



**Brighton & Hove
City Council**

Planning Committee

Title:	Planning Committee
Date:	22 October 2008
Time:	2.00pm
Venue	Council Chamber, Hove Town Hall
Members:	<p>Councillors:Hyde (Chairman), Wells (Deputy Chairman), Barnett, Carden (Opposition Spokesperson), Davey, Hamilton, Kennedy, McCaffery, K Norman, Smart, Steedman and C Theobald</p> <p>Co-opted Members: Mr J Small (CAG Representative) and Mr R Pennington (Brighton & Hove Federation of Disabled People)</p>
Contact:	<p>Penny Jennings Senior Democratic Services Officer 01273 291065 penny.jennings@brighton-hove.gov.uk</p>

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AGENDA

108. PROCEDURAL BUSINESS

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

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

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

109. MINUTES OF THE PREVIOUS MEETING

1 - 14

Minutes of the meeting held on 1 October 2008 (copy attached).

110. CHAIRMAN'S COMMUNICATIONS

111. PETITIONS

No petitions had been received by the date of publication of the agenda.

112. PUBLIC QUESTIONS

(The closing date for receipt of public questions is 12 noon on 14 October 2008).

No public questions received by date of publication.

113. DEPUTATIONS

(The closing date for receipt of deputations is 12 noon on 14 October 2008).

No deputations received by date of publication.

PLANNING COMMITTEE

114. WRITTEN QUESTIONS FROM COUNCILLORS

No written questions have been received.

115. LETTERS FROM COUNCILLORS

No letters have been received.

116. NOTICES OF MOTION REFERRED FROM COUNCIL

No Notices of Motion have been referred.

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

118. TO CONSIDER AND DETERMINE PLANNING APPLICATIONS ON THE PLANS LIST DATED 22 OCTOBER 2008

(copy circulated separately).

119. 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

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

121. APPEAL DECISIONS

15 - 40

(copy attached).

122. LIST OF NEW APPEALS LODGED WITH THE PLANNING INSPECTORATE

41 - 42

(copy attached).

123. INFORMATION ON INFORMAL HEARINGS/PUBLIC INQUIRIES

43 - 46

(copy attached).

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

PLANNING COMMITTEE

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

The closing date for receipt of public questions and deputations for the next meeting is 12 noon on the fifth working day before the meeting.

Agendas and minutes are published on the council's website www.brighton-hove.gov.uk. Agendas are available to view five working days prior to the meeting date.

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

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

Date of Publication - Tuesday, 14 October 2008

BRIGHTON & HOVE CITY COUNCIL

PLANNING COMMITTEE

2.00pm – 1 OCTOBER 2008

**COUNCIL CHAMBER
HOVE TOWN HALL**

MINUTES

Present: Councillor Hyde (Chairman)); Councillors Barnett, Carden (OS), Davey, Hamilton, McCaffery, Mrs A Norman, K Norman, Randall, Smart, Steedman and Wells (Deputy Chairman)

Co-opted Members: Mr J Small, Conservation Advisory Group (CAG); Mr R Pennington, Brighton and Hove Federation of Disabled People.

PART ONE

92A. PROCEDURAL BUSINESS

92.1	<u>Councillor</u>	<u>For Councillor</u>
	Mrs A Norman	Mrs Theobald
	Randall	Kennedy

92B. Declarations of Interest

92.2 There were none.

92C. Exclusion of Press and Public

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

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

93. MINUTES OF THE MEETING HELD ON 10 SEPTEMBER 2008

- 93.1 Councillor Mrs Norman stated that her declaration of interest relative to application BH2008/01744 should refer to her Membership of South Downs Health Committee. Councillor Carden wished to place on record his thanks for the efficient manner in which Councillor Wells , the Deputy Chairman, had chaired the previous meeting , the first which he had been required to Chair. This view was echoed by other Members of the Committee
- 93.2 **RESOLVED** - That subject to the amendment set out above the minutes of the meeting held on 10 September 2008 be approved and signed by the Chairman.

94. CHAIRMAN'S COMMUNICATIONS

"Softlaunch" of Committees' Proceedings

- 94.2 The Chairman explained that at the meeting of the Governance Committee at its meeting on 23 September 2008 it had been agreed to web cast a number of meetings from 9 October. Full Council, Cabinet and Planning Committee had all been identified as meetings which would form the pilot web-casting project which would run until June 2009 .
- 94.3 In view of the decision of the Governance Committee a "soft" launch was to be created of that day's proceedings and it was possible that this would be repeated at the following meeting on 22 October 2008. It was intended that this film would only be used by Members (including the Committee's two co-opted Members) to evaluate the web-casting process and to identify any problems, and would not be made publicly available. It was however , the Council's intention to "go live" with web-casting Planning Committee meetings at the earliest opportunity and , as soon as the Committee had agreed to any new protocols which would be required in order to introduce the new technology. A Member of the public queried whether / how not making this information available would impact on the access to information rights of the public . He was requested to submit a written request under the Access to Information Act to which a formal written response would then be provided .

Blue Badge Holders Scheme

- 94.4 The Chairman referred to the fact that the Committee received and welcomed comments from Mr Pennington on behalf of the Brighton & Hove Federation of Disabled People. On a number of occasions these related to the issue of parking provision for blue badge holders in association with applications for housing schemes without off- street parking and Traffic Regulation Orders. Each application had always been discussed and decided upon on its merits and the advice of the relevant officers taken into account when those decisions were made.

94.5 The Chairman went on to state however that this matter clearly remained an area of concern for the Federation . Given that the administration of the Council had a clearly stated priority of “reducing inequality by increasing opportunity” and had a commitment to delivering “equalities and inclusion” she was of the view that this now warranted some further consideration in terms of providing further alternatives and choices for people. She therefore recommended that the Cabinet Member for Environment be requested to review the relevant policy / policies in the terms set out below .

94.6 A vote was taken and Members voted unanimously that this matter be carried forward in the manner suggested by the Chairman.

94.7 **RESOLVED** - That the Committee requests that the Environment Cabinet Member reviews the policy or policies related to the allocation of resident parking permits for blue badge holders in association with housing without off- street parking, and how this is incorporated into Traffic Regulation Orders.”

95. PETITIONS

95.1 There were none.

96. PUBLIC QUESTIONS

96.1 There were none.

97. DEPUTATIONS

97.1 There were none.

98. WRITTEN QUESTIONS FROM COUNCILLORS

98.1 There were none.

99. LETTERS FROM COUNCILLORS

99.1 There were none.

100. NOTICES OF MOTION REFERRED FROM COUNCIL

100.1 There were none.

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

101.1 **RESOLVED** - That the following site visits be undertaken by the Committee prior to determination :

BH2008/01953, 1 – 2 Regent Street - Councillor Davey ;

BH200- /-----, 112 - 113 Lewes Road - Development Control Manager

102. PLANS LIST APPLICATIONS, 1 OCTOBER 2008

(I) TREES

- 102.1 **RESOLVED** – (1) That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in Paragraph 7 and resolves to refuse consent to fell the trees which form the subject of the application subject to the conditions set out in the report :

BH2008/02801, Pinewood Close, Brighton ;

(2) That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in Paragraph 7 of the report and resolves to refuse consent for the permission to fell the tree for the reasons set out in the report :

BH2008/02511, Kemp Court, Church Place, Brighton

(3) That consideration of the following application is deferred.

