the occupation of the building or the completion of the development, whichever is the sooner; and 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.

**Reason:** To enhance the appearance of the development in the interest of the visual amenities of the area and to comply with policies QD1 and QD15 of the Brighton & Hove Local Plan.

**Note:** Councillors Simson, Davey and Hamilton were not present during the debate and voting on this item.

**G. Application BH2010/00584, 227 Preston Road, Brighton** – Change of use of car showroom/workshop (SG04) to 2no. retail units (A1) incorporating installation of external condenser unit, air conditioning units and an ATM Cash Machine.

- (1) Mrs Hurley introduced the application and demonstrated plans and elevational drawings. She noted that the use of the site was sui generis. There would be minor alterations to the elevations. Letters of support and objection and a petition of objection had been received regarding concerns over noise, light and air pollution, and traffic and parking issues. A retail impact assessment had been conducted to show

there was capacity to accommodate another store of this type in the area and there would be no detrimental impact to the building.

Unresolved issues relating to parking, deliveries and highway safety were the proposed reasons for refusal. The proposed unloading bay would be situated on the A23 and the Sustainable Transport Team had raised an objection to the impact on safety that this would have to pedestrians and cyclists. There was a significant reduction in parking places that were required under Supplementary Planning Guidance 4 with this scheme.

- (2) Mr Gotham addressed the Committee as a local objector to the scheme. He stated that he was very concerned about the development and noted that over 500 people had petitioned against it. The development would create traffic, parking, pollution and safety problems and would be unsafe for pedestrians. He added that there was a school in the nearby area. Mr Gotham was also very concerned about the unknown impact of the second unit on site and did not feel that Planning Officers had been given the opportunity to assess this properly. He noted that the A23 at this point was a pinch point for traffic and the inclusion of an unloading bay here would exacerbate traffic problems and create highway safety issues.
- (3) Councillor Davey asked how a lorry would access the unloading bay and Mr Gotham believed it would have to travel around Preston Circus and return to be able to access it safely. He added that the proposed loading bay was not long enough for the tailgate of the lorry to be lowered and this would create further problems.
- (4) Mr Morris from WYG Planning spoke on behalf of the applicant and stated that the development was acceptable in principle and would provide economic benefits and create jobs in the local area. Most issues with the application had been resolved, and the unloading bay had been situated on the A23 following advice from the Transport Planners, and Mr Morris was unsure why this was now a reason for refusal of the application as it was not the applicant's preferred solution. The parking provision was the maximum recommended for the site and the applicant did not feel that more than this would be necessary. The scheme complied with policies and he added that the second unit was likely to be a pet shop, which would not be a high traffic generator. He added that there would only be one articulated lorry delivery per day to the site as the rest of the deliveries would be by smaller vans. He did not believe there were any valid grounds for refusal of the application.
- (5) Councillor Davey asked what route the delivery lorries would likely take down the A23 and Mr Morris replied that it would likely be a combined delivery to other stores in the city and this store would receive delivery as the lorry travelled out of the city.
- (6) Councillor Smart asked how much custom was expected to travel from the south of the city and Mr Morris replied that this would be a local store serving a local population and as such he did not expect much custom from elsewhere. Much of the custom would be by foot.
- (7) Councillor Alford asked why the parking area could not be used for turning lorries and Mr Morris replied that the unloading bay was originally sited in the parking area but the Transport Planners had advised the applicant to locate it on the A23.

- (8) The Chairman asked for a further explanation of how the unloading bay was sited from Mr Fowler. He explained that the existing access into the parking area was not wide enough for lorries to access and any lorries leaving the site would have to reverse onto a primary road route. The applicant had asked for proposals for an alternative solution to where the bay could be sited, but it was the applicant's responsibility to ensure that any proposals with the application resolved highway safety concerns. Mr Morris believed that the route the lorries would take into the parking bay was wide enough and lorries would be able to exit the site in a forward gear.
- (9) Councillor Cobb asked how long a lorry would take to unload and Mr Morris replied that the longest time would be around 45 minutes.
- (10) Councillor Theobald asked how many lorries would use the bay each day, and whether the bay could be cut further into the pavement. Mr Morris replied that one articulated lorry per day would use the bay and the rest of the deliveries would be by smaller vans. Cutting further into the pavement had not been considered as an option at this stage.
- (11) Councillor Davey asked how many vehicle movements to the store were likely and Mr Morris replied that he did not have the figures for this.
- (12) Mrs Hurley clarified some of the answers given to the questions and noted that analysis of the swept path of delivery vehicles showed that they would pass very closely or hit two of the walls on site. She added that there would be five deliveries per day and gave the dimensions of the vehicles.