BH2008/02703, Mill House, Overhill Drive.

- 102.2 **Application BH2008/02516, 2a Croft Road, Brighton** - to fell 1 X Ilex aquifolium, 1 Fagus sylvatica, 1 X Acer pseudoplatanus, all covered by Tree Order (N023) 2004 (Area Order)

- 102.3 Councillor K Norman stated that he was unable to support the proposal. He considered that it was unclear as to the number of trees which would be replaced on removal of the proposed trees. He did not consider that a compelling case had been made for removal of the trees as he considered that remedial action could be taken without the need to fell any of the trees. Action could be taken to cut the sycamore and yews back without the need for their removal. He did not consider that holly leaves falling into the garden presented a health and safety issue of such significance that warranted the removal of the tree. In respect of the Beech tree he considered that the crown could be cut back which would reduce its size by up to 30 % as had been proposed in respect of Application BH2008/02511 referred to above. This would obviate the need to remove the tree.

- 102.4 Other Members concurred in that view and it was proposed by Councillor K Norman and seconded by Councillor Wells that the trees be retained and permission for removal of the trees be refused. A vote was taken and on a vote of 10 with 2 abstentions permission to remove trees which formed the subject of the TPO be refused.

102.5 **RESOLVED** - That permission to fell the trees forming part of the application and referred to in the report be refused on the grounds that they be retained as they formed an integral part of the amenity of the neighbourhood and it had been stated that no loss or damage would be likely to occur if felling of the trees were to be refused .

[**Note 1** : Councillor Norman proposed that permission to fell the trees included within the TPO be refused . This was seconded by Councillor Wells].

[**Note 2** : A vote was taken and Councillors Barnett, Davey, Hamilton, McCaffery, A Norman, K Norman Randall, Smart, Steedman and Wells voted that the application be refused . Councillors Hyde (Chairman) and Carden abstained. Therefore on a vote of 10 with 2 abstentions permission to fell the trees was refused].

(ii) SUBSTANTIAL OR CONTROVERSIAL APPLICATIONS OR APPLICATIONS DEPARTING FROM COUNCIL POLICY : 1 OCTOBER 2008

102.6 **Application BH2007/00710, Land at New Barn Farm, Foredown Road, Portslade** – visual and noise screening bund on grazing land adjacent to A27.

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

102.8 The Area Planning Manager, West gave a detailed presentation setting out the constituent elements of the bund and explaining its purpose which was for noise reduction, and screening purposes . The position of the existing bund relative to the proposals was explained and photographs indicating “before” and “after” views from various points in the immediate locality were shown Overall it was considered that the proposals would provide visual continuity and would visually enhance the visual and landscape quality of the AONB and , in terms of noise abatement, would enhance enjoyment of the area.

102.9 Councillors Randall and Wells queried the fact that the Environment Agency would not require a waste management licence and it was explained that the main issues in considering the application were the need for it and the potential visual impact. Although the works would entail a form of land raising involving inert waste , as the application did not primarily relate to the disposal of waste the Environment Agency did not require a waste management licence. Conditions were recommended which would control the works during the period to completion and to ensure that approved details were complied with .

102.10 Councillor Smart sought confirmation relative to proposed access /

egress from the site and regarding controls which would be out into place to ensure that the works were constructed to an appropriate standard and to ensure that contaminated materials were not used during the construction process. Councillor Randall echoed Councillor Smart's concerns that proper measures needed to be put into place to ensure that contamination of the site or local water supply did not occur. The Development Control Manager stated that a number of rigorous conditions were proposed which required submission by the applicants of significant details prior to work commencing.

- 102.11 Councillor Smart stated that he would have liked to be assured that mechanisms were in place which would ensure that regular checks on the backfill materials on the site took place. Councillor Randall enquired as to whether as owner of the land the Council would receive income from or the tipping taking place. Councillors Smart and McCaffery sought confirmation regarding the main beneficiaries from the scheme and regarding who would bear the costs thereof. The Development Control Manager confirmed that whilst not a relevant planning consideration the cost would be borne principally by the owners of the farm itself and in part by the golf course which would also obtain some benefit. Overall it was considered the scheme would improve the visual aspect of the area.
- 102.12 Councillor Carden stated that he concurred with the concerns expressed by Councillor Smart and that he remained to be convinced that sufficiently tight controls / monitoring during the works could be achieved. He also remained to be convinced that noise would not reflect back from the bund and onto other neighbouring properties. Councillor Barnett also had concerns regarding potential conflict and potential hazard resulting from movements into the site during periods of the day when children were making their way to school and regarding potential noise which could be generated as a result of the works.
- 102.13 The Chairman stated that for those Members who had been able to attend the site visit the previous afternoon, this had been beneficial. Having visited the site she had no concerns regarding the proposed development. Councillors Mrs A and K Norman concurred in that view. Councillor Hamilton stated that although unable to attend the site visit, he knew the area well and did not consider that sound "reflection" problems would be likely to occur.
- 102.14 A vote was taken and on a vote of 6 to 5 with 1 abstention Members voted that it was minded to grant planning permission on the grounds set out below.
- 102.15 **RESOLVED** - (1) 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 :

i receipt of no further letters of representation raising new material considerations relevant to the application;

ii the completion of a Section 106 Agreement to ensure construction works do not exceed one year, with a bind entered into to ensure completion ; and

iii to the conditions and informatives set out in the report

(iii) DECISIONS ON MINOR APPLICATIONS WHICH VARY FROM THE RECOMMENDATIONS OF THE DIRECTOR OF ENVIRONMENT AS SET OUT IN THE PLANS LIST (MINOR APPLICATIONS) DATED 10 SEPTEMBER 2008

- 102.16 **Application BH 2008/02762, Adjacent to Recreation Ground, Patcham By Pass, Brighton** - Installation of a 10 metre high, slim line monopole design telecommunications base station incorporating 3 shrouded antennas, radio equipment housing and development ancillary thereto.
- 102.16 The Area Planning Manager, East referred to site plans and photographs indicating the location of the proposed mast and associated equipment and in answer to questions the distance from the nearest properties 45m and from Patcham House School, 100m. A valid ICNIRP certificate and other supporting paperwork had been submitted.
- 102.17 Mr Lothian spoke on behalf of neighbouring residents setting out their concerns relative to perceived potential health risks in view of the close proximity of the mast to a local recreation ground which was well used by many local children, the proximity of dwelling houses and the fact that Patcham House School for disabled children and those with learning difficulties was located nearby as was a local nursery . Whilst the equipment itself and functions it was required to perform had grown ever more powerful government guidance had not kept pace with this and did not reflect the potential damage to health that such apparatus could present .
- 102.18 Councillor Pidgeon spoke in his capacity as a Local Ward Councillor stating that he fully supported the concerns expressed by Mr Lothian and a number of local residents who had contacted him relative to this and previous applications . He was also concerned that the associated boxes would present a hazard to those with sight problems
- 102.19 In answer to questions the Solicitor to the Committee explained that government guidance indicated that a precautionary approach be adopted and that perceived health considerations could represent a material planning consideration although they had to weighted against other factors. In this instance a valid ICNIRP certificate had been provided indicating that the proposed equipment met government guidelines for such equipment .