**Questions/Matters on Which Clarification was Sought**

- (13) Councillor Davey asked if the proposed unloading bay would be dedicated to Sainsbury's vehicles. Mr Reeves replied that unloading bays could not be restricted to a particular user.
- (14) Councillor Simson noted a pedestrian access and asked if this could be used by cars and Mrs Hurley replied there would be bollards in place to prevent this.
- (15) Councillor Smart believed that the pavement had been increased in size at one end of the application site, and felt that this area might be used to provide an unloading bay.
- (16) Councillor McCaffery asked why so many parking spaces were needed if the store was supposed to support the local retail market. The Chairman replied that this formed part of the application which needed to be considered in its entirety.
- (17) Councillor McCaffery asked what the second unit on site would be used for and Mrs Hurley replied that it would be A1 non food use.
- (18) Councillor Simson asked if they applicants would need revised planning permission if they wished to use the second unit. Mrs Hurley replied that a restriction of use could be placed on the unit.

- (19) Councillor Cobb asked if Cumberland Road was wide enough to accommodate cars parked on both sides, with two cars passing in the middle of the road. The Transport Planner, Mr Fowler, replied that there were proposed double yellow lines on the west side of the street to prevent parking in that area. Mr Reeves added that the roadway was 6.2 metres wide and a parked car would take up 2.1 metres. There would not be enough room for cars to pass if there was parking on both sides of the road.
- (20) Councillor Smart asked why a cycle way was not proposed similar to the one on Dyke Road. Mr Vidler replied that the Dyke Road cycle way was an advisory scheme.
- (21) Councillor McCaffery asked how large delivery trucks would be able to turn around in the small roads around the area. Mr Reeves replied that issue would be a matter for the applicant to resolve.

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

- (22) Councillor Simson was concerned about the traffic management in this area and noted that at this point the A23 reduced from two lanes to one lane. From knowledge of local supermarkets in her area there were at least two deliveries from large vehicles per day and the bus stop behind the unloading bay created further problems as the bus would have to pull out around the lorry into traffic that was already being reduced to one lane. She noted that Cumberland Road was already very busy and this application would considerably increase parking in the area.
- (23) Councillor Alford felt that traffic and road issues remained unresolved with this application and could not be disregarded.
- (24) Councillor Davey felt that the application was inappropriate on transport grounds and was concerned about the parking issues. He added that people could end up queuing on the A23 to access the store and he did not think the site was big enough to support the envisaged demand.
- (25) Councillor McCaffery did not believe as many parking spaces would be needed if this was to be a local store. Extra retail provision was needed for the area as there were no other sites nearby and this would increase shopping choice. She did feel that the turning from Cumberland Road was already dangerous however and the traffic issues needed to be resolved before the application was approved.
- (26) Councillor Theobald felt that when the site operated as Caffyns there would have been lots of traffic movement. She did feel that that site was difficult in terms of deliveries however and believe this problem needed to be resolved before the store could be approved.
- (27) The Chairman felt that as this was a local store then the deliveries could be made by smaller vehicles more suited to a local area.
- (28) Councillor Smart felt that a better solution to the deliveries could be found for the site and was concerned that this was a reason for refusal.



- (29) Councillor Hamilton felt that if the second unit could be removed there would be plenty of space for parking and for loading and unloading of delivery vehicles.
- (30) Councillor Alford felt that the delivery problem could be rectified, even if the wall around the store was removed to allow large vehicles access.
- (31) A vote was taken and on a vote of 9 for, 1 against and 2 abstentions planning permission was refused for the reasons given in the report.

132.8 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in the report and resolves to refuse planning permission for the reasons listed in the report.

**H. Application BH2009/02847, 85 Tivoli Crescent North, Brighton** – Single storey side extensions to north and south elevations and swimming pool and enclosure extension to rear (revised design).

- (1) There was no presentation given with this item.
- (2) A vote was taken and on a vote of 7 for, 0 against and 2 abstentions planning permission was granted subject to the conditions and informatives listed in the report.

132.9 **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 listed in the report.

**Note:** Councillors Simson, Davey and Hamilton were not present during the voting on this application.

**I. Application BH2008/02546, Sainsbury's Supermarket, Lewes Road, Brighton** – Application to vary condition 2 (delivery hours) of planning permission 92/0916/FP dated 15 July 1993, to allow deliveries from between 7am to 10pm Monday to Saturday, and increase delivery vehicles to 4 daily, on Sundays and Bank Holidays with delivery hours remaining as existing.

- (1) Mr Walke introduced the application and demonstrated plans of the application. A condition to restrict the delivery times was proposed to reduce these hours as there were concerns over the disturbance to the nearby residential properties. Complaints from residents had been received regarding this. No statutory noise nuisance had been identified but it was clear that there was some disturbance. The application requested the extension of delivery hours by one hour and increasing the number of deliveries from 2 to 4 on Sundays and Bank Holidays. It was not felt that the increased hour and deliveries would create additional disturbance and several conditions were proposed to control the noise on site.
- (2) Mrs Rimington, a local neighbour, spoke in objection to the scheme and stated that the delivery yard was very close to adjacent residential properties and was very noisy. The store was at least 30 years old and the existing conditions to control noise were regularly flouted. The store had changed over the years and was now also a

distribution centre for the city and the daily deliveries had vastly increased. The operation of the store was very different from the original permission that had been given. There had been no money spent on the delivery yard to mitigate this increased usage and residents were disturbed by constant, but erratic short term noise that registered up to 70 decibels. Mrs Rimington stated that existing ambient noise levels should not be breached and any conditions placed on the yard should be enforceable and apply after 21:00 hours and on Sundays.

- (3) Councillor Davey asked if there would be any improvement in the noise disturbance given the conditions that were proposed with this application. Mrs Rimington did not believe that Sainsbury's would adhere to these conditions as they had not done so in the past. She did not believe the store would receive approval for the way it was operating if the application was submitted now.
- (4) Councillor Davey asked if the yard was now being used as a distribution centre and Mrs Rimington confirmed this, stating that between 7 and 8 lorries would use the yard per day, creating noise all day.
- (5) Councillor West spoke as a local Ward Councillor against the application and stated that there had been long standing issues with disturbance and air pollution at this site. The store had not been adhering to the existing restrictions and was now frequently re-supplied, but was not big enough for its current use. There was constant banging and crashing noises from the yard and Councillor West was not confident that the conditions would be complied with or enforceable. He felt that deliveries at 22:00 hours was too late for children to sleep and the doubling of deliveries on Sundays would be very detrimental of the lives of the neighbours.
- (6) Councillor Kennedy asked if there had been any dialogue between the Ward Councillors and Sainsburys about the problems on site and Councillor West stated that Councillor Taylor had been involved in the past, but he had only recently been involved with the issue.
- (7) Mr Malkin from WYG Planning addressed the Committee on behalf of the applicant and stated that discussions for this application had been ongoing for around 2 years with lots of work and effort put into the application. The delivery times had only been increased by one hour and noise monitoring had taken place from 2008 in neighbouring gardens, and it was considered that noise levels from the yard would increase by 1 decibel on a worst case scenario. The tests were performed to industry standards. The acoustic fence on site would also be repaired as part of the application and the roll cages and reversing alarms would not be used between 21:00 and 22:00 hours. Monitoring of this would be undertaken to ensure compliance. The evidence that 70 decibels of noise was being emitted from the yard had been discussed with the Environmental Health Team and it was felt that the recording of this was unreliable.
- (8) Councillor Smart asked when the change from a purely retail store to retail and distribution had taken place. Mr Malkin replied that the operation of the store did not require planning permission to alter.
- (9) Councillor Kennedy was pleased to hear that the applicant was engaging with Officers and asked if any consultation had taken place with the local community. Mr Malkin

replied that no specific consultation had taken place but the store did respond to any complaints it received.

- (10) Councillor Kennedy noted that the nature of the store had changed, even if its use class had not, and asked Mr Malkin if the yard was still fit for purpose. Mr Malkin highlighted that a proposed condition did restrict the use of the yard between 21:00 and 22:00 hours.
- (11) Councillor Steedman recognised that Sainsbury's was already aware that the acoustic fence needed repairing and asked why this had not already been done out of good neighbourliness. Mr Malkin was unable to answer this question.
- (12) Councillor Cobb asked how deliveries would be made during the times that the roll cages could not be used. Mr Malkin replied that deliveries could be taken straight into the store during these times.