- 102.20 Councillors K Norman , Randall, Smart and Wells concurred with the concerns expressed on behalf of objectors. Councillor Randall was of the view that the standards set in this country were very low.
- 102.21 Councillors Carden and Hamilton considered that as government guidelines had been met the proposals were acceptable and did not require prior approval .
- 102.22 A vote was taken and on a vote of 8 to 2 with 2 abstentions Members voted that prior approval was required in order to erect the proposed equipment. A further vote was then taken relative to the substantive proposals and on a vote of 8 to 2 with 2 abstentions consent was refused on the grounds set out below.
- 102.23 **RESOLVED** - That approval to erect the proposed telecommunication equipment and ancillary development thereto be refused on the grounds that it is considered to constitute an unacceptable perceived health and safety risk in view of its close proximity to a recreation ground which is heavily used by children and young people and its close proximity to a school for children with special physical and educational needs. The location of the proposed base station box equipment is also considered to constitute a potential hazard for those with sight or other disabilities in view of its proposed location on the pavement .

[**Note 1** : A vote was taken and on a vote of 8 to 2 with 2 abstentions Members voted that prior approval was required in order to erect the proposed equipment].

[**Note 2** : Councillor Wells proposed that approval to erect the proposed equipment be refused on the grounds set out above . This was seconded by Councillor Barnett. Councillors Barnett, Davey, A Norman , K Norman, Randall, Smart and Wells voted that permission be refused. Councillors Carden and Hamilton voted that permission be granted. Councillors Hyde (Chairman) and Steedman abstained. Therefore on a vote of 8 to 2 with 2 abstentions permission was refused.

(iv) OTHER APPLICATIONS

- 102.24 **Application BH2008/01953, 1 - 2 Regent Street, Brighton** – Existing building (1 – 2 Regent Street be demolished. Erection of a new four storey building to include retail space on ground floor with five flats above.
- 102.25 Members considered that it would be appropriate to carry out a site visit prior to determining the application .
- 102.26 **RESOLVED** - That consideration of the above application be deferred pending a site visit.
- 102.27 **Application BH2008/01542, 26 Braybon Avenue, Brighton** – New

conservatory to rear.

- 102.28 It was noted that this application had formed the subject of a site visit prior to the meeting.
- 102.29 The Area Planning Manager (East) showed elevational drawings showing the orientation of the site and referred to works which had commenced on site relative to planning permissions which had already been granted. Whilst noting the concerns of neighbours at number 28 and from Councillor Pidgeon relative to the proposed patio to the rear it was noted that such works would not usually require planning permission and this element was not considered to be significant .
- 102.30 Councillors K Norman and Wells stated that having visited the site the previous day they had noted that the patio would be situated well below the dividing fence with the neighbouring property and that they considered that both the proposed conservatory and patio would be acceptable .
- 102.31 A vote was taken and Members voted unanimously that planning permission be granted in the terms set out below .
- 102.32 **RESOLVED** - That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in Paragraph 8 and resolves that to grant planning permission subject to the conditions and informatives set out in the report .
- 102.33 **Application BH2008/02071, 129 – 130 St James' Street, Brighton** - Variation of opening hours granted by planning permission ref BH2004/02465/FP to : Tuesday - Thursday 10.00 – 02.30 (the following day) and Friday 10.00 to Tuesday 02.30 (continuous).
- 102.34 The Area Planning Manager (West) displayed a photograph indicating the location of the nightclub which was situated at basement level and its relationship to the adjoining buildings. Whilst it was noted that neither the Police nor Environmental Health had raised objections , the Planning Committee could consider such matters as amenity of local residents, which gave its consideration a broader scope than meeting the Licensing Objectives . there was clear evidence of complaints to the Environmental Health Team and letters of objection received as part of the application demonstrated that noise was a strong concern of residents and as such could be afforded weight in determining the application.
- 102.35 Ms Leeding spoke on behalf of the applicant in support of their application detailing measures which were and would continue to put in to place to ensure that noise nuisance did not result . ms Leeding explained that the applicants did not require a 24 hour licence but would like the flexibility to stay open until 5.00am on Friday and Saturday nights . Their premises represented a niche in LGBT community and by having staggered closing hours it would

avoid the need for those attending their premises to come into contact and potential conflict with those leaving other clubs in the vicinity during the early hours of the morning . The applicants would also be happy for any permission granted to be for a six month trial period .

- 102.36 Councillor Wells enquired whether those who had sent e. mail's in support of the application where local residents or patrons of the club. The Development Control Manager explained that these communications had formed the subject of e. mail correspondence which had not included postal addresses.
- 102.37 Councillors Davey and Steedman sought confirmation whether or not amendments could be made to the application as presented in line with the changes suggested by the applicant . Councillor McCaffery enquired whether it would be appropriate to defer consideration of the application in order to enable the applicant to submit a fresh application in the terms indicated by the speaker. The development Control Manager stated that the Committee had sufficient supporting information in order to form a view and that the application needed to be considered as submitted in the report before Members that day. If the application were to be refused the applicant would be free to submit a further application within a 12 month period without incurring any additional cost. Councillors Hamilton , K Norman and Steedman stated that whilst they considered (without fettering any future decision making), that a later closing time on Friday and Saturday nights might be appropriate that they could not support the application as it stood and that it should therefore be refused .
- 102.38 A vote was taken and Members and on a vote of 11 with 1 abstention Members voted that the application be refused on the grounds set out below .
- 102.39 **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 planning permission for the following reason :
- A. Refuse** 1.this premises are located in close proximity of residential dwellings. The increase in opening hours would result in a significant increase in the level of noise and disturbance to adjacent residential properties to the detriment of their amenity, contrary to policies SU9, SU10 and QD27 of the Brighton & Hove Local Plan ; and
- B.** That this matter is referred to the Planning Investigations Team to investigate the current opening hours of the premises .
- 102.40 **Application BH2008/01597, Plot 4, Royles Close, and Brighton –** Erection of 1 detached dwelling house.

- 102.41 A vote was taken and Members voted unanimously that that planning permission be granted on the grounds set out below.
- 102.42 **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.
- 102.43 **Application BH2008/02139, 12 Welesmere Road, Rottingdean –** Roof conversion including new rooflights to the front, side and rear roof and alterations to the roof profile which include a new side wall with hipped roof over and front pitched gable. Installation of one window to front elevation.
- 102.44 A vote was taken and Members voted unanimously that planning minded to grant planning permission be approved on the grounds set out below..
- 102.45 **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 minded to grant planning permission subject to the conditions and informatives set out in the report and to no material representations being received by 1 October 2008 .
- 102.46 **Application BH2008/02113, 36A Dyke Road Avenue, Brighton –** Demolition of existing residential building of 4 x 2 bedroom apartments and 1x1 bedroom apartment, 5 parking spaces, bicycle store for 10 bicycles and refuse / recycling store.
- 102.47 The Area Planning Manager, West gave a presentation detailing the proposals including elevational drawings relative to the constituent elements of the scheme . Notwithstanding that it was within the recently extended Tongdean Conservation Area the existing building was considered to be of little architectural merit and was not worthy of retention and that the proposed building to replace it would improve the visual amenity of the conservation area .
- 102.48 Whilst not averse to demolition of the existing building Councillor K Norman considered that whilst welcoming the proposed off - street parking, the proposed building to represent a complicated and over cluttered design which sought to mirror disparate architectural styles, none of which mirrored any of the architectural styles to be found in the vicinity he result was a building. Councillors McCaffery, Mrs Norman Smart and Steedman concurred in that view. Mr Small CAG was in agreement and referred to the comments of the CAG which were set out in the report . The Chairman, Councillor Hyde and Councillor Wells considered the proposal to be of an acceptable design . Councillor Randall concurred in that view.

- 102.49 Councillor Davey requested that condition 14 be amended to ensure that the details of the proposed hard surface were submitted and that this would be constructed of a permeable material . The Committee agreed .
- 102.50 A vote was taken and on a vote of 9 to 3 Members voted that planning permission be granted on the grounds set out below
- 102.51 **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 and to the amendment of Condition 14 to ensure that details of the new hard standing surface were submitted and that it was permeable .
- 102.52 **Application BH2008/02415, 36A Dyke Road Avenue, Brighton –** Conservation area consent for demolition of existing residential dwelling.
- 102.53 A vote was taken and on a vote of 8 to 3 with 1 abstention Members voted that planning permission be granted on the grounds set out below.
- 102.54 **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 conservation area consent subject to the conditions and informatives set out in the report.

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

- 102.55 **RESOLVED** – Those details of the applications determined by the Director of Environment under delegated powers be noted.

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

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

103. DETERMINED APPLICATIONS

- 103.1 The Committee noted those applications determined by Officers during the period covered by the report. Councillor Smart sought information regarding Application Bh2008/01379, Unit 2, Saxon Works change of use from B1 (Light Industrial) to B2 (General Industrial) to provide MOT testing . It was agreed that a copy of the report would be provided to him .

104. SITE VISITS

- 104.1 Councillor McCaffery stated that she found it impossible to attend site visits on the afternoon for which they were currently arranged and enquired whether it would be possible to change the day / time of them . The Chairman stated that it was difficult to move the a timing which appeared convenient to the majority of Members and to find a day / time everyone could make . However it was noted that Members attendances were recorded and if at the end of the current municipal year it appeared that the current arrangements presented a problem they could be revisited .
- 104.2 **RESOLVED** - That the following site visits be undertaken by the Committee prior to determination :

BH2008/01953, 1 -2 Regent Street, Brighton - Councillor Davey
BH2008/---- , 112 - 113 Road, Brighton - Development Control
Manager .

105. APPEAL DECISIONS

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

106. APPEALS LODGED

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

107. INFORMATION ON INFORMAL HEARINGS / PUBLIC INQUIRIES

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

The meeting concluded at 5.00 pm

Signed Chairman

Dated this day of 2008

APPEAL DECISIONS

	Page
A. SOUTH PORTSLADE WARD	
Application BH2007/01172, 7 Symbister Road, Portslade. Appeal against refusal to grant planning permission for demolition of the existing building and redevelopment to provide a part 2.5 storey and part 4 storey building containing a mixed use comprising a business unit (class B1) and 9 one bedroom apartments APPEAL DISMISSED (copy of the letter from the Planning Inspectorate attached).	17
B. SOUTH PORTSLADE WARD	
Application BH2006/02419, Land to the rear of 197 Old Shoreham Road, Portslade. Appeal against refusal to grant planning permission for erection of 2 storey block of 4 flats resubmission of BH2006/00150. APPEAL DISMISSED (copy of the letter from the Planning Inspectorate attached).	23
C. CENTRAL HIOVE WARD	
Application BH2007/01156, Flat 6 Grove Court, 37 The Drive, Hove. Appeal against refusal to grant planning permission for replacement of steel framed windows by UPVC framed windows APPEAL ALLOWED (copy of the letter from the Planning Inspectorate attached).	29
D. REGENCY WARD	
Application BH2007/03111, 38 Victoria Street, Brighton. Appeal against refusal to grant planning permission for loft conversion with a new mansard roof to the rear with two small lead lined dormer windows. (Delegated Decision) APPEAL DISMISSED (copy of the letter from the Planning Inspectorate attached).	31
E. WITHDEAN WARD	
Application BH2007/00916, 69 Eldred Avenue, Brighton. Appeal against refusal to grant planning permission subject to conditions for erection of a single storey conservatory at the rear (part retrospective) APPEAL ALLOWED (copy of the letter from the Planning Inspectorate attached).	33
F. STANFORD WARD	
Application BH2007/03021, 10 Radinden Manor Road, Hove. Appeal against refusal to grant planning permission for a two storey rear extension. APPEAL DISMISSED (copy of the letter from the Planning Inspectorate attached).	35

G. STANFORD WARD

Application BH2007/03021, 1a Tongdean Road, Hove. Appeal against refusal to grant planning permission for proposed first floor. **APPEAL DISMISSED** 37
(copy of the letter from the Planning Inspectorate attached).



Appeal Decision

Hearing and site visit held on 14 May 2008

The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square
Temple Quay
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email:enquiries@pins.gsi.gov.uk

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

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

Decision date:
18 June 2008

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

7 Symbister Road, Portslade, Brighton BN41 1GP.

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

Application for costs

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

Procedural matter

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

Decision

3. I dismiss the appeal.

Main issues

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

Reasons

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

Safeguarding Employment Land

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

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

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

Character and Appearance

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

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

Living Space, amenity open space and Lifetime Homes Standards

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

Other Matters

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

Conclusions

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

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

Michael Aldous

INSPECTOR



Appeal Decision

Hearing held on 4 December
2007

Site visit made on 4 December
2007

by **Elizabeth Lawrence** BTP MRTPI

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

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Decision date:
9 January 2008

Appeal Ref: APP/Q1445/A/07/2034449/NWF

**Land to the rear of 197 Old Shoreham Road, Portslade, Brighton, BN41
1XR.**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by W P & V Bradford against the decision of Brighton & Hove City Council.
- The application Ref BH2006/02419, dated 18 July 2006, was refused by notice dated 13 September 2006.
- The development proposed is described as Erection of 2 storey block of 4 flats - Resubmission of BH2006/00150.

Decision

1. I dismiss the appeal.

Main issues

2. The first main issue is the effect of the proposal on highway safety. The second main issue is the effect of the proposal on the living conditions of the occupiers of 197 Old Shoreham Road.

Reasons

3. Old Shoreham Road is a busy Class A distributor road, which has 4 undivided lanes and a pelican crossing in the vicinity of the appeal site. There have been a number of reported highway injury accidents along this stretch of Old Shoreham Road, most notably in the vicinity of road junctions. Currently the driveway at the side of No.197 serves at least one of the existing flats at that property. It has no on site turning facilities and is not of sufficient width to enable 2 vehicles to pass each other. As a consequence vehicles have to either reverse into or out of the driveway.
4. The proposal makes no provision for on site parking or vehicle access to serve either the existing occupants at No.197 or the occupiers of the proposed flats. Indeed vehicle access would be prevented by the installation of railings along the road curb, leading up to the pelican crossing, which could be secured through the imposition of a condition. The Appellant states that the existing occupants of No.197 could park in nearby streets and that the occupants of the proposed flats would not have cars. There is very good access to public

transport and the site is within easy walking and cycling distance of a range of community facilities.