#### **Questions/Matters on Which Clarification was Sought**

- (13) The Chairman asked if the Environmental Health Team had any further comments. The Environmental Health Officer, Mr Bulger, stated that complaints regarding the yard had begun in 2000 and an investigation had continued until 2008. Most of the complaints were to do with deliveries being made to the yard and although this had been thoroughly investigated, no statutory noise nuisance had been identified under the Environmental Protection Act 1990.
- (14) Councillor Smart referred to proposed condition 5 in the report and noted that the refrigeration unit hours were controlled on Monday to Saturday, but not on Sundays, and asked why this was. Mr Walke replied that as no extra hours had been requested for Sundays, it was not reasonable to control hours on this day.
- (15) Councillor Davey asked if the restriction on deliveries between 21:00 and 22:00 hours would prevent lorries already in the yard from leaving after this time. Mr Walke replied that this was not clear in the condition, but it could be amended to cover this issue.

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- (16) Councillor Kennedy felt that this was a difficult application to assess. Although Officers had recommended conditions to protect residential amenity she was disappointed that Sainsbury's did not appear to care about the community in which they were situated. She did not feel the yard was originally designed for this and felt it needed to be adapted and redeveloped to ensure it was fit for the purpose for what it was used for. Ideally she would like for the opening hours of the store to remain the same but with all of the proposed conditions of use imposed.
- (17) Councillor Davey felt that neighbourliness was the key issue here. The yard was now being used in a very different way with several more traffic movements. The proposed conditions would only apply to the extended hours of use and Councillor Davey felt that the store should be offering to do this anyway. He did not feel able to support the application and felt that the yard needed to be redesigned before Sainsbury's could come back with an application to extend hours.

- (18) Councillor Alford referred to the acoustic fence, which Sainsbury's were already aware was not in good repair. He felt that the store needed to generate good will in the community before asking for an extension of hours.
- (19) Councillor Smart felt that the use of the yard had changed dramatically and he did not believe that deliveries were appropriate on Sundays. There had been 10 years of complaints about the store and a lack on enforcement of the current conditions.
- (20) Councillor Steedman noted that the Government would be reviewing use classes in the near future and felt that the Committee should make representations that a home shopping delivery service would be a change of use from purely retail.

Mr Vidler addressed the Committee and noted that home deliveries were not a material change of use. There were no restrictions on these vehicles and the conditions would not apply to them. It was not possible for the Committee to impose more restrictive conditions on the use of the yard than what was required as part of the application. He added that condition 7 was recommended for the repair of the acoustic fence before the application could be implemented.

- (21) A vote was taken and on a vote of 3 for, 7 against and 1 abstention, planning permission was refused.
- (22) Councillor Kennedy proposed an alternative recommendation for refusal of the application and this was seconded by Councillor Davey. A short break was taken and the Chairman, the proposer and seconder, the Deputy Development Control Manager, the Senior Team Planner (East) and the Solicitor to the Committee recessed to ensure the accuracy of the wording for refusal.
- (23) A second recorded vote was taken and on a vote of 9 for, 1 against and 1 abstention planning permission was refused for the reasons stated below.

132.10 **RESOLVED** - That the Committee has taken into consideration and does not agree with the reasons for the recommendation set out in paragraph 8 of this report and resolves to refuse planning permission for the reasons that:

- (1) The increased vehicle deliveries during the hours proposed by the application would result in additional noise nuisance to the detriment of the amenity of nearby residents contrary to policies QD27, SU9 and SU10 of the Brighton & Hove Local Plan 2005.

An informative was also attached to the decision to read:

- (1) The Planning Committee requests that Sainsbury's enter into constructive dialogue with nearby local residents to address the concerns around the delivery yard.

**Note 1:** Councillors Hyde, Alford, Davey, Hamilton, Kennedy, McCaffery, Smart, Steedman and Theobald voted for refusal of the application. Councillor Cobb voted against refusal of the application. Councillor Carden abstained from voting.

**Note 2:** Councillor Simson was not present during the debate or voting on this item.

**J. Application BH2010/02328, Land Adjacent to 20 Old London Road, Brighton –**  
Erection of a two storey 4no bedroom detached house with external works and landscaping to create one new vehicular access road.

- (1) Mr Walke introduced the application and demonstrated plans and elevational drawings. He noted that the site sloped from west to east and south to north. There were a lot of trees on site with a group Tree Preservation Order (TPO) placed on them. An application had been refused on the site in 2009 on the grounds of detrimental impact to neighbouring amenity, the risk of flood run off and the unsuitable access. The application went to appeal and was dismissed by the Inspectorate, but only on the grounds of the lack of a legal agreement for sustainable transport. The new scheme had been submitted after the Council had agreed to waive the need for contributions from smaller schemes as part of its temporary measures to assist the development industry, and as such a legal agreement for sustainable transport was not necessary with this application.

It was felt that any overlooking that occurred as a result of the scheme would not detrimentally impact neighbouring amenity as the views over 20 Old London Road were mainly over rooftops, and the next nearest dwelling was around 30 metres away. Some secondary windows did look over 17 Audrey Close, but this was not a significant impact. The trees on site, which formed a group TPO, were not individually worthy of protection, and any tree loss would be replaced by native species. The access to the site was steep, but deemed acceptable.

The Inspector did not feel the flood risk was significant enough to warrant a reason for refusal. As the site was now classed a “greenfield” land Code for Sustainable Homes Level 5 was sought as part of the application.

- (2) Mr Morgan, a local neighbour, spoke in objection to the scheme and stated that he lived at 22 Old London Road, and was speaking on behalf of numbers 17 and 18 Audrey Close as well. The overlooking that would occur at 17 Audrey Close would be into a room that was frequently used by the resident there and would result in a significant loss of privacy. The building sat too high within the site and the access road was very steep. Mr Morgan was concerned that vehicles using this access would illuminate his living area with headlights due to the sweep of the driveway that passed his house. There would be a distance of around 6 metres from the driveway to his house and this would have a detrimental impact on his quality of life. Mr Morgan felt the access road should be moved to travel around the front of the proposed dwelling and any inconveniences as a result of the development should be borne by the applicant.
- (3) Councillor Pidgeon, Local Ward Councillor, spoke against the application and raised the issue of the proposed balcony that would create unhindered views and overlooking of 17 Audrey Close. He felt the balcony was inappropriate and should not be built. The scheme would change the character of the Patcham Conservation Area, and he stated that there would be a significant increase to the risk of flooding. No major drainage or flood works had been carried out since the last flooding had occurred and as such this

was a valid reason for refusal. There would be an unacceptable loss of wildlife with the development and a loss of very many trees on site. Councillor Pidgeon also felt that the access road was too steep for emergency vehicles to access safely.

- (4) Mr Turner, agent speaking on behalf of the applicant, spoke in favour of the application and stated that there was no balcony proposed with the application but a small footbridge for the applicant to access the garden from the kitchen. There would be no views from this footbridge as the boundary wall would be too high. Mr Turner did not believe there would be overlooking anywhere on site, and he added that the Inspector felt that the house and access were acceptable. He noted there would be some loss of habitat, but additional planting would be put in place to mitigate this and this would not constitute a reason for refusal. The ecology of the area was quite diverse and would be enhanced by native planting. There were no technical objections to the flooding issue and a flood report had been commissioned that suggested that widening and easing the access would be beneficial. An attenuation tank had also been included as part of the scheme, as well as soak-aways on site. Mr Turner added that the scheme had been dismissed on a technicality that was now no longer relevant.
- (5) Councillor Steedman asked whether code level 5 for sustainable homes could be achieved and Mr Turner replied that they had not been through the exercise to determine this as yet. A more ecologically minded scheme had previously been submitted, but had been refused as it was out-of-keeping with the area. He added that to achieve code level 5 photovoltaic cells were needed in south facing positions and the scheme did not have very much of appropriate south facing elevations to achieve this.
- (6) Councillor Smart asked if an alternative access route had been considered. Mr Turner replied that it would not be possible to site the access elsewhere due to the gradient but boundary treatments and screening would prevent any intrusion into neighbouring properties.
- (7) Councillor Cobb asked if the access would pose a problem in icy or snowy conditions. Mr Turner replied that the gradient was 1:6, which was not untypical for the Brighton & Hove area.