5. I consider that the occupants of the proposed flats would be equally likely to have cars, as the occupiers of No.197 and whilst there are on-street parking controls along Old Shoreham Road, there are few on-street parking controls within nearby roads. I made several visits to the site at different times of the day and on each occasion I was able to find available on-street parking in nearby roads. As such I do not consider that the absence of on-site parking and the parking restrictions along Old Shoreham Road would ensure that the development remained car free. I understand that there are no plans to make this particular area subject to on-street parking controls. As a result the development would materially add to pressure for on-street parking and in particular close to nearby road junctions with Old Shoreham Road.
6. In addition, the proposal makes no provision for service vehicles, which by the nature of their use would likely be parked as close to the site as possible. Similarly due to the topography of the area and the distances involved the occupants of the proposed flats would likely not wish to carry bulky items too far and could be tempted to park illegally along the highway close to the site. This would add materially to highway safety issues along Old Shoreham Road, near junctions and the pelican crossing. At the same time, whilst essentially a private matter, any illegal parking within the library car park could result in additional pressure for on-street parking in nearby streets.
7. I consider that to require a legal agreement or to impose a condition, which prevents car ownership/use would be unreasonable to impose outside an area with complimentary on-street parking controls, irrespective of the fact that it would be extremely difficult to enforce. For the reasons given above it is not a site which could reasonably be expected to comply with policy HO7 of the Local Plan which facilitates car free housing in certain circumstances.
8. Whilst I consider that the stopping up of the existing access and the provision of guard rails along the road curb would bring about a highway safety improvement, this would be outweighed by the consequences of providing no parking or service vehicle access to serve both the existing and proposed flats. Also, whilst there are many homes within the area, including along Old Shoreham Road without on-site parking facilities, the majority have existed for many years and it is not a good reason for justifying a development which would be detrimental to highway safety, having regard to the current highway circumstances.
9. As a result of these factors I conclude on this issue that the proposal would have a detrimental and unacceptable effect on highway safety, contrary to policies TR1, TR2, TR7 and QD27 of the Brighton & Hove Local Plan 2005. Amongst other things these policies seek to ensure that proposals provide for the travel demand they create, do not have an adverse effect on highway safety or are otherwise liable to be detrimental to human health.
10. In relation to the living conditions of the occupiers of the ground floor flat at No.197, the occupants of the proposed flats would have to pass by their side door and windows to gain access to their homes. Having regard to the width

of the access drive, the level of background noise generated by traffic and the modest size of the proposed development I do not consider that this would materially detract from their living conditions in relation to noise and disturbance. There is no reason to believe that the occupants of the flats would make more noise at night than persons walking along the pavement, immediately to the front of Nos. 197 and 199. If some form of separation between No.197 and the access was considered appropriate there is ample room at the side of the property to construct a fence/wall or porch and the clear glazing in the side door could be replaced with obscure glazing. These things are capable of being secured through the imposition of a condition.

11. For these reasons I conclude on this issue that the proposal would not materially harm the living conditions of the occupiers of No.197 due to noise, disturbance or loss of privacy. In this respect the proposal would comply with policy QD27 of the Local Plan which seeks to protect the living conditions of existing residents.
12. In accordance with Planning Policy Statement 1 (PPS1) - *Delivering Sustainable Development*, PPS3 - *Housing* and policies QD3, HO3 & HO4 of the Local Plan, I fully acknowledge the need to make effective use of land within settlements, to seek greater intensity of development and a variety of dwelling types. However this has to be balanced with the need to respect and to ensure that developments do not compromise the quality and safety of the environment. In this instance I conclude that my highway safety concerns would outweigh the benefits of the scheme.

Elizabeth Lawrence

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr P Bradford	Appellant
Mr S Bareham BSc (Hons) Dip TP MRTPI	Lewes & Co Planning SE Ltd., 82 Church Road, Hove, East Sussex, BN1 2EB.
Mr P Waller C.Eng MICE MCI WEM	The Civil Engineering Practice, 11, Tungsten Building, George Street, Fishersgate, Brighton, BN41 1RA.

FOR THE LOCAL PLANNING AUTHORITY:

Mr P Earp	Senior Planning Officer
Mr S Reeves	Principal Transport Planning Engineer

INTERESTED PERSONS:

Mrs J Hugall	Jubilee Library, Jubilee Street, Brighton BN1 5BL.
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DOCUMENTS

- 1 Record of attendance
- 2 Hearing Notification letter
- 3 Brighton & Hove Local Plan – Policy HO7

PLANS

- A Street map of locality

APPEARANCES

FOR THE APPELLANT

Mr M Pickup	Town & Country Planning Solutions, Sandhills Farmhouse, Battle Street Green, East Sussex BN27 4QU.
Mr J Bohling	OSP Architecture, Rosemount House, Rosemount Avenue, West Byfleet, Surrey KT4 6LB.
Mr P Waller	The Civil Engineering Practice, 11 Tungsten Building, George Street, Fishersgate, West Sussex BN41 1GP.
Mr R Taylor	Representing the Appellant company.
Ms G Taylor	Representing the Appellant company.

FOR THE COUNCIL

Mr P Earp	Planning Officer, Brighton & Hove City Council.
Mr A Glover	Economic Development Officer, Brighton & Hove City Council.

INTERESTED PERSONS

Mr S Warmer-Strange	Brighton & Hove City Council (local member).
Ms I Peel	6 Symbister Road, Portslade BN41 1GP.

DOCUMENTS

Document 1	Council letter giving notification of hearing arrangements.
Document 2	Aerial photograph of the appeal site and surrounding area.
Document 3	Extracts from Council PAN 03 Accessible Housing & Lifetime Homes.
Document 4	Appellant's costs application.

PLANS

Plans 1- 7	Application plans numbered 0661 S01, S02, S03, P01, P02, P03 and P04A.
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Appeal Decision

Site visit made on 21 April 2008

by **J O Head** BSc(Econ) DipTP MRTPI

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

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Decision date:
30 April 2008

Appeal Ref: APP/Q1445/A/08/2063105

Flat 6 Grove Court, 37 The Drive, Hove, East Sussex BN3 3JG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr H Law against the decision of Brighton & Hove City Council.
- The application Ref BH2007/01156, dated 21 March 2007, was refused by notice dated 11 June 2007.
- The development proposed is replacement of steel framed windows by UPVC framed windows.

Decision

1. **I allow the appeal**, and grant planning permission for replacement of steel framed windows by UPVC framed windows at Flat 6 Grove Court, 37 The Drive, Hove in accordance with the terms of the application, Ref BH2007/01156, dated 21 March 2007, and the plans submitted with it, subject to the condition that the development hereby permitted shall begin not later than three years from the date of this decision.

Main issue

2. The site is within the Willett Estate Conservation Area rather than "The Avenue Conservation Area" as referred to in the Council's reason for refusal. The main issue is whether the proposed alterations to the windows would preserve or enhance the character or appearance of the Willett Estate Conservation Area.