#### **Questions/Matters on Which Clarification was Sought**

- (8) The Chairman asked about the proposed balcony on the east elevation and the potential for overlooking from this. Mr Walke replied that the east elevation was a distance of 10 metres away and as there was significant tree screening proposed it would not affect neighbouring amenity.
- (9) Councillor Steedman asked whether the scheme would be able to achieve code level 5 for sustainable homes without any changes to the design. Mr Walke replied that for schemes that were submitted before the change in classification of garden land, Officers were being more flexible in terms of whether the scheme could reach code level 5.
- (10) Councillor McCaffery asked how surface water drainage was being dealt with and Mr Walke replied that this was dealt with under condition 5.

- (11) Councillor Smart noted that many of the trees on the ridgeline of the site were being removed and replaced with trees at the bottom of the slope. He asked if this would have an affect on overlooking. Mr Walke replied that there were many trees on site, and whilst the removal of some would have an impact, this would be fairly low due to replanting.

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- (12) Councillor Theobald stated that the application had been dismissed on appeal and felt that this should be upheld. She felt that garden land should be preserved, and as the site was steep there would be a lot of overlooking. She felt there were significant issues around the access road and the application would spoil the conservation area.
- (13) Councillor Steedman highlighted the fact that the application had been turned down at appeal on a technicality, which was not one of the reasons for refusal that the Council had given.
- (14) Councillor Hamilton stated that if the Committee turned down the application on the same reasons for refusal that had been dismissed by the Inspector then the Committee would be risking costs awarded against the Council in any future appeal. He felt this would be irresponsible.
- (15) A vote was taken and on a vote of 5 for, 1 against and 4 abstentions planning permission was granted subject to the conditions and informatives listed in the report.
- 132.11 **RESOLVED** - that the recommendation 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 listed in the report.

**Note:** Councillor Simson and Councillor Davey were not present during the discussion and voting of this item.

- K. Application BH2010/02093, 63 Marine Drive, Rottingdean** – Conversion of existing rear ground and first floor maisonette to create 3no two bedroom maisonettes and 1no two bedroom flat, incorporating erection of rear extension and additional storey with pitched roof with front, rear and side dormers and rooflights to side.

- (1) This application was deferred for a site visit.

- L. Application BH2010/02009, Costa Coffee, 13-14 George Street, Hove** – Installation of 4 air conditioning units, general and toilet extract and fresh air intake unit (part retrospective).

- (1) Mrs Hurley introduced the application and demonstrated plans and elevational drawings. She noted that the installation could not be seen from the highway or any open space, and had no impact on the Cliftonville Conservation Area. A mat colour for the installation had been requested. An acoustic report suggested that once the scheme was implemented the sound-scape would be similar to the existing one. The

Environmental Health Team were satisfied that the attenuators would resolve existing noise issues.

- (2) Mr Adams, a local neighbour, spoke against the application and stated that he had lived in his property all of his life. He worked on shift and slept during the day, but had no reason to complain before about noise disturbance. Following a change of use for the application in 2009 however he had been frequently disturbed by noise and had sent in numerous objections. He noted that the application was retrospective, but he felt that the installation should be sited elsewhere to ensure it did not affect local residents. Mr Adams believed that this would produce a far greater decrease in noise levels than the attenuator would, and felt that this would make the greatest difference to his enjoyment of his property and garden.
- (3) Councillor Theobald asked whether the installation would affect other residents if it was sited away from Mr Adams's property. He stated that the installation was currently only 12.75 metres away from his property and he had to suffer with the noise on a constant basis. If it was moved nearer to the front of the premises it would only affect other commercial premises and he believed that Costa Coffee needed to be more neighbourly in this regard.
- (4) Councillor Theobald asked what type of noise Mr Adams suffered. He replied that there was a constant humming from the installation and a reduction of 5 decibels would be meaningless to him. He currently had to sleep with his windows closed and he did not feel this was reasonable.
- (5) Ms Jarman from Walsingham Planning spoke on behalf of the applicant and stated that the application had been submitted following a previous refusal. It had been subject to extensive consultation and discussions with the Environmental Health Team and the revised proposals included the attenuator. The acoustic report was a robust, industry standard report and showed that the installation would not lead to disturbance to adjoining properties if the attenuators were fitted. The installation would only be used when the coffee shop was open and it was in a predominantly commercial area.
- (6) Councillor Theobald asked if the attenuators would reduce the noise by 5 decibels and Ms Jarman explained that this was a requirement from the Environmental Health Team, but the attenuators would reduce the noise by around 10 decibels.
- (7) Councillor Steedman asked why the attenuators had not been fitted already and Ms Jarman explained that they were quite costly to purchase and install, and the applicant wanted planning permission first before this was undertaken.
- (8) Councillor Kennedy asked if there was a physical impediment to locating the installation elsewhere on site. Ms Jarman replied that she did not know if there was.
- (9) Councillor McCaffery asked if the noise levels could be reduced further and Ms Jarman replied that they were already being reduced by 10 decibels rather than 5 decibels.



**Questions/Matters on Which Clarification was Sought**

- (10) Councillor Alford asked if the Committee could require the installation to be sited elsewhere.
- (11) Councillor Theobald asked if the Committee could give a temporary permission to ensure that the noise levels were reduced.
- (12) Mr Vidler replied that Members needed to consider the application before them. The application had been submitted to overcome the noise issues and the Environmental Health Team were satisfied that the noise levels would be reduced to an acceptable level. There were currently no restrictions on the hours of use and this application would include conditions for this. He added that the cost of attenuators were considerable and it was not appropriate to give the applicants a temporary permission for this.
- (13) Councillor Cobb asked what the noise levels currently were and if they could be lowered. Mr Vidler replied that this was a technical question that he could not answer, but the levels had been recommended by the Environmental Health Team. The noise levels would be 5 decibels below the background noise.

**Debate and Decision Making Process**

- (14) Councillor Kennedy felt that this was again an example of a large company who were not engaging with the local community to be neighbourly. She felt that the installation was posing a health hazard for Mr Adams and the applicant needed to show they were doing everything they could to resolve this issue before permission was granted.
- (15) Councillor Carden asked if the application could be deferred for more information to be received from the Environmental Health Team and the Chairman agreed to this.
- (16) A vote was taken and on a unanimous vote the application was deferred for more information on noise levels to be received from the Environmental Health Team and the cost of installing the noise attenuators and revised fan positions.
- 132.13 **RESOLVED** – That the application be deferred for more information on noise levels to be received from the Environmental Health Team and the cost of installing the noise attenuators and revised fan positions.

**Note:** Councillors Simson, Davey and Hamilton were not present during the debate and voting on this item.

**M. Application BH2010/01782, 39 Salisbury Road, Hove** – Application for removal and variation of conditions of application BH2009/00696. Variation of condition 2 to allow unrestricted D1 use of ground floor. Removal of condition 11 to allow rear access doors to be open or in use within unrestricted hours. Removal of condition 12 to allow occupation of the ground floor without submitting details of the management of the rear outdoor space.

- (1) Mrs Hurley introduced the application and stated that demolition and redevelopment of the site had been agreed in 2009. This application sought to remove certain conditions attached to the permission that the applicant did not feel they were able to fulfil. Officers agreed to the variation of condition 2, the deletion of condition 12, but recommended that condition 11 be retained.

#### **Questions/Matters on Which Clarification was Sought**

- (2) Councillor Steedman noted the comments from Cornerstone and felt this demonstrated that there could be a need for a community facility. He asked why no evidence was needed for the removal of this from the application. Mrs Hurley replied that the condition would be varied to allow other uses, but if Cornerstone had expressed an interest there was no reason that they could not use the facility.

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

- (3) A vote was taken and on a vote of 7 for and 2 abstentions removal of planning conditions was agreed as per the recommendations in the report.

132.14 **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 in the report.

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

133.1 **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. Where representations are received after that time they should be reported to the Chairman and Deputy Chairman and it would be at their discretion whether they should in exceptional circumstances be reported to the Committee. This is in accordance with Resolution 147.2 of the then Sub Committee on 23 February 2006.]

**134. 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**

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

Application:	Requested by:
BH2010/01966, Mitre House, 149 Western Road	Deputy Development Control Manager
BH2009/03105, Medina House, King's Esplanade, Hove	Deputy Development Control Manager
BH2010/02093, 63 Marine Drive, Rottingdean	Councillor Mrs Theobald

The meeting concluded at 7.30pm

Signed

Chair

Dated this

day of