Reasons

3. Grove Court is a 10-storey early 1960s block of flats near to the junction of The Drive with Eaton Road. In common with some other blocks in the vicinity, it does not reflect the features referred to in the Conservation Area Character Statement as important to the character of the area, which derives mainly from its large Victorian houses. In my view, the building is undistinguished architecturally and out of scale with its wider surroundings. Nevertheless, that cannot justify alterations that would cause noticeable harm to its appearance, as by doing so they would fail to preserve the character and appearance of the conservation area.
4. I saw that a significant number of the original windows at Grove Court have already been replaced with what appear to be UPVC (PVCu) units. According to

the information supplied by the Council some of these replacements have planning permission and others do not. The use of PVCu requires frames much thicker than those of steel windows, in order to provide sufficient strength and stability, and none of the replacements, including those which have planning permission, is properly able to replicate the original 1960s glazing bar pattern. In particular, the proportion of plastic to glazing that is necessary to create the small opening transom lights of the original design makes these look rather clumsy and inappropriate when executed in PVCu.

5. The appeal proposal adapts the original glazing pattern to avoid small opening lights, which partly overcomes this difficulty. The subdivision of the larger windows by vertical mullions, which remains more or less continuous throughout the height of the block, would be maintained by the proposals and the subdivision of the lower part of the windows, whilst not replicating the glazing bar pattern, would reflect the proportions of the originals. I consider that the proposals would be sufficiently well designed and detailed for their context and that the materials to be used would be sympathetic to the parent building as it currently exists. The relevant provisions of Policy QD14 of the Brighton & Hove Local Plan would therefore be complied with.
6. Bearing in mind the extent of alteration that has already taken place to windows at the block and the position of Flat 6 so that most of its windows can only be seen from the rear and do not impact significantly on the street scene in The Drive or Eaton Road, I consider that the visual impact of the proposed alterations would be minimal and would be largely unnoticed by a casual observer. They would cause no material harm to the appearance of the block. There would, in my judgment, be no conflict with the requirements of Local Plan Policy HE6 and I conclude that the character and appearance of the Willett Estate Conservation Area would be preserved.

John Head

INSPECTOR



Appeal Decision

Site visit made on 22 April 2008

by **Stuart M Reid** D Arch (Hons) RIBA

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

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Decision date:
29 May 2008

Appeal Ref: APP/Q1445/A/07/2059239

38 Victoria Street, Brighton BN1 3FQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr D Glynn against the decision of Brighton & Hove City Council.
- The application Ref BH2007/03111, dated 16 August 2007, was refused by notice dated 05 October 2007.
- The development is a proposed loft conversion with a new mansard roof to the rear with two small lead-lined dormer windows.

Decision

1. I dismiss the appeal.

Main issue

2. From my inspection of the site and its surroundings, and from the written representations made, I consider that the main issue in this appeal is the effect that the proposed extension would have on the original dwelling and on the Montpellier and Cliftonhill Conservation Area within which it is situated.

Reasons

3. The appeal dwelling is a 2-storey mid-terrace property, and the proposal is to provide a roof extension to form a mansard roof at the rear with 2 dormers. The 2 properties either side at 37 and 39 Victoria Street have dormers on their rear roof slopes.
4. The proposal would not be seen from Victoria Street, but would be seen from other properties at the rear. It would replace the original roof shape with an inappropriate mansard roof which would be out-of-keeping with the historic character of the original dwelling. This is borne out by the unattractive and out-of-keeping roof extensions either side. The Council state that there is no record of planning permission being granted for them. The appeal building does at present maintain its original roof, and thus its integrity, as a building which contributes to the special architectural or historic interest of the Conservation Area. It is certainly not an unsightly gap at roof level, but an attractive original roof between 2 unsightly roof extensions.
5. The proposal does not follow the advice in the Council's Supplementary Planning Guidance on Roof Alterations & Extensions (SPG) with regard to the

design of the mansard roof, but appears to rely on a slightly off-vertical rear roof elevation, and a close to horizontal flat roof across to the existing ridge. It is not, therefore, a traditional mansard roof. Even if it were, its bulk and visual intrusion, along with the loss of the original roof, would still render it unacceptable.

6. The proposed over-dominant and bulky extension would have a harmful effect on the townscape and, in particular, on the roofscape, of the Conservation Area, as can be seen with the roof extensions either side. With the inappropriate false mansard roof and its overly large dormers, it would be unsympathetic to the appeal building, and would cause harm to the entire terrace and to the wider area, and it would in consequence fail to preserve the special interest of the Conservation Area.
7. I therefore consider that the proposal would be harmful to the integrity of the original dwelling, and thus to the whole of the terrace, and it would be visually unacceptable in the locality, due to its poor design, and its failure to respect the original dwelling. It would fail to preserve or enhance the character or appearance of the Conservation Area, and it would fail to satisfy Policies HE6, QD1, and QD14 in the Brighton & Hove Local Plan 2005 and the advice in the SPG. I conclude that the appeal should fail.

Stuart M Reid

INSPECTOR



Appeal Decision

Site visit made on 14 April 2008

by **J O Head** BSc(Econ) DipTP MRTPI

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

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Decision date:
22 April 2008

Appeal Ref: APP/Q1445/A/08/2062462

69 Eldred Avenue, Brighton, East Sussex BN1 5EF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
- The appeal is made by Mrs D Jones against the decision of Brighton & Hove City Council.
- The application Ref BH2007/00916, dated 26 February 2007, was approved on 31 May 2007 and planning permission was granted subject to conditions.
- The development permitted is the erection of a single storey conservatory at the rear (part retrospective).
- The condition in dispute is No 2, which states that: *The windows to the southern side elevation of the conservatory shall be obscurely glazed and thereafter permanently retained as such.*
- The reason given for the condition is: *To safeguard the privacy of the occupiers of No 67 Eldred Avenue Brighton and to comply with policies QD14 and QD27 of the Brighton and Hove Local Plan.*

Decision

1. **I allow the appeal**, and vary the planning permission Ref BH2007/00916 for the erection of a single storey conservatory at the rear (part retrospective) at 69 Eldred Avenue, Brighton, granted on 31 May 2007 by Brighton & Hove City Council, by deleting condition No 2.

Main issue

2. The main issue is whether the condition is reasonable and necessary to avoid harm to the living conditions of the occupiers of No 67 Eldred Avenue.

Reasons

3. The conservatory has been constructed and was in use at the time of my visit. It varies from the planning permission in having an additional three full height windows on the side elevation adjacent to No 67, in place of the high level windows that were shown on the submitted drawings. It was clarified at the site visit that Condition No 2 is intended to apply to the two windows that have been permitted on the angled elevation of the conservatory, on the basis that the other windows facing No 67 were to be at high level only. The variation from the permitted plans is a matter that may need to be resolved between the Council and the appellant. I have reached my decision having regard to the

details to which the planning permission relates and my considerations are therefore confined to the impact of the permitted windows on the angled elevation.

4. Eldred Avenue is part of a residential development on a hillside location to the north of Brighton city centre. The appeal property is at a higher level than No 67 and is itself lower than the properties further to the north and in Copse Hill. As a result of the local topography, there is already a significant degree of overlooking of the rear gardens of the dwellings in this part of Eldred Avenue, especially from windows at first floor level.
5. The conservatory at the appeal property appears to have been constructed on an existing terrace that would have permitted views to the south over adjoining gardens. Although the erection of the conservatory might mean that this raised area will now be more intensively used, the design of the permitted scheme would have prevented any direct views at close range across to the rear of No 67 and its private patio. The main aspect of the angled windows to which the condition relates is towards the middle and end parts of the adjoining gardens. Although they allow a view of the rear wall and patio of No 67, this requires an observer to stand close to the windows. Even then I was unable, at such an oblique angle, to see directly into any of the rear facing rooms of No 67. Furthermore, the view towards the patio of No 67 is screened to a large extent by the fence and trellis that has recently been erected along the boundary of that property.
6. Bearing in mind that existing privacy standards in the rear gardens of the surrounding dwellings are not high, the existence of the angled windows in the conservatory at the appeal property does not, in my judgment, give rise to any material further overlooking of the neighbouring property and its garden. Accordingly, I see no need for these windows to be obscurely glazed. I conclude that Condition 2 is neither reasonable nor necessary and that its removal would not result in any conflict with Policies QD14 or QD27 of the Brighton & Hove Local Plan or cause harm to the living conditions of the occupiers of No 67 Eldred Avenue.

John Head

INSPECTOR



Appeal Decision

Site visit made on 23 July 2008

By **S J Turner** RIBA MRTPI IHBC

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

The Planning Inspectorate
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Decision date:
31 July 2008

Appeal Ref: APP/Q1445/A/08/2067789
10 Radinden Manor Road, Hove, BN3 6NH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Paul and Mrs Susannah Kendrick against the decision of Brighton & Hove City Council.
- The application Ref BH2007/03021, dated 9 August 2007, was refused by notice dated 3 October 2007.
- The development proposed is a two storey rear extension.

Decision

1. I dismiss the appeal.

Main issue

2. The main issue is the effect of the proposal on the living conditions of the occupants of No 12 Radinden Manor Road.

Reasons

3. The original drawings, PO1 and PO2, have been replaced by amended drawings PO1A and PO2A which indicate correct labelling of elevations. As the amended drawings indicate no other changes I have treated them as the drawings for consideration in this appeal.
4. Dwellings along this side Radinden Manor Road are predominantly large detached houses in spacious plots. However the appeal property is situated close to the boundary with its neighbour, No 12 which is a modest chalet style bungalow situated to the north east. The proposed two storey extension would project from the rear elevation and extend along the side boundary with No 12.
5. I have carefully considered the results of the appellant's technical report, which analyses the impact of the proposed extension on No 12. The right to light study, comparing vertical sky component before and after the proposed extension, demonstrates that the proposal would not infringe the right to light of No 12. In considering overshadowing the report demonstrates that the extension would reduce sunlight to the garden of No 10 for 2 hours on 21 March, the spring equinox and would result in partial overshadowing of the house between 15:00 and 17:00 on 21 June. As less than 25% of the garden would be affected on the March 21 example this is not considered significant overshadowing according to the BRE publication "Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice." Furthermore I note that on

- the June 21 example the most affected window would be that to the garage and that in winter the extension would only lengthen existing shadows.
6. None of these results is considered significant individually. However the overshadowing of a part of the garden close to the house in spring and autumn, shadows cast across the rear french windows on summer afternoons and a reduction in sunlight falling on the garden in winter would have a cumulative impact on the living conditions of occupants of No 12. In addition to this the presence of the extension so close to the boundary, a solid wall which would be higher than existing trees and hedgerow, would have an overbearing impact on the adjacent garden. I consider that all of these factors would combine to have an unacceptable harmful effect on the living conditions of the occupants of No 12.
 7. I note the appellant's reference to a scheme for redevelopment at the King Alfred Centre but I have considered this proposal on its own merits, based on my observations at the appeal site and the relevant policies. I also note that No 14 has a two storey rear projection. However from the site location plan and in views from the street I observed that this does not project back significantly beyond No 16, which has a deep plan itself. Neither of these matters or other points raised by the appellant is sufficient to outweigh my conclusion on the main issue.
 8. I consider that the proposal would result in a harmful loss of loss of outlook and sunlight and would conflict with the objectives of Brighton and Hove Local Plan 2005 Policies QD14 and QD27. I therefore conclude that the appeal should be dismissed.

Sue Turner

INSPECTOR



Appeal Decisions

Site visit made on 14 April 2008

by **David Hogger** BA MSc MRTPI MIHT

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

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Decision date:
9 June 2008

Appeal A: APP/Q1445/A/07/2059242

1a Tongdean Road, Hove, Sussex BN3 6QB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr M Foreman against the decision of Brighton & Hove City Council.
- The application Ref BH2007/01541, dated 18 April 2007, was refused by notice dated 20 June 2007.
- The development proposed is a first floor extension.

Appeal B: APP/Q1445/A/07/2059264

1a Tongdean Road, Hove, Sussex BN3 6QB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr M Foreman against the decision of Brighton & Hove City Council.
- The application Ref BH2007/03339, dated 28 August 2007, was refused by notice dated 7 November 2007.
- The development proposed is a first floor extension.

Decisions

Appeal A

1. I dismiss the appeal.

Appeal B

2. I dismiss the appeal.

Procedural Matters

3. As set out above there are two appeals that differ only in the design and extent of the proposed extensions. Although I have considered each proposal on its individual merits, to avoid duplication I have dealt with the two schemes together in this document.
4. The Council use three different titles for the conservation area in its Character Statement but for the avoidance of doubt I shall refer to it as the Tongdean Conservation Area.

Main issues

5. I consider the main issues, in both appeals, to be:
- whether or not the proposal would preserve or enhance the character or appearance of the Tongdean Conservation Area; and
 - the effect of the proposed development on the living conditions of neighbours, particularly in terms of outlook.

Reasons

6. Tongdean Conservation Area is predominantly an area of large houses in relatively large plots. Although there is a range of styles and age of property, most of the dwellings do not extend across the entire width of the plot and the spacing between buildings is an important element in the character of the locality (as acknowledged in the Tongdean Conservation Area Character Statement). This provides the area with a generally low density appearance and the houses sit comfortably within their curtilages.
7. I am told that No 1a was originally the garden of the neighbouring property, 47 Dyke Road Avenue. The consequence of this infill development is that both properties have comparatively small areas of garden.
8. In both of the proposals before me the proposed extensions would continue the ridge line of the existing house and would extend almost to the boundary with the neighbouring property. Despite the existence of the front boundary wall they would both be visible when travelling along Tongdean Road. The gap at first floor level would be eroded and in both cases it would result in an intensification of built form which in my opinion would be detrimental to the character of the conservation area.
9. On the first issue therefore, I conclude that the proposals in both Appeal A and Appeal B would not preserve or enhance the character or appearance of the Tongdean Conservation Area. Consequently the requirements of policies QD14 and HE6 of the Brighton and Hove Local Plan 2005 (LP), which seek to ensure that new development would be of a high standard of design and that the character of conservation areas would be preserved or enhanced (including the retention of spaces between buildings), would not be met.
10. With regard to the second issue I saw the appeal site from both the garden and the first floor of 47 Dyke Road Avenue. The development of No 1a has resulted in the loss of most of the original garden to No 47. The area which appears to be most used by the occupiers of No 47 is that which lies between their property and No 1a. Within that area there are two conservatories which extend out beyond the rear wall of No 47 and an outdoor seating area.
11. In my opinion the narrow width of this area combined with the fact that the proposed extension in both schemes would extend at first floor level almost to the common boundary, would result in an overbearing and intrusive development. Similarly the outlook from a number of windows to habitable rooms on the first floor would be significantly impaired, because of the closeness of the proposed extension.

12. In terms of loss of light I consider that because of the orientation of No 1a in relation to No 47 and the short distance between No 47 and the proposed extensions, there would be a loss of light to the rear of No 47 (in respect of both appeals). Whilst this is not a matter on which my decision turns it adds weight to my conclusion on the second issue.
13. Although the harm would be more significant with regard to Appeal A because of the greater expanse of the proposed extension, I consider that, for the reasons given above, the living conditions of the occupiers of No 47 would also be impaired if Appeal B were to be allowed. Therefore on the second issue I conclude that the requirements of LP policies QD14 and QD27 which seek to protect the living conditions of neighbours, would not be met.
14. Parking and highway safety have been raised by a number of interested parties but I have no detailed evidence before me on these matters and therefore I have given these issues little weight.
15. For the reasons given above and having regard to all other matters raised, including the proposed use of matching materials, I conclude that both appeals should be dismissed.

David Hogger

Inspector

PLANNING COMMITTEE Agenda Item 122
NEWAPPEALS RECEIVED

WARD

APPLICATION NUMBER
ADDRESS
DEVELOPMENT DESCRIPTION

APPEAL STATUS
APPEAL RECEIVED DATE
APPLICATION DECISION LEVEL

ROTTINGDEAN COASTAL

BH2008/00762
The Cottage Lustrells Road Rottingdean
Proposed front dormer + extension to existing
side dormer.

APPEAL LODGED
11/09/2008
Delegated

WARD

APPLICATION NUMBER
ADDRESS
DEVELOPMENT DESCRIPTION

APPEAL STATUS
APPEAL RECEIVED DATE
APPLICATION DECISION LEVEL

ST. PETER'S & NORTH LAINE

BH2008/01357
17-19 Oxford Street Brighton
Change of use of ground and first floor from
class A2 (Financial and Professional services
use) to class A3 (Restaurant and Cafe use) and
A4 (Drinking Establishment use).

APPEAL LODGED
17/09/2008
Environmental Services Planning (Applications)
Committee

WARD

APPLICATION NUMBER
ADDRESS
DEVELOPMENT DESCRIPTION

APPEAL STATUS
APPEAL RECEIVED DATE
APPLICATION DECISION LEVEL

WISH

BH2007/02837
Top Floor Flat 31 Mansfield Road Hove
Proposed balcony and spiral staircase to the
rear elevation.

APPEAL LODGED
17/09/2008
Delegated

WARD

APPLICATION NUMBER
ADDRESS
DEVELOPMENT DESCRIPTION

APPEAL STATUS
APPEAL RECEIVED DATE
APPLICATION DECISION LEVEL

WITHDEAN

BH2008/01109
22 Tongdean Rise Brighton
Part single storey, part two storey rear
extension with roof terrace, single storey front
extension. New roof with rooflights and
alterations to windows.

APPEAL LODGED
22/09/2008
Delegated

WARD

APPLICATION NUMBER
ADDRESS
DEVELOPMENT DESCRIPTION

HANGLETON & KNOLL

BH2008/00522
44 Hangleton Way Hove
Proposed alterations to an existing shop
garage, storerooms and maisonette to form a
new flat at ground floor and two separate flats

PLANNING COMMITTEE Agenda Item 122
NEWAPPEALS RECEIVED

from the maisonette, retaining the shop at
ground floor.

APPEAL STATUS

APPEAL LODGED

APPEAL RECEIVED DATE

11/09/2008

APPLICATION DECISION LEVEL

Delegated



**Brighton & Hove
City Council**

**INFORMATION ON INFORMAL HEARINGS / PUBLIC INQUIRIES
22 October 2008**

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

Land to the rear of 48 & 50 Old Shoreham Road

Planning application no: BH2007/04047
 Details of application: Construction of two three storey, four bedroom houses.
 Decision: Delegated
 Type of appeal: Informal Hearing
 Date: 19 November 2008
 Location: Hove Town Hall

9 Station Road, Portslade

Planning application no: BH2007/04148
 Details of application: Proposed roof extensions and alterations, including provision of mansard roof to provide additional floors creating two additional flats and bike/bin storage at entrance.
 Decision: Delegated
 Type of appeal: Informal Hearing
 Date: 25 November 2008
 Location: Hove Town Hall

32 Redhill Drive, Brighton

Planning application no: BH2007/02980
 Details of application: Demolition of existing house and construction of a pair of semi-detached houses - resubmission of refused application BH2007/00041.
 Decision: Delegated
 Type of appeal: Informal Hearing
 Date: 26 November 2008
 Location: Hove Town Hall

Site Address: 106 Longhill Road

Planning application no: BH2007/03875
 Description: Demolition of existing house and garage. Construction of a five-bedroom detached house with integral annexe and a detached double garage.
 Decision: Delegated
 Type of appeal: Informal Hearing
 Date: 27 November 2008
 Location: Hove Town Hall

Site Address: 2 Northgate Close Rottingdean

Planning application no: BH2008/00177
 Description: First floor and side extensions. Retrospective.
 Decision: Delegated
 Type of appeal: Informal Hearing
 Date: 3 December 2008
 Location: Hove Town Hall

87 Cowley Drive, Woodingdean, Brighton

Planning application no: BH2008/00443
Description: Outline application for a detached dwelling.
Decision: Delegated
Type of appeal: Informal Hearing
Date: 4 December 2008
Location: Hove Town Hall

46-48 Kings Road, Brighton

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

Bali Brasserie, Kingsway Court, First Avenue, Hove

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

Bali Brasserie, Kingsway Court, Queens Gardens Hove

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

128 Church Road Hove

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

124 Church Road Hove

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

Norfolk Court, Norfolk Square

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

Type of appeal: Informal Hearing
Date:
Location:

5 The Sett Portslade

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

7 Welesmere Road Rottingdean Brighton

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

69-70 Queens Head, Queens Road, Brighton

Planning application no: BH2007/03632
Description: Partial change of use of 1st and 2nd floors from solely A4 (incorporating staff accommodation) to mixed use A3, A4 and sui generis. Also proposed new 3rd floor mansard roof with A4 use.
Decision: Delegated
Type of appeal: Informal Hearing
Date:
Location:

Land east of 55 Highcroft Villas

Planning application no: BH2007/03843
Description: Erection of an apartment building containing 24 flats with parking and access.
Decision: Committee
Type of appeal: Public Inquiry
Date:
Location:

128 Longhill Road Ovingdean Brighton

Planning application no: BH2007/01679
Details of application: Erection of four detached houses.
Decision: Against non-determination
Type of appeal: Public Inquiry
Date:
Location:

128 Longhill Road Ovingdean Brighton

Planning application no: BH2008/01353
Details of application: Construction of four houses. Existing dwelling to be demolished.
Decision: Delegated
Type of appeal: Public Inquiry
Date:
Location:

