





**Brighton & Hove  
City Council**

# Planning Committee

Title:	<b>Planning Committee</b>
Date:	<b>12 November 2008</b>
Time:	<b>2.00pm</b>
Venue	<b>Council Chamber, Hove Town Hall</b>
Members:	<p><b>Councillors:</b>Hyde (Chairman), Wells (Deputy Chairman), Barnett, Carden (Opposition Spokesperson), Davey, Hamilton, Kennedy, McCaffery, K Norman, Smart, Steedman and C Theobald</p> <p><b>Co-opted Members:</b> Mr J Small (CAG Representative) and Mr R Pennington (Brighton &amp; Hove Federation of Disabled People)</p>
Contact:	<p><b>Penny Jennings</b> Senior Democratic Services Officer 01273 291065 penny.jennings@brighton-hove.gov.uk</p>

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## AGENDA

### 124. 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.*

### 125. CHAIRMAN'S COMMUNICATIONS

### 126. MINUTES OF PREVIOUS MEETING

1 - 14

Minutes of the meeting held on 22 October 2008 (copy attached).

### 127. PETITIONS

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

### 128. PUBLIC QUESTIONS

(The closing date for receipt of public questions is 12 noon on 4 November 2008).

No public questions received by date of publication.

### 129. DEPUTATIONS

(The closing date for receipt of deputations is 12 noon on 4 November 2008).

No deputations received by date of publication.

## **PLANNING COMMITTEE**

### **130. WRITTEN QUESTIONS FROM COUNCILLORS**

No written questions have been received.

### **131. LETTERS FROM COUNCILLORS**

No letters have been received.

### **132. NOTICES OF MOTION REFERRED FROM COUNCIL**

No Notices of Motion have been referred.

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

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

(copy circulated separately).

### **135. 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**

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

### **137. APPEAL DECISIONS 15 - 58**

(copy attached).

### **138. NEW APPEALS LODGED 59 - 60**

(copy attached).

### **139. INFORMATION ON INFORMAL HEARINGS AND PUBLIC INQUIRIES 61 - 64**

(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.

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

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

Date of Publication - Tuesday, 4 November 2008



**BRIGHTON & HOVE CITY COUNCIL**

**PLANNING COMMITTEE**

**2.00pm 22 OCTOBER 2008**

**COUNCIL CHAMBER, HOVE TOWN HALL**

**MINUTES**

**Present:** Councillors Hyde (Chairman), Wells (Deputy Chairman), Barnett, Carden (Opposition Spokesperson), Davey, Hamilton, Kemble, Kennedy, McCaffery, Smart, Steedman and Mrs Theobald

**Co-opted Members** Mr J Small (CAG Representative)

**PART ONE**

**1. PROCEDURAL BUSINESS**

**108 PROCEDURAL BUSINESSES**

**108A. Declaration of Substitutes**

108.1 <u>Councillor</u>	<u>for Councillor</u>
Kemble	K Norman

**108B. Declarations of Interest**

108.2 There were none.

**108C. Exclusion of Press and Public**

108.3 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 or 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.

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

**109. MINUTES OF THE MEETING HELD ON 1 OCTOBER 2008**

109.1 **RESOLVED** - That the minutes of the meeting held on 1 October 2008 be approved and signed by the Chairman.

**110 .CHAIRMAN'S COMMUNICATIONS**

**Brighton Marina Application**

110.19 In answer to questions regarding whether a date had been set to consider a further application for development at Brighton Marina. The chairman explained that a provisional date of 12 December had been set this had yet to be finalised.

**Blue Badge Holder Scheme**

110.20 It was noted that an extract of the minutes from the Committee's last meeting would be forwarded to the Environment Committee. It was understood that a report was under preparation which it was anticipated would be considered at the Committees' next meeting .

**111. PETITIONS**

111.1 There were none.

**112.1 112 PUBLIC QUESTIONS**

112.1 There were none.

**113 .113. DEPUTATIONS**

113.1 There were none.

**114. WRITTEN QUESTIONS FROM COUNCILLORS**

114.1 There were none.

**115. LETTERS FROM COUNCILLORS**

115.1 There were none.

**116, NOTICES OF MOTION REFERRED FROM COUNCIL**

116.1 There were none.

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



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

BH2008/0136 - Tudor Cottage 263 London Road - Councillor Mrs Theobald  
BH2008/02440

\* BH2008/02532 - The Hyde, Rowan Avenue - Deputy Development  
Control Manager

\*BH2007/04462- Royal Alexandra Children's Hospital - Deputy Development  
Control Manager

\*BH2008/02479 Flexer Sacks, Wellington Road – Deputy Development  
Portslade Control Manager

\*BH2008/02586, Gala Bingo Hall - Deputy Development Control Manager

\* Anticipated as applications to be determined at the next scheduled meeting of the Committee .

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

**118 . PLANS LIST APPLICATIONS, 22 OCTOBER 2008**

**(i) TREES**

118.1 **RESOLVED** - 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 following application subject to the conditions set out in the report :

BH2008/02703, Mill House , Overhill Drive , Patcham

**(ii) SUBSTANTIAL OR CONTROVERSIAL APPLICATIONS OR APPLICATIONS DEPARTING FROM COUNCIL POLICY : 22 OCTOBER 2008**

118.2 There were none.

**(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 22 OCTOBER 2008**

118.3 **Application BH2008/ 01953, 1 - 2 Regent Street, Brighton** - Demolition of existing 2 storey building and erection of 4 storey building with replacement of retail on the ground floor and 5 flats above.

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

118.5 The Area Planning Manager (East) gave a presentation detailing the scheme including reference to plans and elevational drawings explaining that the principle of demolishing the existing building was considered acceptable, that there were no objections on traffic grounds and that although small the level of amenity space was considered acceptable given the city centre location of the development .

118.6 Councillor Kemble sought confirmation regarding whether the existing retail unit would be retained, it was explained that it would, although not necessarily for the same use.

118.7 Councillor Davey enquired whether shutters were to be provided to units on the upper floors as this feature appeared to be shown in the submitted drawings. It was explained that external shutter did not form part of the application and would be resisted.

118.8 Mr Small (CAG) enquired regarding the proposed retail use at first floor level and it was explained that this was regarded differently from that located at ground floor level for the purposes of planning policy. Mr Small also reiterated the objections made by CAG that the proposed design was not considered to be of sufficient quality to justify loss of the existing building. It was noted that the North Laine Community Association had lodged similar objections.

118.9 Councillor Smart asked whether consideration had been given to providing a lift within the development. The Area Planning Manager (East) explained that there was no planning policy basis for requiring a lift to be provided within the development. Councillor Smart also expressed the view that the lack of parking was unacceptable. Councillor Mrs Theobald concurred in that view stating that she considered it regrettable that a lift was not proposed within the development.

118.10 Councillors Kennedy and Steedman concurred with the views expressed by CAG considering that the proposed design of the development was poor given that it would occupy a prominent site and were of the view that it would adversely impact on the character and appearance of the surrounding North Laine Conservation Area. Councillor McCaffery also concurred in that view. Councillor Mrs Theobald enquired whether it would be possible to defer consideration of the application in order to require the applicant to effect improvements to the design.

118.11 The Deputy Development Control Manager stated that significant changes had been made to the scheme and that Members needed to determine the application as submitted.

118.12 Councillor Carden stated that he considered the scheme to be acceptable.

118.13 A vote was taken and on a vote of 7 to 4 with 1 abstention planning permission was refused on the grounds set out below.

118.14 **RESOLVED** - That the proposed development, by virtue of its quality of design, would be unacceptable and would adversely impact upon the character and appearance of the North Laine Conservation Area, and would be contrary to policies QD1, QD2 and HE6 of the Brighton & Hove Local Plan.

[**Note 1** : A vote was taken and on a vote of 7 to 4 with 1 abstention planning permission was refused].

[**Note 2** : A recorded vote was taken. Councillor Kennedy proposed that planning permission be refused on the grounds set out above. This was seconded by Councillor

Steedman. Councillors Hyde (Chairman), Davey, Kennedy, Kemble, McCaffery, Smart and Steedman voted that planning permission be refused. Councillors Barnett, Carden, Hamilton and Wells voted that planning permission be granted. Councillor Mrs Theobald abstained. Therefore on a vote of 7 to 4 with 1 abstention planning permission was refused].

**118.15 Application BH2008//02702, 41 - 45 St. James' Street, Brighton** - Variation of condition 6 attached to BH1997/00792/FP, to allow opening hours in accordance with the premises licence and operating schedule.

118.16 The Area Planning Manager (East) gave a presentation explaining that the applicant had requested to be permitted to vary their planning permission to bring it into line with the conditions of their premises licence. He explained that when granting a premises licence a licensing Panel needed to have regard to the licensing objectives and to the need to seek to avoid public order or noise nuisance offences from occurring. The Planning Committee could have regard to planning issues such as protection of neighbouring amenity.

118.17 Mr Nicoll spoke on behalf of neighbouring objectors and those living in flats above the premises stating that the opening hours granted under the original permission had been imposed in order to protect the amenity of neighbours and to seek to ensure that they did not suffer from an unacceptable level of disturbance late at night. These issues remained important, in particular the need to mitigate against residents being disturbed by those leaving the premises late at night.

118.18 Mr Radke the applicant spoke in support of his application stating that since he had taken over occupation of the premises it had been well run and its existence had been instrumental in discouraging drug dealing and other anti-social behaviour which had previously taken place in the immediate area. There had only been two complaints regarding noise which had been responded to immediately, as a result noise inhibiting equipment had been installed to prevent any further nuisance from occurring. Other premises close by were permitted to stay open for longer and he wanted parity with them. The intention was not to stay open longer every evening but to have the flexibility to do so.

118.19 Councillor Davey asked whether the premises had been staying open later and it was confirmed that the premises had been open until a later hour in line with the conditions of the premises licence.

118.20 Councillors Barnett and Mrs Theobald considered that it appeared that the premises were well run (evidenced by the very low number of complaints), whilst acknowledging for those leaving the premises late at night to disperse immediately and quietly. In answer to questions of Councillor Mrs Theobald regarding arrangements for those wishing to smoke it was explained that patrons did so on the pavement outside.

118.21 In answer to questions of Councillors Wells and Barnett it was explained that it was understood that the public house directly opposite the premises had permitted opening hours until 2.00am. Councillor Wells stated that it appeared that the applicant had made every endeavour to ensure that his business as a restaurant/caf /bar did not give rise to any nuisance, he did not consider the request made to be unreasonable.

Councillor Kemble stated that he was familiar with the area and was not aware of any nuisance emanating from the premises, he considered the request to be acceptable. Councillors Davey and Steedman considered that it would be appropriate to grant a temporary licence which would be subject to review and would then come back to the Committee for re determination. Councillor Carden concurred with the Officers' recommendation stating that nuisance and disturbance often arose when individuals left premises .

118.22 Members discussed whether or not they were minded to grant a licence for a temporary period of six or twelve months and agreed that they considered it appropriate for a temporary licence to be granted for a period of 12 months.

118.23 a vote was taken and on a vote of 47 to 1 with 4 abstentions temporary planning permission was granted for a period of 12 months in the terms set out below.

118.24 **RESOLVED** - That temporary permission be granted for 12 months expiring on 22 October 2009 subject to the following conditions and informatives :

Conditions

1. The premises shall not be open or in use except between the following hours :-  
Mondays to Saturdays (inclusive): 09.00 hours to 01.30 hours the following day  
Sundays: 09.00 hours to 23.30 hours

Reason: to safeguard the amenities of the locality and to comply with policy QD27 of the Brighton & Hove Local Plan.

2. This permission shall be for a temporary period only and shall expire on 22 October 2009.

Reason : To enable the Local Planning Authority to monitor the impact of the increased opening hours on the amenities of the locality and to comply with policy QD27 of the Brighton & Hove Local Plan.

3. The outside terrace area at the front of the premises shall be closed to customers between 22.30 hours and 10.00 hours the following day.

Reason : To safeguard the amenities of the locality and to comply with policy QD27 of the Brighton & Hove Local Plan.

Informatives :

1. This decision is based on site plan no.SK01 , an unnumbered site plan, Premises License and a Statement submitted on 13 august 2008, an e - mail received on the 18 august 2008 , an e - mail received on 8 September 2008 and a letter received on 12 September 2008.

2. This decision to grant planning permission has been taken :

(i) having regard to the policies and proposals in the Brighton & Hove Local Plan set out below :

Brighton & Hove Local Plan:

TR1 Development and the demand for travel  
QD3 Design - efficient and effective use of sites  
QD27 Protection of amenity  
SU9 Pollution and nuisance control  
SU10 Noise nuisance  
SR5 Town and district shopping centres

Planning Policy Statements and Guidance

PPS1 : Delivering Sustainable Development  
PPS6 Town Centres  
PPG24 Planning and Noise

(ii) for the following reasons :-

Taking into account all material planning considerations , the proposed increased opening hours are considered to be acceptable for a temporary period of one year in respect of their impact on the amenities of the locality.

3. The applicant is advised that the remaining conditions attached to planning permission BH2007 /00792 / FP are extant and require to be complied with .

[ **Note 1** : A vote was taken and on a vote of 7 to 4 with 1 abstention temporary planning permission was granted].

[**Note 2** : A recorded vote was taken . Councillor Kemble proposed that temporary permission be granted for 1 year this was seconded by Councillor Wells .Councillor s Barnett Hyde (Chairman), Davey, Kemble, Smart, Mrs Theobald and Wells voted that temporary permission be granted . Councillor Carden voted that permission be refused . Councillors Hamilton, Kennedy, McCaffery and Steedman abstained. Therefore on a vote of 7 to 11 with 4 abstentions temporary planning permission was granted .

#### (iv) OTHER APPLICATIONS

118.25 **Application BH2008/00688, 21 Bennett Drive** - Demolition of existing two storey detached house to be replaced by a three and a half storey eco house.

118.26 The Deputy Development Control Manager explained that the application had been withdrawn at the request of the applicant.

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

118.28 **Application BH2008/01036, Tudor Cottage, 263 London Road, Brighton** - Conservation Area Consent for proposed demolition of existing dwelling and garage and erection of four storey apartment building containing 7 flats.

118.29 Members considered that it would be appropriate to carry out a site visit prior to determining the application.

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

118.31 **Application BH2008/02440, Tudor Cottage, 263 London Road, Brighton** - demolition of existing dwelling and garage and erection of four – storey apartment building containing 7 flats.

118.32 members considered that it would be appropriate to carry out a site visit prior to determining the application.

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

118.34 **Application BH2007/04167, Rear of 20 - 36 Baden Road, Brighton** - Erection of 9 terraced dwellings (2 x2 bed houses and 7 x 3 beds). With vehicular parking for 9 cars.

118.35 The Area Planning Manager (East) gave a presentation detailing the scheme by reference to elevational drawings and plans. In answer to questions he explained that only two of the buildings three floors would be visible from Bevendean Road. Each of the dwellings would have a small private garden area with parking spaces to the front .

118.36 Councillor Mrs Theobald sought clarification regarding the distances between the proposed development and the nearest neighbouring dwellings. Councillor Mrs Theobald also queried whether the garages located in Baden Road would still have off street parking once the development had been completed . It was explained that these houses would still have access onto Baden Road itself. But would probably not have off street parking. As the area did not fall within a Controlled Parking Zone , it was not considered that any additional traffic or on - street parking resulting from the scheme would create parking problems within the area.

118.37 Councillors Carden and Kennedy considered that the scheme represented a good use of the land which would provide much needed family accommodation. Councillor Wells also concurred in that view. Councillor Steedman supported the scheme but requested that an condition 13 be amended to seek to ensure that the hard standing surface provided was permeable. The Committee was in agreement .

118.39 A vote was taken and on a vote 11 with 1 abstention planning permission was granted in the terms set out below .

118.40 **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 subject to condition 13 and the accompanying reason being amended to include permeable hard surfacing to read:

No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a scheme for landscaping., which shall include permeable hard surfacing , means of enclosure, planting of the development, indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development in the interest of the visual amenities of the area, makes efficient use of water and to accord with policies QD15 and SU2 of the Brighton & Hove Local Plan.

118.41 **Application BH2008/02181, 1 Lustrells Close , Saltdean** - Demolition of garage and side porch and construction of extension to side. Formation of rooms in new and existing roof space with dormer windows to front and rear. Alterations to existing fenestration to front and rear. Works to form a pair of semi detached single family dwellings .

118.42 The Area Planning Manager (East) gave a detaild presentation relative to the proposed scheme .

118.43 Mr Thomas spoke on behalf of the applicant in support of his application and Mr Wilson the applicant also spoke in support of his application indicating that the he had not initially been aware of the sustainability measures required. He stated that other plots in the locality had received similar treatment and, that he did not consider his proposal to be out of keeping with the prevailing street scene.

118.44 In answer to questions of Councillor Mrs Theobald the Area Planning Manager (East) explained that the ridge height of the proposed dwellings would be the same as that of the existing dwelling but that there would be a two storey extension .In answer to questions of Councillor Smart it was explained that although there were some semi detached bungalows and houses in the area there were none immediately adjoining the application site.

118.45 Councillor Kennedy stated that she supported the Officers' recommendation considering that the proposal represented overdevelopment and would result in loss of amenity to neighbouring dwellings. Councillor Mrs Theobald concurred in that view.

118.46 Councillors Kemble, McCaffery and Wells considered that the proposals were acceptable, did not detract from the surrounding street and would provide additional family accommodation.

118.47 A vote was taken and on a vote of 9 to 3 permission was refused.

118.48 **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 reasons :

1. The sub division of the plot and formation of a pair of semi detached houses fail o emphasise or enhance the key neighbourhood principles of the local neighbourhood. The scheme fails to take into account the bulk and design of existing buildings and the layout and character of the background street and spaces and , as such , would have a harmful impact upon the local urban character. This is contrary to policies QD1, QD2 and QD3 of the Brighton & Hove Local Plan.
2. the proposed extensions are considered poorly designed by reason of their scale, bulk, massing and detail; harming the character and appearance of the property and street scene. This is contrary to policies QD1, QD2, QD4 and QD27 of the Brighton & Hove Local Plan and Supplementary Planning Guidance Note 1 (SPG BH1 - Roof Extensions and Alterations).
3. The proposed extension by reason of its bulk and massing in close proximity to the joint boundary is considered to harm the residential amenity of adjoining occupiers. It would result in a loss of light to and harm the outlook of number 25 Lustrells Crescent. This is contrary to policies QD1, QD14 and QD27 of the Brighton & Hove Local Plan.
4. The development fails to demonstrate that it will meet acceptable standards of sustainability, will be efficient in the use of energy, water and materials or will incorporate appropriate sustainability measures into the development. This is contrary to policy SU2 of The Brighton & Hove Local Plan and Supplementary Planning Guidance Note 16 (Energy Efficiency and Renewable Energy).
5. The proposal fails to meet the travel demands that it creates and does not provide the necessary contribution towards and enhancement of sustainable methods of transport . This is contrary to planning policies TR1 and QD28 of the Brighton & Hove Local Plan.

6. The proposal fails to demonstrate a satisfactory construction waste minimisation strategy, confirming how demolition and construction waste will be recovered and re used on site or at other sites., therefore reducing the need to dispose of waste at landfill. This is contrary to policies SU13, of the Brighton & Hove Local Plan and supplementary Planning Guidance Document 03 (Construction and Demolition Waste).

Informatives :

1. This decision is based on Design and access Statement, waste Minimisation statement , Block Plan and unnamed drawing nos. 05/0608, 05/06080, 05 0608b, 05/0608c and 05 / 0608d, submitted on 25 / 06 / 2008 and Planning Statement 10/09 / 2008.

118.49 **Application BH2008/01460, Saltdean Barn , Arundel Drive West, Saltdean -** Extension to existing childcare centre comprising the ground floor and an upper hall within the roof space, including the formation of one door opening and minor alterations to the listed building.

118.50 The Area Planning Manager (East) gave a presentation referring to elevational drawings illustrating the proposed extension to the existing childcare centre.

118.51 Additional conditions were proposed by Councillor Steedman ensure that adequate sustainability measures were in place. This was supported by the Committee.

118.52 A vote was taken and Members voted unanimously to grant planning permission.

118.53 **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 to grant planning permission subject to the conditions and informatives set out in the report . and subject to the following additional conditions :

11.05.04 General Sustainability Measures

12. The extension hereby approved shall not be brought into use until a site travel plan (a document setting out a package of measures tailored to meet the needs of the site and aimed at promoting sustainable travel choices and reduce reliance on private motor vehicles) for the whole site, including the existing building, has been submitted to and approved in writing by the local Planning Authority. The site travel plan shall be implemented as approved thereafter and shall be subject to an annual review in accordance with details submitted to and approved in writing by the Planning authority. Reason: To reduce traffic generation by encouraging alternative means of transport to the private motor vehicle and comply with policy TR 4 of the Brighton & Hove Local Plan.

118.54 **Application BH 2008/00958, 20b Bristol Mansions, 19 - 20 Sussex Square, Brighton -** Refurbishment and modernisation of existing accommodation.

118.55 In answer to questions of Councillor Steedman it was explained that requirements relating to detailing of the fenestration had been picked up in the proposed conditions .

118.56 **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 is minded to grant listed building consent , subject to the receipt of satisfactory amended



drawings relating to the design of the rear window and approval from GOSE and to the conditions and informatives set out in the report.

**118.57 Application BH2008/00318, 1 to 19 Buckingham Lodge, Buckingham place, Brighton** - Construction of one additional storey to form 6 1 bedroom flats and conversion of 2 of the existing garages into a bin / cycle storage area.

118.58 The Area Planning Manager (East) gave a presentation detailing the proposals. He explained that the application site had been subject to a number of planning applications over recent years including the previous application which had been dismissed. However, the Inspector had also concluded that a scheme which included an additional storey of the right proportions with a set back and of appropriate design could improve the appearance and proportions of the property.

118.59 Councillor Davey sought clarification regarding whether or not improvements were proposed to the rest of the development and regarding proposed amenity space it was explained that this would take the form of Juliet balconies. Councillor Mrs Theobald sought confirmation as to whether a lift would be provided within the development and whether the proposals would result in loss of a disabled parking bay. It was explained that there would be a central staircase and that there would be no direct loss of any parking although access to the existing garages (which were not believed currently to be in use) was unlikely to be lost, these were in a parlous and un-used state.

118.60 In answer to questions of Councillor Wells regarding the rationale for the development being car free the Traffic Manager explained that as there was a five month waiting list for residents parking permits the development needed to meet the requirements of policies TR1 and HO7.

118.61 Councillor Kennedy stated that she considered the building to be unattractive as was the proposed additional storey. However, she recognised that the Planning Inspector's decision represented a material planning consideration. Councillor Mrs Theobald stated that she did not consider it appropriate to add an additional storey onto the top of this existing block of flats. She considered that this would represent an overpowering form of development within the context of the Westhill Conservation Area. Councillors Carden and Smart considered that the proposal would not have a significant impact on either the existing building or the surrounding street scene.

118.62 A vote was taken and on a vote of 6 of to 1 with 5 abstentions planning permission was granted in the terms set out below.

118.63 **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 conditions and informatives set out in the report.

**118.64 Application BH2008/01952, 13 Broad Green, Brighton** - erection of a detached 4 bedroom chalet bungalow.

118.65 Councillor Wells sought clarification regarding whether the application site had already been subdivided. The Area Planning Manager (East) explained that the plot had

already been divided as a result of the earlier permission. The current application represented revisions to the earlier scheme.

118.66 **RESOLVED** - That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in paragraph 8 of the report and resolves that it is minded to grant planning permission subject to receipt of full details of site levels and ridge heights of the proposed house and adjoining properties and subject to the conditions and informatives set out in the report .

**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**

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

BH2008/01036 - Tudor Cottage, 263 London Road - Councillor Mrs Theobald

BH2008/02440

\*BH2008/02532 - The Hyde, Rowan Avenue - Deputy Development Control  
Manager

BH2007/04462 – Royal Alexandra Children’s Hospital – Deputy  
Development Control  
Manager

BH2008/04462 - Flexer Sacks, Wellington Road - Deputy Development  
Control Manager

BH2008/02586 - Gala Bingo Hall, Portland Road - Development Control Manager

\* Anticipated for consideration at the next scheduled meeting of the Committee.

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

120.1 The Committee noted those applications determined by officers during the period covered by the report.

**121. APPEAL DECISIONS**

121.1 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.

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

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

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

123.1The Committee noted the information set out in the agenda relating to information on Informal Hearings and Public Inquiries.

The meeting concluded at 5.15pm

Signed

Chair

Dated this

day of



**APPEAL DECISIONS**

	<b>Page</b>
<b>A. SOUTH PORTSLADE WARD</b>	
Application BH2008/00101, C M Print, Station Road, Portslade. Appeal against refusal to grant planning permission for a further 3m in width extension to the rear. <b>APPEAL DISMISSED</b> (copy of the letter from the Planning Inspectorate attached).	<b>17</b>
<b>B. CENTRAL HOVE WARD</b>	
Application BH2007/02379, 124 Church Road. Appeal against refusal to grant planning permission for alterations and extension to form a part 2, part 3 storey building with accommodation in the roof to form 4 flats above existing retail. <b>APPEAL DISMISSED</b> (copy of the letter from the Planning Inspectorate attached).	<b>21</b>
<b>C. STANFORD WARD</b>	
Application BH2007/03542, 93 King George VI Drive, Hove. Appeal against refusal to grant planning permission for a single storey detached garage. <b>APPEAL DISMISSED</b> (copy of the letter from the Planning Inspectorate attached).	<b>29</b>
<b>D. MOULSECOOMB AND BEVENDEAN WARD</b>	
Application BH2007/03934, 6 Jevington Drive, Brighton. Appeal against refusal to grant planning permission for la two storey side extensions to the house. <b>APPEAL DISMISSED</b> (copy of the letter from the Planning Inspectorate attached).	<b>31</b>
<b>E. WITHDEAN WARD</b>	
Application BH2007/03324, 24 Redhill Drive, Brighton. Appeal against refusal to grant planning permission for installation of garden decking in rear garden. <b>APPEAL DISMISSED</b> (copy of the letter from the Planning Inspectorate attached).	<b>33</b>
<b>F. WITHDEAN WARD</b>	
Application BH2008/00081, 114 Eldred Avenue, Brighton. Appeal against refusal to grant planning permission for loft conversion including hip to gable roof extension, rear dormer with Juliet balcony and front roof light. <b>APPEAL DISMISSED</b> (copy of the letter from the Planning Inspectorate attached).	<b>35</b>

## **G. WITHDEAN WARD**

Application BH2007/04086, Site R/o 188 Surrenden Road, Brighton. Appeal against refusal to grant planning permission for demolition of existing garage and erection of a part single, part two – storey house with an integral garage. **APPEAL DISMISSED** (copy of the letter from the Planning Inspectorate attached). **37**

Application BH2007/04068, 245 – 249 Ditchling Road, Brighton. Appeal against refusal to grant planning permission for part demolition, part change of use, alterations and extension of the buildings to form a single dwelling house at 245 and additional office floor space at Nos 247 and 249. Resubmission of refusal BH2006/ 001608. **APPEAL DISMISSED** (copy of the letter from the Planning Inspectorate attached). **41**

## **I. ST PETER'S AND NORTH LAINE WARD**

Application BH2007/03580, 13 London Terrace, Brighton. Appeal against refusal to grant planning permission to form a house at basement level. **APPEAL DISMISSED**. (Copy of the letter from the Planning Inspectorate attached). **45**

## **J. ST PETER'S AND NORTH LAINE WARD**

Application BH2007/02033, Land R/o 24 Dyke Road, Brighton. Appeal against refusal to grant planning permission for proposed three storey (including basement) single family dwelling . **APPEAL DISMISSED** (copy of the letter from the Planning Inspectorate attached). **49**

## **K. ST PETER'S AND NORTH LAINE WARD**

Application BH2007/04013, 100 Church Street, Brighton. Appeal against refusal to grant planning permission for replacement windows on first and second floors and alterations to shop entrance and office entrance doors on the ground floor . **APPEAL DISMISSED** (copy of the letter from the Planning Inspectorate attached). **53**

## **L. ROTTINGDEAN COASTAL WARD**

Application BH2007/01612, 23 Longhill Road, Ovingdean. Appeal against refusal to grant planning permission to enclose the balcony. **APPEAL DISMISSED** (copy of the letter from the Planning Inspectorate attached). **55**

## **M. PATCHAM WARD**

Application BH2008/00859, 25 Sunnydale Avenue, Patcham. Appeal against refusal to grant planning permission for erection of a two storey extension **APPEAL ALLOWED** subject to conditions (copy of the letter from the Planning Inspectorate attached). **57**



# Appeal Decision

Site visit made on 2 October 2008

by **S J Emerson BSc DipTP MRTPI**

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

The Planning Inspectorate  
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**Decision date:  
9 October 2008**

**Appeal Ref: APP/Q1445/A/08/2075376**

**C M Print, 61 Station Road, Portslade, Brighton, BN41 1DF.**

- 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 A Jarred against the decision of Brighton & Hove City Council.
- The application Ref BH2008/00101, dated 13 December 2007, was refused by notice dated 12 March 2008.
- The development proposed is described as an amendment to approval BH2007/02968.

## Procedural matters

1. In November 2007, the Council granted planning permission for a single storey rear extension to the appeal premises with a depth of 5m. This is the planning permission referred to in the description of development. The appeal application plan shows a rear extension with a total depth of 8m. The Council amended the description of development to: *amendment to approval BH2007/02968 (to increase the depth of the extension by 3m)*. At the site visit I saw that the permitted 5m extension has been completed. I thus consider that the Council's description of development is now accurate and I have considered the proposal as the addition of a 3m extension to that which has recently been completed. There are new footings extending 2m beyond the completed extension, but I have considered the appeal proposal as a 3m extension, as shown on the application plan.
2. There is a discrepancy on the application drawing. The layout plan shows a set of double doors at the end of the proposed extension whereas the end elevation does not show any doors. The appellant has not clarified this discrepancy, but refers to the need for fire exists. The recently completed extension has a door in the side elevation. This is not shown on the application drawing, which shows 2 windows in the side elevation. I have considered the appeal on the basis of the layout plan and assume that the development would include doors at the end of the extension.

## Decision

3. I dismiss the appeal.

## Main issues

4. The main issues are:
  - (a) The effect on the character and appearance of the area.
  - (b) The effect on the living conditions of adjoining residents, with particular regard to noise.

## Reasons

5. The main part of the appeal building is 2 storey with rooms in the roof. At the rear, there is a large, flat roofed single storey addition across the full width of the building. This was built some years ago and the recently completed extension projects from this rear addition along the southern boundary. The new extension is finished in painted render with a flat roof to match the main rear extension. The proposed extension would be in similar materials. The rear of the extension would come close to the rear boundary of the site, leaving a small yard to the side. The ground floor of the appeal premises is used as a printers and the appellant lives in a flat above.
6. The appeal premises are in a mixed use area where there are a wide variety of buildings and uses. On the southern side of the site there is a substantial building used for tyre and exhaust fitting. The blank brick side wall of this building extends to the rear boundary of the appeal site and is a dominant feature from the rear of surrounding properties. On the other side of the appeal site, 60 Station Road is a small terraced house with a small garden alongside the yard of the appeal site. To the rear of the appeal premises and separated from it by a narrow alleyway, is the rear garden of 1 St Andrew's Road. This is the end of a terrace of houses at right angles to Station Road.
7. The extensive flat roofed additions that have been built at the rear of the main 2 storey part of the appeal building do not complement the original building and have no design merit. However, they have the benefit of being low structures which are unobtrusive and largely hidden from public views. The proposed extension would be a small addition to the existing area of flat roofed extensions and would match the existing design. Perpetuating the existing design is now the most appropriate design solution for a small addition, rather than introducing an alternative style.
8. There would be only a fleeting public view of the top of the extension from St Andrew's Road across a parking area and the garden of No 60, over the top of various boundary walls. But in these views the dominant feature is the large brick gable wall of the tyre and exhaust workshop which provides a tall built backdrop to the existing and proposed extensions. There would be no harm to the street scene. The proposed extension would be readily noticeable from the adjoining dwellings and from their gardens. But the building would not be overbearing or dominant given its single storey, flat roofed design. In views towards the proposed extension the dominant feature is the gable wall of the tyre and exhaust building.
9. I therefore consider that the proposed extension would not harm the character or appearance of the area and, in its context, represents an acceptable design. There is no conflict with policies QD1 (design) and QD14 (extensions and alteration) of the Brighton and Hove Local Plan 2005.
10. On the application drawing, the whole of the 8m rear extension is described as an *office*. I saw that the 5m extension recently completed housed a substantial machine and did not appear to be used as an office in the conventional meaning of that word. The present extension is not separated from the rest of the ground floor on this side of the building where there is another substantial machine. I consider that the authorised use of the premises has the potential



to disturb neighbouring residents as a result of noise, especially when in their gardens. Given that the existing and proposed extensions appear to form an integral part of the ground floor of the premises, it would not be practical to seek to restrict their use to office purposes only.

11. It might be possible to insulate the existing and proposed extensions to adequately reduce the external transmission of noise, but any such measures would be undermined if windows and doors were open, especially as these face the neighbouring gardens at close quarters. The appellant refers to other forms of ventilation and temperature control, but there are no details. The proposed doors would provide convenient access to the rear yard and to what the appellant describes as the area for the recycling of waste material. It is unrealistic in my view to expect the appellant to keep doors and windows shut other than in emergencies. It is likely, given the large machinery in a relatively small building, that staff would want to have windows and sometimes doors open when the weather is warm. But those would be the very occasions when residents are most likely to be in their gardens.
12. I appreciate that the machinery in the building does not run all the time or every day, but I am concerned that there is considerable potential for disturbance and on the evidence before me I am not satisfied that this potential harm could be overcome by conditions. I also recognise that the recent extension has a window and a door in the side and when these are open there may already be some disturbance from noise. Whilst the proposed extension is small, I see no justification for adding to the capacity of this part of the building to house machinery and the proposed rear doors would face the garden of 1 St Andrew's Road. I consider that there is conflict with policy QD27 (protection of amenity) of the local plan. The potential harm to the living conditions of adjoining residents as a result of noise is sufficient reason to dismiss the appeal.

*Simon Emerson*

INSPECTOR





# Appeal Decision

Hearing held on 30 September 2008

Site visit made on 30 September 2008

by **S J Emerson BSc DipTP MRTPI**

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

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**Decision date:**  
**8 October 2008**

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## Appeal Ref: APP/Q1445/A/08/2070139

### 124 Church Road, Hove BN3 2EA

- 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 Siade Abdulkhani against the decision of Brighton & Hove City Council.
- The application Ref BH2007/02379, dated 25 June 2007, was refused by notice dated 19 December 2007.
- The development proposed is alterations and extensions to form a part 2, part 3 storey building with roof accommodation to form 4 flats above existing retail.

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### Procedural matters

1. The application was described on the application form as the development of 9 apartments, but that was because the proposal was originally submitted jointly with a proposal for 5 flats at No 128 Church Road, Hove resulting in 9 new flats overall. However the proposals for the separate sites were subsequently amended to be pursued by separate applications. To avoid possible confusion, I have not used this original description in the heading above, but have adopted the Council's description of development.
2. At the hearing, the appellant submitted an amended plan (drawing D-01B) of the layout of the flats to show the previously proposed bay window at the front of the top floor flat amended to a dormer. This amendment was in response to design concerns previously expressed by the Council. The Council had no objection to the consideration of the appeal on the basis of this amended plan and I consider that it is a minor amendment the acceptance of which would not prejudice the interests of any party. The amended plan does not, however, overcome the Council's concern about the design of the feature. It was agreed that the bay window shown on the roof slope of the western 1<sup>st</sup> floor flat should also be amended to a similar dormer form and that if I were to allow the appeal this could be achieved by means of a condition.

### Decision

3. I dismiss the appeal.

### Main issues

4. The main issues are:
  - (a) The effect on the character and appearance of the Cliftonville Conservation Area.

- (b) The effect on the living conditions of the adjoining residents of 22 Medina Villas, with particular reference to daylight/sunlight and outlook.
- (c) The effect on parking and public transport.

## **Reasons**

### *Conservation Area*

5. The appeal site is within the Cliftonville Conservation Area. This encompasses 3 streets to the south of Church Road and 2 streets to the north of Church Road. The Conservation Area is characterised by residential development of the mid 19<sup>th</sup> century. Along individual streets there is a broad consistency in the siting and design of buildings, but variations between streets. Only a short section of Church Road is included within this conservation area, but there are contiguous conservation areas to the east and west. This part of Church Road has a variety of building styles. Church Road is one of the principal streets in this part of Hove, being the main thoroughfare and having predominantly commercial uses at ground floor level.
6. No 124 is at the junction of Church Road and Medina Villas. That part of the premises on the corner is single storey with a flat roof. The inner part is 2 storey. The proposal is to add 3 floors of residential accommodation above the single storey element and one floor of accommodation within the roof space above the 2 storey part. It is agreed that the existing building has no architectural merit
7. I saw that there are a number of corner sites along Church Road where the corner building is higher than the terrace fronting Church Road of which it forms part. But my impression is that there is no consistency in the design of corner sites along this part of Church Road. Some, like the appeal site, are single storey, others are substantial buildings of 4 storeys. The relationship between the buildings along Church Road and the buildings in the streets to the north and south do not appear to have been particularly well planned when development first took place.
8. As proposed, the short terrace between Medina Villas and Osborne Villas would, visually, consist of 4 units (although the 2 ground floor units of the appeal premises are combined in a single unit). The eastern-most unit would have 4 floors of accommodation, the 2 central units would have 3 floors of accommodation and the western-most unit would have 2 floors of accommodation (with a flat roof). There would be a considerable stepping down in the height of the buildings across the frontage of the terrace.
9. The proposed 4 floors of accommodation on the eastern side would extend for a considerable distance down Medina Villas. Unlike the Church Road frontage, where the 3<sup>rd</sup> floor accommodation would be within a mansard roof, the elevation to Medina Villas would have 4 full floors of accommodation. The design would give the corner of the building considerable height and bulk which I consider would be out of scale with the short terrace of which it is part and result in an unbalanced, lopsided appearance to the Church Road frontage.
10. The top of the proposed building would be slightly higher than the ridge line of the adjoining semi-detached villas along the western side of Medina Villas and

the eaves line of these villas would be below the top floor accommodation. This difference in height and scale would emphasise the substantial bulk of the building on the corner. The proposed building would also be higher than the proposed development on the opposite corner of Medina Villas permitted by the Council in 2005. That development would have 3 floors of accommodation on the front corner. But this difference would not be untypical of the differences between developments on opposite sides of side streets along Church Road and is not in itself harmful.

11. The appeal premises abut the wide footway at the top end of Medina Villas and are thus much closer to the road than the villas to the south which are set back behind front gardens. Because there is only a single storey element on the corner at present this difference in alignment does not have a substantial impact on the street scene. When looking north along Medina Villas and south along Ventnor Villas, buildings beyond No 128 can be seen over the top of the single storey element.
12. The proposal would result in a 4 storey building projecting forward of the buildings in Medina Villas. Part of the rear (southern) elevation of the new building would be readily noticeable when approaching the site up Medina Villas from the south. This rear elevation would be bland with no visible fenestration. The visual relief provided by the fenestration on the side elevation facing Medina Villas would only become the main feature of the building when the observer was comparatively close to it. I consider that the bulk and blandness of the visible rear part would result in an unsatisfactory contrast with the attractive elevations of the buildings facing Medina Villas. The proposed building would slightly reduce the width of the view northwards across Church Road into Ventnor Villas. Because of the slightly offset alignment between Medina Villas and Ventnor Villas, the proposed development would have a more substantial impact in the view southwards from Ventnor Villas. From parts of Ventnor Villas, the view of the buildings on the western side of Medina Villas (currently visible above the single storey building) would be lost. I consider that this inter-visibility between these streets and the long vistas which are available are an attractive feature of this part of the conservation. The modest but tangible erosion of these views would be harmful.
13. I have already noted the variety of buildings on corners along Church Road and the variety of relationships between the buildings fronting Church Road and those fronting the side streets. On several corners, buildings of more than one storey project forward of the building line of the side street and some of these corner buildings have a bland elevation at the rear facing down the side street. But I do not regard either of these characteristics as important features of the conservations area which might justify repetition on other corners. In my view, the achievement of a satisfactory relationship on corner sites along Church Road needs to be resolved on a site specific basis rather than justified on the basis of any examples nearby. This is the approach that the Council has taken when granting planning permission in 2005 for new development above Otello's on the opposite corner of Medina Villas and for new houses to the south of it along that side of Medina Villas.
14. For the reasons given above, I consider that the appeal proposal is an unsatisfactory form of development on this particular corner site, resulting in a development that would be incongruously bulky and prominent and which

detract from views up and down the side streets. The development would harm the character and appearance of the conservation area. It would be contrary to policies QD1 (design), QD14 (extensions and alterations) and HE6 (conservation areas) of the Brighton and Hove Local Plan 2005.

#### *Living conditions*

15. No 22 Medina Villas is the building to the rear of the appeal premises. It is a 3 storey building with a basement with a flat on each of the 4 floors. The appeal site is on the northern side of No 22. That part of the proposed building abutting the side garden boundary of No 22 would be single storey only (with the sloping roof of the stairwell rising above the flat roof). One section of this wall on the boundary already exists. The main rear wall of the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> floors would be between 4m-5m from the boundary.
16. On the side of No 22 facing the appeal site there are windows to bathrooms on each floor. These windows have frosted glass. The proposed building would block some early morning sunlight in mid summer from some of the bathroom windows, but I do not regard this impact as adversely affecting living conditions given that the rooms are bathrooms. I consider that there would be sufficient gap between these windows and the rear walls of the proposed building for there to be no material reduction in daylight within the bathrooms.
17. The main rooms at the front of the building are either living rooms or the main bedroom and are served by bay windows. From within the bay, the proposed building would be visible from the northern angled side window, but not generally noticeable from within the room looking out through the main part of the bay. The development would have only a minor impact on the outlook of these rooms and no material impact on sunlight or daylight within them. On the front corner of the building closest to the appeal site are windows serving the kitchens of each flat. These windows are much narrower than the bay windows. The development would be visible only in oblique views when close to the window, would not be overbearing and would not result in any loss of daylight or direct sunlight other than possibly for a short period early on mid summer mornings.
18. The rear garden of No 22 serves the ground floor flat and is an attractive amenity space. For the most part, No 22 blocks morning sunlight, but in mid summer there is currently a brief period of direct sunlight early in the morning. The proposed building would block most of this sunlight, but as the garden has a relatively open aspect to the south over the adjoining gardens and to the south west across Osborne Villas I consider that this brief limited increase in shading would not harm the amenity value of the garden.
19. I thus conclude on this issue that the development would not materially harm the living conditions of the adjoining occupiers and that there is no conflict with policy QD27 (protection of amenity) of the Brighton and Hove Local Plan.

#### *Parking and public transport*

20. There is no reason for refusal relating to this issue, but in accordance with advice given at the application stage by the Traffic Manager, the Council consider that the appellant should make a contribution of £2,000 for improvements to public transport (bus stops, pedestrians facilities and cycling

facilities in Church Road) and £2,000 to cover the cost of amending the relevant Traffic Regulation Order (TRO) to preclude future occupiers of these flats from applying for residents' parking permits. The appellant did not resist the need to make these contributions and suggested that they could be the subject of a condition, as suggested by the Council in the hearing statement.

21. In my pre-hearing note sent to the parties about 2 weeks before the hearing, I indicated that it would be unacceptable for me to impose any condition which, explicitly or implicitly, required a section 106 obligation to be provided. This would conflict with advice in Circular 11/95 *The Use of Conditions in planning Permissions*. The Circular (paragraph 13) clearly indicates that: *Permission cannot be granted subject to a condition that the applicant enters into a planning obligation under section 106 of the Act or an agreement under other powers*. In the absence of a completed section 106 obligation or agreement at the hearing I indicated that I would need to consider whether the contributions sought by the Council were justified.
22. No parking spaces are provided in the development. It is agreed that the site is an accessible location with good public transport connections. It abuts the main town centre of Hove and Church Road is one of the main bus routes into the centre of Brighton and beyond. Policy HO7 indicates that planning permission will be granted for car-free housing in locations with good access to public transport and local services where there are complimentary parking controls and where it can be demonstrated that the proposed development will remain car-free in the long term. The appeal proposal meets the locational criteria of this policy. It was agreed that the requirement to be car-free is normally achieved by an amendment to the relevant TRO to preclude future occupiers applying for permits. This requires some administrative work by the Council and public advertisements which have to be paid for.
23. The appellant understands that there are between 100-200 residents parking permits currently available for zone N. This zone covers a substantial block of streets between Hove Station and the seafront. I consider that this is a small number of available permits, given the size of the zone and the likely scope for changes in demand for permits in the area. To avoid a cumulative adverse impact from increasing car ownership outstripping the available parking spaces in the heavily parked street of this dense urban area I consider that the appeal development should be made car free. The Council could amend the TRO without any funding from the appellant, but is very unlikely to do so, especially for such a small development. It is also important that the amendment to the TRO is made prior to potential occupiers considering the purchase of flats so that they can make an informed choice about possible car ownership. I therefore consider that to meet the requirements of policy HO7 the appellant should pay for the necessary administrative work which can only be secured by a section 106 obligation. In the absence of such an obligation, the conflict with policy HO7 adds a further objection to the development.
24. I accept that the cumulative impact of a number of small scale housing developments within the urban area, especially those which are car-free, must place increasing demands on the public transport system and especially buses. However, there is no evidence of any particular shortcomings in the public transport infrastructure (or that for cyclists and pedestrians) in the locality on which this and other developments would add further demand. Policy TR2

concerns public transport accessibility and parking. Given that the parking standards are maximum, with no minimum, then the absence of any on-site parking does not conflict with the policy and the car-free nature of the development has already been considered under policy HO7. Given the good bus services close by and the absence of any evidence of particular infrastructure problems, I consider that there is no conflict with this policy and insufficient evidence to justify a financial contribution to public transport.

*Overall conclusion*

25. I have found that the development would harm the character and appearance of the conservation area and does not meet the local plan's requirement for car-free developments. The more favourable aspects of the development, including making better use of this accessible location, do not outweigh this harm. I have therefore dismissed the appeal.

*Simon Emerson*

INSPECTOR



## APPEARANCES

### FOR THE APPELLANT:

Mr M Landivar, Architect	Alan Phillips Architects, Brighton.
Mr S Bareham BSc DipTP	Lewis & Co Planning, Hove.

### FOR THE LOCAL PLANNING AUTHORITY:

Mr J Hawks BA	Planning Officer, Brighton and Hove City Council.
Ms L Johnston BSc Dip PG IHBC	Conservation Officer, City Council.

### INTERESTED PERSONS:

Mr M Sinnock	Local resident, Ground Floor Flat, 22 Medina Villas, Hove, BN3 2RL.
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## PLANS

- A Amended layout plan D01 B.
- B North elevation of scheme for 122 Church Road Hove (Drw.no 0/1612/04/D06A)
- C Plan of building lines.





# Appeal Decision

Site visit made on 30 September 2008

by **S J Emerson BSc DipTP MRTPI**

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

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**Decision date:**  
**3 October 2008**

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## Appeal Ref: APP/Q1445/A/08/2062568 93 King George VI Drive, Hove, BN3 6XF.

- 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 K A C Smith against the decision of Brighton & Hove City Council.
- The application Ref BH2007/03542, dated 20 September 2007, was refused by notice dated 14 December 2007.
- The development proposed is a single storey detached garage.

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### Procedural matter

1. The bundle of plans and illustrative material submitted with the appeal includes a photograph of a garage by the same manufacturer as the garage shown in the application drawing. But as noted on the photograph, that garage is larger than that which is proposed. In addition, I note that the garage in the photograph has a steeper pitch to the roof than that shown on the application drawing, which has a very shallow pitch. The application drawing states that the roof would be clad in profile plastisol steel sheets finished in dark brown. The photograph has a note stating: *colour of the tiles to match house*, but I am not satisfied that the very shallow pitch of the roof shown on the application drawing would be sufficient to satisfactorily accommodate conventional tiles. I have considered the proposal on the basis of the finishes specified on the application drawing.

### Decision

2. I dismiss the appeal.

### Main issue

3. The main issue is the effect on the street scene.

### Reasons

4. The appeal property is at the end of a short cul-de-sac. There are 4 similar bungalows, including No 93, in a broadly symmetrical layout either side of the hammer head of the cul-de-sac. Across the end of the cul-de-sac is the front garden of No 93 and a parking area for No 95. Behind the garden and parking area is a brick wall about 1.4m high, beyond which are the rear gardens of houses in Woodland Avenue. These houses are readily visible from the cul-de-sac and combined with the boundary wall visually enclose the end of the cul-de-sac.

5. The proposed garage would occupy a portion of the front garden of No 93. A hardstanding has already been constructed, which would form the base for the garage. The proposed garage would be a small, free-standing building. It would be a proprietary, prefabricated construction, rather than purpose built in-situ. My understanding is that the walls of the garage would be built from precast concrete panels with a proprietary brick-faced finish. The method of construction would make it hard to achieve a close match to the bricks of No 93 or those of the adjoining boundary wall and the very shallow pitch of the roof and the use of steel sheeting would not reflect the conventional pitched and tiled roofs of the bungalows or the flat roofs of their attached garages. These differences of detail would give the building a distinctive appearance which would contrast unfavourably with the appearance of the surrounding dwellings.
6. The garage would occupy a prominent position at the end of the cul-de-sac, readily visible in public views when passing the end of the cul-de-sac along the main residential part of King George VI Drive as well as when entering the cul-de-sac. The siting of the building would not relate well to the existing layout of the cul-de-sac and its comparatively small scale and the distinctive appearance I have already highlighted would make it appear as an incongruous element in the street scene. As a result, I consider that the proposal would result in modest, but material harm to the street scene. The proposal does not represent good design and thus conflicts with the aim of policy QD1 of the Brighton and Hove Local Plan 2005. The Council refers to conflict with policy QD14 which is concerned with extensions and alterations to the buildings, but since the proposal is for a free standing building, not an extension, this policy is not directly applicable. This harm and conflict with policy is sufficient to dismiss the appeal.
7. There is reference in the appeal representations to the appellant's concern about flooding of his existing garage at the side of his house. I saw that the lowest point of the cul-de-sac abuts the driveway to this garage and thus if the highway drain at this low point overflows then water would flow down the drive and into the garage. However, if such a problem occurs I consider that it should be dealt with by improved drainage and any such problem does not outweigh the harm to the street scene that I have identified.
8. The Council is also concerned that there is insufficient depth in front of the proposed garage to park a car clear of the highway. Even the appellant's very small car would encroach on the footway, most cars would overhang the footway and intrude into the carriageway, to a greater degree if space was left in front of the garage door for it to be opened after parking. Normally, such short driveways are unsatisfactory. But the property already has a drive on which 2 cars can be parked (as well as the existing garage). There is no indication that this driveway is to be removed. Even if the new short drive was to be used for parking it would not cause any material harm to highway safety given that there is little pedestrian use of the footway at the end of the cul-de-sac, vehicle movements are modest, and any overflow parking from driveways already occurs in the hammer head of the cul-de-sac.

*Simon Emerson*

INSPECTOR

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# Appeal Decision

Site visit made on 23 September 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:  
7 October 2008**

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## Appeal Ref: APP/Q1445/A/08/2071291

### 6 Jevington Drive, Brighton, East Sussex BN2 4DG

- 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 & Mrs Darren Redman against the decision of Brighton & Hove City Council.
- The application Ref BH2007/03934, dated 23 October 2007, was refused by notice dated 25 January 2008.
- The development proposed is a two-storey side extension to the house.

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## Decision

1. **I dismiss the appeal.**

## Main issues

2. The main issues are the impact of the proposal on the appearance of the house and on the street scene in Jevington Drive; and the impact of the proposed balcony on the living conditions of the occupiers of surrounding properties with particular regard to overlooking and privacy.

## Reasons

3. On the first issue, No 6 is one of a number of semi-detached houses of similar design on the north side of this part of Jevington Drive. They are in an elevated position, with extensive views from the rear of the houses towards the north-east. The pairs of houses are widely spaced, particularly in the vicinity of the appeal property, and have only garages or single storey additions between, allowing open views from the street which contribute to a sense of spaciousness.
4. The pairs of houses become closer together towards the west and the gap between Nos 6 and 8 is the largest on this side of the road. By encroaching on the gap between the houses at first floor level, the proposed extension would interrupt the established rhythm of the development, although its impact on spaciousness would be limited because of the width of the gap that would remain. However, the extension would be a noticeable addition to the street scene. Although it would appear subservient to the existing building, the incorporation of a garage in the same position as the existing and consequent setting back of the upper storey would result, in my opinion, in an extension of

- awkward and unsatisfactory design. In particular, the proposed garage door opening, positioned partly within the single-storey and partly within the two-storey elements of the extension, would cause the front elevation to appear weak and disturbing to the eye. This would detract from the appearance of both the existing house and the street scene.
5. Local Plan Policy QD1 requires all proposals for new buildings to demonstrate a high standard of design and make a positive contribution to the visual quality of the environment and Policy QD14 requires all extensions to be well designed and detailed in relation to the property to be extended, adjoining properties and the surrounding area. I consider that the appeal proposal would fail to meet those requirements and that the extension would be an unsympathetic and incongruous addition that would harm the appearance of the house and the street scene in Jevington Drive.
  6. Turning to the second issue, the balcony would serve the proposed bedroom. It would be at approximately the level of the existing flat roof of the garage and I estimate that it would allow views over a substantial part of the paved rear garden of No 8 Jevington Drive, including views directly to the north-west towards the rear of the house that would not be obtainable from any existing windows. This would involve an unneighbourly loss of privacy to a part of the garden that is at present relatively private. Nevertheless, the far end of the garden of No 8, and the gardens of the houses to the rear, are already overlooked to some extent from the first and second floor windows of No 6 and other houses in this part of Jevington Drive. Other than enabling a view towards the rear of the house at No 8, the proposed balcony would not make the existing situation significantly worse. The addition of a fixed screen to the side of the proposed balcony, as suggested by the appellants, could be required by condition if I were to allow the appeal and would prevent direct views towards the house. Subject to the erection of a suitable screen, I consider that the requirements of Local Plan Policy QD27 would be satisfied and that no material harm would be caused to the living conditions of the occupiers of surrounding properties.
  7. Nevertheless, that does not outweigh the unacceptability of the proposed extension with regard to its impact on the appearance of the host building and the street scene.

*John Head*

INSPECTOR



# Appeal Decision

Site visit made on 23 September 2008

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

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**Decision date:**  
**7 October 2008**

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## Appeal Ref: APP/Q1445/A/08/2074447

### 24 Redhill Drive, Brighton, East Sussex BN1 5FH

- 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 Peter Hodgson & Nicola Ball against the decision of Brighton & Hove City Council.
- The application Ref BH2007/03324, dated 29 August 2007, was refused by notice dated 5 November 2007.
- The development proposed is the installation of garden decking in the rear garden.

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## Decision

1. **I dismiss the appeal.**

## Procedural matters

2. As the decking is already in place, I have treated this appeal as one against the refusal of planning permission for its retention.
3. I note the appellants' submissions that they were unaware that planning permission would be required for the installation of the decking. Whether or not planning permission is required is not a matter for me to determine in the context of an appeal made under S78 of the above Act. It is open to the appellants to apply for a determination under sections 191/192 of the Act to clarify this matter. My determination of this appeal under section 78 of the Act does not affect the issuing of a determination under S191/192.

## Main issue

4. The main issue is the impact of the decking on the level of privacy enjoyed by the occupiers of No 26 Redhill Drive.

## Reasons

5. The dwellings in this part of Redhill Drive have long and very steep back gardens leading down, at a gradient of some 35°, towards the rear of the properties in Valley Drive to the south. The decking that is the subject of the appeal forms a terrace in the lower half of the garden. The rear of the decked area is approximately at the natural ground level but the southern edge and sides are raised on a rendered blockwork wall which, on the eastern side, is close to the boundary with No 26. A decorative timber balustrade increases

the overall height of the structure. The steepness of the slope results in the south-eastern corner of the decking being a significant height above ground level and I saw that, notwithstanding the existing vegetation along the boundary, this enables a clear view to be obtained over the adjacent area of garden at No 26.

6. The garden of No 26 at this point comprises a lawn, with a tree close to the boundary with the appeal property and denser planting at the southern end. The angle of the slope makes standing in an upright position difficult and it is likely that the levelled areas of garden closer to the house are those that are most intensively used by the occupiers. Nevertheless, this part of the garden is clearly maintained as an amenity space. Because of the height and close proximity of the decking structure to the boundary at this point, it appears particularly intrusive and overbearing. When the decking is in use, I consider that persons in the garden of No 26 would have an uncomfortable sense of being overlooked at close range in a location where, in the context of the surroundings, a reasonable level of privacy would normally apply.
7. Although the newly planted *Cupressus Leylandii* trees on the boundary to the south of the decking should, in time, screen the structure from the south-east there is, in my opinion, insufficient room between the end of the decking and the boundary with No 26 to plant vegetation that would screen it adequately from the east and prevent direct close-range overlooking. The trees that have been planted in a timber box attached to the wall are, in my experience, unlikely to survive as they cannot be adequately maintained and appear to have insufficient soil or room for proper growth. Privacy might be maintained by the erection of a fence or planted trellis at the edge of the decking, but this would be likely to emphasise the size and height of the structure.
8. The most intensively used areas of rear gardens tend to be those closest to the house. In these circumstances, some loss of privacy in the lower part of the long garden cannot be said to cause serious harm to the living conditions that the dwelling provides. Nonetheless, I have no doubt that the elevated position of the decking and its closeness to the boundary has the potential to cause significant and unexpected nuisance in a pleasant area of garden which would otherwise be reasonably secluded. Bearing in mind also the height of the structure and its intrusive appearance, I consider that the overall impact of the decking is excessively unneighbourly. On balance, it reduces the amenity value of the garden and the level of privacy enjoyed by the occupiers of No 26 Redhill Drive to an unacceptable degree that conflicts with the requirements of Local Plan Policy QD27.

*John Head*

INSPECTOR





# Appeal Decision

Site visit made on 23 September 2008

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

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**Decision date:**  
**9 October 2008**

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## Appeal Ref: APP/Q1445/A/08/2074455

### 114 Eldred Avenue, Brighton, East Sussex BN1 5EH

- 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 G Firth & Miss J Ward against the decision of Brighton & Hove City Council.
- The application Ref BH2008/00081, dated 2 January 2008, was refused by notice dated 28 February 2008.
- The development proposed is described as a loft conversion including hip to gable roof extension, rear dormer with Juliet balcony and front rooflight.

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## Decision

1. **I dismiss the appeal.**

## Main issue

2. The main issue is the impact of the proposed development on the appearance of the building and on the street scene in Eldred Avenue.

## Reasons

3. No 114 is part of a group of semi-detached houses in a hillside location on the east side of Eldred Avenue. The houses in the pairs have staggered frontages and are not identical, but nevertheless share common design features such as hipped and tiled roofs. This uniformity creates a soft roofscape stepping regularly down the slope when viewed from the north. The gable end that has been added to No 126, some distance to the north, upsets the rhythm of the hipped-roofed development on this side of the road and is a particularly prominent feature from the south, giving a harder appearance to the street scene. The Council says that planning permission has not been granted for the alteration of the roof at No 126. I consider that it represents a poor quality of design that should not be seen as a precedent for other alterations to hipped roofs in this part of the street.
4. Policies QD2 and QD14 of the Brighton & Hove Local Plan and supporting Supplementary Planning Guidance (SPG) *Roof Alterations and Extensions* seek a high standard of design in relation to the property to be extended, adjoining properties and the surrounding area. The SPG advises that roof extensions altering the basic shape of the roof, eg from a hipped to a gable end, will be

unacceptable because of the imbalance created between the semi-detached pair and the visually heavy roof that would result.

5. Although Nos 114 and 116 are not identical in appearance, they are part of a building designed as a whole. The proposed conversion from a hip to a gable would conflict with that design, as would the bulky flat-roofed dormer that would cover much of the rear roof slope. Both alterations would be in clear conflict with the advice in the SPG and would be jarring elements that would unbalance the appearance of the pair of houses. The gable and the flat roof of the dormer would be visible between Nos 114 and 112 as visually heavy and incongruous features in a part of the street that is otherwise generally free from harmful roof alterations. The whole of the dormer would be visible from properties and gardens to the rear. The proposal would not represent the high standard of design sought by development plan policy or by Government policy as set out in Planning Policy Statement 1 *Delivering Sustainable Development*, which advises that design which is inappropriate in its context should not be accepted.
6. I understand the appellants' wish for additional family accommodation and the submission that similar alterations might be possible elsewhere as 'permitted development'. I have dealt with this proposal on its own merits, having regard to prevailing development plan policies and advice. The matters raised do not alter my conclusion that the proposed development would harm both the appearance of the host building and the street scene in this part of Eldred Avenue, in conflict with Local Plan policy and design advice. It would be inappropriate in its context and is, accordingly, unacceptable.

*John Head*

INSPECTOR



# Appeal Decision

Site Visit made on 13 October 2008

by **David Harmston FRICS DipTP MRTPI**

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for Communities and Local Government

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**Decision date:**  
**16 October 2008**

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## Appeal Ref: APP/Q1445/A/08/2077526

### Site to the rear of 188 Surrenden Road, Brighton, East Sussex BN1 6NN

- 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 Ms L Mackenzie against the decision of the Brighton and Hove City Council.
- The application (Ref: BH2007/04086), dated 2 November 2007, was refused by notice dated 2 June 2008.
- The development proposed is the demolition of the existing garage and the erection of a part single, part two-storey house with an integral garage.

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### Decision

1. I dismiss the appeal.

### Main Issue

2. The main issue is whether safe, practical and convenient pedestrian and vehicular access can be provided to the development without causing undue harm to the living conditions of the occupiers of the surrounding dwellings or unacceptable hazards to pedestrians and motorists using the rear access road.

### Procedural Matter

3. During the course of the application an amended location plan was submitted, dated 'April 2008' and numbered 10/08. This defines the full extent of the application site as including a strip of land between Nos 188 and 190 Surrenden Road to provide a pedestrian means of access to the proposed house directly to Surrenden Road as well as land comprising a section of the rear service road providing vehicular access to the site from Hollingbury Copse. I have taken the appeal site to be the totality of the land shown as being within the red line area on that drawing.

### Reasons

4. There is considerable planning history to this site which I have studied. This includes a decision of April 2005 dismissing an appeal against the Council's refusal of permission for the conversion and extension of the existing garage on the land to form a single residential unit with all access (both pedestrian and vehicular) being direct to the rear service road and thus into Hollingbury Copse. In that case the Inspector concluded that the dwelling to be formed by the conversion and extension of the garage 'would not have an access of a suitable standard' and that to rely on the rear lane for sole access was 'contrived, inconvenient and unsafe'. The Council has refused permission for the latest proposals (the appeal development) for two reasons. These relate

- to the means by which the new dwelling would be accessed – by both pedestrians and car users – and the effects therefrom of the proposals on the residents of the proposed dwelling itself, on the amenities of the neighbours and the users of the rear access road.
5. The Council acknowledges that it is important to make the best use of suitable previously developed land for housing purposes where appropriate and it does not oppose the development on design grounds. It also considers that its effects on neighbouring properties in terms of overlooking, overshadowing and loss of privacy (excluding the impact on No 190 Surrenden Road arising from the proposed footpath) to be acceptable. Whilst some neighbours who object to the development raise concerns about the suitability of the site for a new house in principle because of its impact on their amenities and privacy, this issue is not raised by the Council as an objection to the development except as it is relevant to the main issue which I have set out above. It is also the case that many expressions of support to the scheme have been made.
  6. The appellant has attempted to overcome the objections levied at the previous scheme by providing a dedicated means of pedestrian access to the proposed dwelling by the provision of a one-metre wide footpath leading from the footway in Surrenden Road, running between Nos 188 and 190 directly to the appeal plot. To the rear, only the vehicular access to the proposed garage is proposed, with no other means of entry into the house except through the garage itself. As the existing garage is currently in use and serves the host dwelling, no additional vehicular movements to the site via the rear service road from Hollingbury Copse of any significant number would be generated.
  7. Although the appellant queries whether the previous Inspector (and the Council) appreciated that Nos 5 and 6 Hollingbury Copse gained access from the service road, his assessment of the site and its access arrangements remain materially correct in describing the current position. There has been no change in circumstances of which I have been made aware and from my own site inspection I conclude that his conclusions are as valid now as they were in 2005. He stated that the restricted width of the access road for the first 28 metres of its length leading from Hollingbury Copse was insufficient to allow two vehicles to pass and that it would be extremely difficult for a car to safely pass a pedestrian or a cyclist. In that case the proposal was for all access to the dwelling – both pedestrian and vehicular – being from the rear. In that situation he concluded that the arrangements proposed were inconvenient and unsafe, falling below an acceptable standard for a new housing development.
  8. In response to this criticism, the current proposals rely on the presumption that pedestrians visiting the site would only use the proposed footpath access to the new dwelling and, in any event, there would be no traditional doorway entrance to the house from the rear service road. The postal address of the property would be 188A Surrenden Road and it would be clearly identified in that road. The appellant considers that it is reasonable to expect that the residents of the house itself, their visitors and their service providers would only use the 'front' entrance as they would have no incentive to use (or knowledge of) the possibility of an access to the house being available on foot via Hollingbury Copse, the service road and the garage entrance. Access to the house would only be possible by opening the garage door.
-

9. I accept that it is unlikely that the number of vehicular movements taking place in the rear service road would be materially different from the position now as a result of this development. For that reason, I do not consider that there are any objections to the proposals in respect of the use of the road by cars visiting the new house, as some local residents fear. The crux of this matter, in my opinion, is whether or not pedestrians visiting the proposed dwelling – whether residents or visitors – would be likely to use Hollingbury Copse and the rear access road on a regular and ‘normal’ basis to gain access to the dwelling as opposed to the Surrenden Road access via the new footpath. If that were the case then the situation is materially the same as that considered by my colleague in 2005 when he concluded that such an arrangement was unacceptable on the grounds of safety and convenience.
10. In my conclusion it is most unlikely and unrealistic to expect that the proposed footpath would in practice and over a period of time be used as the primary source of pedestrian access to the dwelling. This is for a number of reasons. Firstly, its length, width and gradient are powerful dissuasive features to such a practice if an easier alternative is available. Secondly, and bearing in mind that a wide grass sward exists to the front of the host property in Surrenden Road, the actual walking distance from a parked vehicle to the new dwelling would be substantially increased. Thirdly, the shortest and quickest walking and cycling route to many of the local services and amenities from the new dwelling would be by way of the service road and Hollingbury Copse. Fourthly, regular visitors to the house would soon become aware of these considerations and would choose to use the service road for pedestrian access, perhaps after parking their vehicles in Hollingbury Copse. Local tradesmen and delivery drivers with packets or parcels would be most unlikely to use the new path, in my opinion, if a more direct and much shorter access on foot was available. The garage door would become the ‘entrance’ in these circumstances.
11. Efforts have been made by the appellant through design to forestall such events but in my conclusion human nature would be likely to prevail. Conditions aimed at controlling the access arrangements would be difficult to draft and very difficult to enforce. In these circumstances I conclude that the development would be unacceptable because it would be impossible to prevent pedestrians using the service road in association with the development. I agree with my colleague’s conclusions and the reasons for them concerning safety and convenience. A new dwelling should not have to rely on its sole means of pedestrian access via a long and intimidating pathway as is proposed. I do not believe, however, that the use of the path would create undue harm to the neighbours’ amenities bearing in mind its likely level of usage and the proposed 1.83-metre high fence enclosing it. However, the proposals are in conflict with Policies TR7 and QD27 of the Brighton and Hove Local Plan for the reasons I have given. I have considered all other matters raised, including references to comparable developments elsewhere. Nevertheless, each case falls to be assessed on its individual planning merits and nothing alters my conclusions above and the reasons for them.

*David Harmston*

Inspector

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# Appeal Decision

Site visit made on 12 September 2008

by **J A B Gresty MA MRICS**

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for Communities and Local Government

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**Decision date:**  
**9 October 2008**

## **Appeal Ref: APP/Q1445/A/08/2065642 245 – 249 Ditchling Road, Brighton BN1 6JD**

- 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 EBGL against Brighton & Hove City Council.
- The application Ref BH2007/04068, is dated 29 October 2007.
- The development proposed is part demolition, part change of use, alteration and extension of the buildings to form a single dwelling house at No 245 and additional office floor space at Nos 247 and 249. Resubmission of refusal ref. BH2006/001608.

### **Decision**

1. I dismiss the appeal and refuse to grant planning permission for part demolition, part change of use, alteration and extension of the buildings to form a single dwelling house at No 245 and additional office floor space at Nos 247 and 249. Resubmission of refusal ref. BH2006/001608.

### **Background**

2. A previous application for development of the site was dismissed on appeal (APP/Q1445/A07/2033632) for conservation area reasons only and found to be satisfactory with regard to its effect on travel demands and minimisation of construction waste.
3. The appeal proposal before me is similar to the previous scheme in terms of the scale of accommodation proposed and, from my own observations, I find no reason to disagree with the previous Inspector's conclusions with regard to travel demands in the area and minimisation of construction waste. Also, I note that the Council supports the current proposal with regard to travel demands and does not object on waste grounds.

### **Main Issue**

4. Part of the proposal is the alteration of No 245, including removal of the existing shop front and replacement with a bay window to replicate the original design of the property. No parties object to this element of the scheme. Therefore, I consider the one main issue in this appeal to be whether the proposed office development on the site of Nos 247 – 249 would preserve or enhance the character or appearance of the Preston Park Conservation Area.

### **Reasons**

5. The appeal site occupies a prominent and open location on Ditchling Road, on the edge of the Preston Park Conservation Area. No 245 is a two-storey former dwelling

that forms the end property of a terrace of Victorian houses. These houses have distinctive two-storey gabled bays on their front elevations and are an attractive feature in the street scene. A generally similar style of terraced development is repeated along Ditchling Road, giving it a distinctive, planned character and appearance that I found to be characteristic of the Preston Park Conservation Area. Whilst the ground floor bay of No 245 has been altered, the front elevations of most of the houses in the terrace and elsewhere nearby on Ditchling Road are largely unaltered, reinforcing the character and appearance of the locality.

6. At Nos 247–249, adjoining No 245, is a part single-storey and part two-storey flat-roofed building dating from the mid-20<sup>th</sup> century of very different design to the nearby housing. The section fronting onto Ditchling Road is single-storey only however so the building does not stand out unduly prominently in the street scene and its appearance is largely subservient to the Victorian terrace. Further, it reflects the style of the small parade of flat-roofed shops nearby to the north. Behind the single-storey part of the building, set back from Ditchling Road, is a bulky two-storey building with a large blank brick wall facing towards the north-west. Whilst of a plain design, being set back from the road this section of building is not prominent when viewed from Ditchling Road.
7. The proposed development includes demolition of the flat-roofed building at Nos 247-249 and replacement with a two- and three-storey office building of contemporary design. The building would have a distinctive, largely glazed, frontage and the elevations viewable from the north and north-west would have strong rectangular forms. Whilst the rear part of the building would be marginally taller than the existing two-storey flat-roofed building, the front part facing Ditchling Road would have three storeys. As a consequence of its height, bulk, prominent location and contemporary design, the new building would be a dominant feature in the street scene and would be at odds with the scale and appearance of the adjoining terrace and other properties in the locality. Also, I consider that the scale of the proposed new office building would result in the appeal site ceasing to have a positive visual relationship with the nearby parade to the north.
8. On the Ditchling Road elevation, that part of the office development that would adjoin No 245 has been designed to reflect the appearance of the Victorian terrace, including the continuation of the pitched roof and new brickwork to match that of No 245. This would provide a visual link between the terrace and the contemporary styled element of the office building.
9. Whilst I note that the Council's conservation officer considers that the proposal satisfactorily addresses the shortcomings of the previous scheme and that LP Policy QD1 seeks to discourage replication of existing styles and pastiche designs, these factors do not overcome my concerns regarding the scale and design of the proposed office development. Accordingly, overall, I consider that the development would not make a positive contribution to the visual quality of the environment, contrary to the aims of LP Policies QD1 and QD2 nor would it enhance or preserve the views into and from within the Conservation Area, contrary to LP Policy QD4. I conclude that the proposed development would not preserve or enhance the character or appearance of the Preston Park Conservation Area, contrary to the aims of LP Policy HE6.



### **Other Matters**

10. Concerns have been raised by nearby residents with regard to loss of privacy. There would be views from the proposed offices into the back gardens and of the rear elevations of the houses to the north. However, the appeal site is some distance away from these properties, on the other side of an access road. Consequently I consider that the proposal would not have a significant effect on the living conditions of the occupiers of those properties with regard to loss of privacy.
11. In its current condition the appeal site does not make a positive contribution to the character or appearance of the locality. However, I consider that this is not reason enough to justify an unacceptable replacement development.
12. For the reasons given above, and having regard to all other matters raised, I conclude the appeal should be dismissed.

*J A B Gresty*

INSPECTOR





# Appeal Decision

Site visit made on 2 October 2008

by **S J Emerson BSc DipTP MRTPI**

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**Decision date:**  
**15 October 2008**

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## Appeal Ref: APP/Q1445/A/08/2074622

### 13 London Terrace, Brighton BN1 4JP

- 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 Pavilion Property Maintenance Ltd against the decision of Brighton & Hove City Council.
- The application Ref BH2007/03580, dated 21 September 2007, was refused by notice dated 20 November 2007.
- The development proposed is to form a basement house.

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### Decision

1. I dismiss the appeal.

### Main issues

2. The main issues are:
  - (a) Whether the development would result in the harmful loss of a family dwelling.
  - (b) Whether the development makes adequate provision for parking.

### Reasons

3. The appeal property is a 2 storey house with basement. It is part of a short terrace of similar houses. London Terrace is a short cul-de-sac at the rear of substantial retail and other commercial premises fronting London Road and gives access to several service yards at the rear of these premises. The proposal is to create a 1 bedroom flat in the basement with access via the external steps from the pavement, leaving a 2 bed maisonette on the ground and first floors. The latter would have access to the small rear garden via a new flight of steps at the rear.
4. Policy HO9 of the Brighton and Hove Local Plan 2005 sets out criteria for the conversion of buildings to flats. Criterion *a* is that the original (unextended) floor area is greater than 115m<sup>2</sup> or that the dwelling had more than 3 bedrooms when originally built. The Council indicate that the floor area is 93m<sup>2</sup> and this is not disputed by the appellant. The appellant considers that it is reasonable to envisage the dwelling as having more than 3 bedrooms when built – the 2 rooms on the first floor and the 2 original rooms in the basement (with the ground floor being a living room/parlour and a kitchen), but has not provided any historical evidence to demonstrate that this was actually the case. In my view, the layout of the dwelling, with its main entrance to the middle (ground) floor suggests that only the 2 rooms on the top (first) floor were bedrooms. It is more realistic to envisage that at least one of the basement

rooms provided a service room such as a scullery/kitchen and storage. I am not satisfied that the dwelling originally had the 4 bedrooms necessary to meet criterion *a*. There is therefore conflict with policy HO9.

5. The appellant considers that the location is unsuitable for a family dwelling given that London Road is used as an access to service yards and future plans for redevelopment of the area would increase such use. I accept that the comings and goings of service vehicles would create noise and disturbance during the day. But such vehicles would be moving very slowly along London Terrace and have to pass other residential streets to get to main roads. The noise and disturbance here may be perceived by some families as less intrusive and more suitable for family living than a house on one of the many busy roads in Brighton with faster and much more frequent passing traffic. No details have been provided of the effect on the area of any redevelopment proposals and it is not clear to me that there is a finalised scheme. The location has the benefit of very good accessibility to the centre of Brighton. On the evidence before me, I do not regard the area as unsuitable for a family dwelling.
6. I am required to determine the application in accordance with the development plan unless material considerations indicate otherwise. I have identified a conflict with the development plan policy. Policy HO9 seeks to strike a balance between retaining modest family dwellings whilst enabling the provision of additional small units of accommodation, consistent with the variety of housing needs in the City. In my view, the local plan is the best mechanism for resolving the inevitable tension between these objectives and there is no evidence to suggest that the plan strikes the wrong balance. Although the conversion would provide one small family unit (the maisonette) it would result in the loss of the type of family house that policy HO9 clearly seeks to safeguard. I thus conclude that the proposal would result in the harmful loss of family accommodation which should be retained in accordance with policy HO9. This policy conflict is sufficient to dismiss the appeal.
7. I turn now to parking. Criterion *d* of policy HO9 is that secure covered cycle parking is provided. The Council's Parking Standards are set out in Supplementary Planning Guidance Note 4. For dwellings, 1 secure cycle parking space is required for each dwelling. Thus for this proposal 2 spaces are required - one for the basement flat and one for the maisonette.
8. The appellant proposes that 2 cycle spaces would be provided at basement level. The existing solid steps down to the basement would be replaced by open metal steps with the top landing step raised to pavement level so that the cycles could be accommodated underneath this landing. From what I saw, such an arrangement would provide practical space for only one bicycle, given the narrow width of the space available and the difficulty of extracting a bicycle from underneath the stairs. If 2 cycles were to be stored there would not be room for each cycle to be removed independently of the other. There are 2 further complications. It would be very unsatisfactory for the cycle parking for the maisonette to be provided at basement level since this would require the upstairs occupiers to park their bicycle immediately in front of the bedroom window of the basement floor flat which would be likely to result in disturbance and loss of privacy on occasions. In addition, although the Council consider that the provision of space for refuse and recycling could be covered by a condition, the only practical space for such provision is the basement well

- and I cannot see how cycle parking and refuse storage could both be satisfactorily accommodated. The Council consider that there is inadequate detail of the proposed steps to properly assess what is proposed. I consider that the appellant's intentions are clear, but that the proposal is unsatisfactory. The required parking standard would not be achieved and there is conflict with policy HO9. The provision of adequate cycle parking is a small, but important practical step in encouraging alternative means of transport to the car.
9. No parking spaces are provided in the development. Policy HO7 indicates that planning permission will be granted for car-free housing in locations with good access to public transport and local services where there are complimentary parking controls and where it can be demonstrated that the proposed development will remain car-free in the long term. The appeal proposal meets the locational criteria of this policy. The requirement to be car-free is normally achieved by an amendment to the relevant Traffic Regulation Order (TRO) to preclude future occupiers applying for permits. This requires some administrative work by the Council and public advertisements which have to be paid for. To avoid a cumulative adverse impact from increasing car ownership outstripping the available parking spaces in the heavily parked streets of this dense urban area, I consider that the appeal development should be made permanently car-free.
  10. The appellant indicated that they would accept a condition excluding future residents from getting parking permits. The Council also consider that this matter could be covered by condition, but neither party has suggested a possible wording. I am not satisfied that the requirements of policy HO7 for the development to be permanently car-free can be satisfied by a condition. It can only be achieved by an amendment to the TRO. This is very unlikely to happen unless the appellant pays the Council's administrative costs for doing so. Such a financial contribution requires a section 106 obligation. There is no such obligation before me. Circular 11/95 *The Use of Conditions in Planning Permissions* states (paragraph 13): *Permission cannot be granted subject to a condition that the applicant enters into a planning obligation under section 106 of the Act or an agreement under other powers.* In the recent past, there are examples of conditions being imposed which, in practice if not on their face, would require appellants to enter into section 106 obligations, but I do not regard these as consistent with national advice. In the absence of the necessary financial arrangements being in place, there is conflict with policy HO7. This lends further weight to the objections already identified.
  11. The Council also express concern about the lack of detail for the provision of the short flight of steps to provide access from the ground floor of the maisonette into the back garden and the related privacy screens shown on the application drawings. However, I consider that the appellant's intention is clear and acceptable and that the detail of the steps and the screens could be required by condition.

*Simon Emerson*

INSPECTOR

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# Appeal Decision

Site visit made on 29 September 2008

by **Roger Mather MA Dip Arch RIBA FRTPI**

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

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**Decision date:**  
**9 October 2008**

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## Appeal Ref: APP/Q1444/A/08/2062641

### Land to the rear of 24 Dyke Road, Brighton BN1 3JA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- Mike Holland brings the appeal against the decision of Brighton & Hove City Council.
- The application (Ref: BH2007/02033) dated 23 May 2007, was refused by notice dated 24 July 2007.
- The development proposed is three-storey (inclusive basement) single-family dwelling.

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## Decision

1. I dismiss the appeal.

## Procedural Matter

2. Had the Council been able to support the proposal it would have sought a completed agreement to prevent future occupiers from being eligible for on-street parking permits because the site would remain genuinely car free. Consequently, if I were in agreement with the proposed development, it would still be necessary to address the need for an appropriate agreement and my consideration of the appeal is on that basis.

## Main Issues

3. The appeal property comprises a semi-detached three-storey plus basement villa in multiple-occupation that occupies a prominent corner position within the West Hill Conservation Area. Many similar properties have been converted to flats or are in multiple-occupation. The appeal site is occupied by a garage and adjoining outbuilding that is used for residential purposes. Following demolition of these structures, the appellant would erect a detached house on a similar footprint, fronting onto Leopold Road.
4. From this, the written representations and my inspection of the site and surrounding area, the appeal raises four main issues. The first is whether the proposed development would satisfactorily preserve the character and appearance of the West Hill Conservation Area. The second is whether the scheme would provide acceptable living conditions for future occupants, particularly in relation to amenity space. The third is the effect on the living conditions of households in the existing villas in relation to amenity space and outlook. The fourth is whether the proposal would compromise policies for renewable energy and energy efficiency.

## Reasons for Decision

5. The Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas. Planning Policy Guidance 15: Planning and the Historic Environment (PPG15) represents well-established government policy on such areas and I shall accord it substantial weight. It is clear that the western part of the Conservation Area is characterised by substantial Victorian Villas of a rather grand scale, with important gaps between buildings, particularly at corners, that give a spacious character to the street scene, worthy of continued protection.
6. This somewhat unsightly site is prominent in the Conservation Area and a redevelopment that would have an entirely appropriate form and appearance in this sensitive position would most likely sit comfortably and harmoniously alongside its neighbours. The proposed building, however, squeezed into the gap between two substantial buildings would be significantly smaller. Consequently, it would contrast sharply with the villas in terms of scale and massing, such that the design falls short of what I think is necessary to preserve the historic context. That is because its form would create entirely the wrong effect by emphasising an inappropriate bulk that would be a clear breach of the distinctive character of this part of the Conservation Area as well as being disruptive in the gap. It misses the opportunity for a significant improvement on what is there now, failing to match the building to the quality of the historic context.
7. I have reservations too about the detail, which I agree is an inappropriate hybrid building that is neither a grand Victorian villa nor a mews building. Consequently, I conclude on the first issue that the proposed development would neither preserve the character nor the appearance of the West Hill Conservation Area. To permit the development in these circumstances would be to disregard the historic context that led to the designation of the Conservation Area as well as the duties imposed by the Act, guidance in PPG15 and Local Plan Policies HE6 (a) & (c), QD1 (a) & (b) and QD2 (a), (c) & (e).
8. The restricted size of the plot is such that the proposed three-bedroom house would be set against two boundaries to maximise the use of the site. It would thereby appear cramped, emphasising over development with insufficient space to provide any private amenity space for future occupants. I am concerned too that there is no space to provide kitchen/dining area windows and there would be no outlook. Natural lighting in this area would be through a roof light. Consequently, my overall conclusion on the second issue is that the proposed family house would not achieve acceptable living conditions for future occupants in relation to private amenity space and outlook, contrary to the requirements of Local Plan Policies HO5 and QD27.
9. The new house is designed to avoid overlooking but non-habitable rooms would have windows facing the host building and 22 Dyke Road. All of these windows could be obscure glazed to avoid direct overlooking as well as achieving privacy for future occupants, although they would be sufficiently close to the villas to give a perception of overlooking into habitable rooms. While there would be some overshadowing, given the orientation and the distances involved, I do not



think that it would give rise to any significant loss of daylight/sunlight into neighbouring flats, such as to be unacceptable. However, its bulk would be overly oppressive, only a few metres away from habitable room windows in the villas. There would be some loss of garden to accommodate a light well but this is unlikely to materially harm the living conditions of households in the flats that use the remaining amenity space.

10. Consequently, I conclude on the third issue that the proposed house would have an unacceptable impact on the living conditions of existing households in relation to an overbearing impact on outlook and the perception of overlooking. That would conflict with Policy QD27 of the Local Plan.
11. The site waste management plan to recycle demolition materials would minimise construction waste. Council policies also require new development to demonstrate a high level of efficiency in the use of water, energy and materials. No details have been submitted but clearly the basement would have inadequate natural lighting to avoid dependency on artificial lighting. In that respect it would conflict with Policy SU2 of the Local Plan.
12. I have considered all other matters drawn to my attention but none is of such significance as to outweigh the considerations that led to my conclusions on the main issues. I further conclude that the appeal should not succeed.

*Roger Mather*  
INSPECTOR





# Appeal Decision

Sit Visit made on 13 October 2008

by **David Harmston FRICS DipTP MRTPI**

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

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**Decision date:**  
**15 October 2008**

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## Appeal Ref: APP/Q1445/A/08/2078838

### 100 Church Street, Brighton, East Sussex BN1 1UJ

- 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 T C Paddenbergh against the decision of the Brighton and Hove City Council.
- The application (Ref BH2007/04013), dated 10 October 2007, was refused by notice dated 28 December 2007.
- The development proposed is the replacement of windows on first and second floors and alterations to shop entrance and office entrance doors and windows on the ground floor.

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## Decision

1. I dismiss the appeal.

## Main Issue

2. The main issue in this appeal is the effect of the development on the character and appearance of the area having regard to the location of the site within the North Laine Conservation Area.

## Reasons

3. No 100 Church Street is a modern 4-storey building erected in the 1980s. It is in use as a shop on the ground floor with offices above. The site occupies a very prominent position in central Brighton at the junction of Church Street with Gardner Street, within the North Laine Conservation Area. The proposal is to replace the existing timber windows on the first and second floors with uPVC sliding sash windows. In addition, and whilst the timber shop windows on the ground floor would be retained, the shop and office entrances would be altered and widened slightly. This work would be undertaken with frames of a powder-coated aluminium form of construction. The Council states that the uPVC replacement windows proposed at the rear of the building (which I take to mean those numbered X20 – X24 on the application plans) are acceptable, due to their less prominent location. For the avoidance of doubt, I note that the submitted drawings refer in various places to the front elevation of the building as being to *North Street*. I take this to mean *Church Street*.
4. The site is within a sensitive area within the commercial heart of Brighton where a number of listed buildings are present nearby. Having regard to Policies QD1, QD14, HE6 and ENV27 of the Brighton and Hove Local Plan, as

well as the guidance set out in *The North Laine Conservation Area Study – Third Revision (January 1995)*, new windows and doors using materials such as uPVC and powder-coated aluminium are capable of being acceptable in some buildings having regard to the individual circumstances of the case and the detailed design of the replacements. The Council does not resist the proposals because of the use of non-timber materials as a matter of principle but because the finishes and detail of the new materials would have the effect of introducing a mixture of materials and detailing into the building where uniformity of profiling and colour is an important consideration.

5. In my conclusion the particular uPVC and aluminium frames proposed would be plainly artificial in appearance and would not sit comfortably together on the same elevation. It is their detail in terms of fine profile, finish and colour which are critical to their acceptability. For instance, and whilst the overall proportions and dimensions of the new sash windows would be a reasonable match to those existing, it is their detailing which is deficient. Deeper bottom rails are necessary to provide a more traditional appearance whilst the cross-sectioning of the frames with the use of chamfers surrounding the glazed areas would introduce a flatter feature and a less articulated and blander profile into the exposed street elevation.
6. Apart from the use of different materials on the ground floor to those above I realise that these criticisms are matters of detail. Nevertheless, and whilst it may well be possible to design a scheme that overcomes the objections raised by the Council using artificial materials, the proposals before me are unacceptable because of their negative visual impact on the character and appearance of this visually important area in the ways I have described. With such a prominent, albeit quite modern, building in such a sensitive and exposed corner location, I believe that any scheme for the replacement of the windows and doors should respect and echo the detailed design and appearance of the existing structure and if possible enhance it. These proposals fail to do that and are unacceptable for that reason.
7. I conclude that the development would fail to preserve or enhance the character or the appearance of the North Laine Conservation Area and would conflict with the provisions of the Local Plan in respect of the policies to which I have referred above. I have considered whether a split decision would be appropriate in this case as the proposed replacement rear windows are not contentious. However, it is probable in my view that if a satisfactory scheme could be devised for the front of the building then this would be likely to incorporate those windows as well. In these circumstances a split decision would not be appropriate. I have taken into account all the other matters raised but my decision and the reasons for it concerning the unacceptability of the proposals have been determined by my conclusions above in relation to the main issue. I dismiss the appeal accordingly.

*David Harmston*

Inspector



# Appeal Decision

Site visit made on 12 September 2008

by **J A B Gresty MA MRICS**

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

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**Decision date:**  
**8 October 2008**

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## Appeal Ref: APP/Q1445/A/08/2064342

### 23 Longhill Road, Ovingdean, Brighton BN2 7BF

- 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 David Burgess against the decision of Brighton & Hove City Council.
- The application, Ref: BH2007/01612, dated 12 April 2007, was refused by notice dated 20 September 2007.
- The development proposed is the enclosure of balcony.

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## Decision

1. I dismiss the appeal.

## Main issues

2. There are two main issues in this case. Firstly, the effect of the proposed development on the character and appearance of the area and, secondly, the effect of the proposal on the living conditions of the occupiers of 25 Longhill Road with regard to loss of outlook and light.

## Reasons

### *Character and Appearance*

3. The appeal property is a detached two storey house. Whilst there is no one single defining style of house on Longhill Road, most of the properties in the locality are built with exposed brick walls and pitched roofs. The appeal property has a distinctive modernist appearance with white rendered walls and flat roofs. Like its neighbours on the south-west side of the road, the house is set back from the road and it stands on ground below the level of the road. The ground floor of the house and the garage are partly screened from view from the road by a dense hedge.
4. Policy QD14 of the Brighton & Hove Local Plan (LP), adopted 21 July 2005, requires extensions to be well designed and to take account of the character of the area. The proposal includes the construction of a new room over the existing single storey garage and dining room. The extension would have a similar striking design to that of the host dwelling, including a flat roof, rendered walls and a mixture of circular and rectangular shaped windows.
5. The garage stands forward of the main front elevation of the house and the front part of the extension would be noticeably forward of the general line of building on this side of the road. The extension's design, height and its forward position would result in it being unduly prominent in the street scene when

viewed from either direction along the road and I conclude that it would be out of keeping with the character and appearance of the area, contrary to the aims of LP Policy QD14.

*Living Conditions*

6. LP Policy QD27 provides that planning permission will not be given for any development that would cause loss of amenity to nearby residents. In this case the flank wall of the proposed extension would stand opposite the facing first floor windows and a balcony of No 25. Whilst that part of the extension would be several metres from the boundary of the appeal plot, and it would not have any windows that faced No 25, the flank wall of the extension would affect adversely, albeit to a limited extent, the outlook from No 25. Also, the appellant has not demonstrated to me that the proposed extension would allow an adequate amount of natural daylight and or sunlight to reach No 25 at all times of day and year. I conclude that the proposal would reduce the quality of the living conditions of the occupiers of No 25, to an extent that would be contrary to the aims of LP Policy QD27.
7. The appellant has provided examples of buildings elsewhere in the area that indicate varied building lines and styles of extension. However, I find these examples not to be directly comparable to the proposed extension and they do not outweigh the concerns I have with the proposal.
8. For the reasons given above, and having regard to all other matters raised, I conclude the appeal should be dismissed.

*J A B Gresty*

INSPECTOR



# Appeal Decision

Sit Visit made on 13 October 2008

by **David Harmston FRICS DipTP MRTPI**

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

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**Decision date:**  
**15 October 2008**

**Appeal Ref: APP/Q1445/A/08/2078414**

**25 Sunnydale Avenue, Patcham, Brighton, East Sussex BN1 8NR**

- 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 Richard Salvage against the decision of the Brighton and Hove City Council.
- The application (Ref:- BH2008/00859), dated 8 March 2008, was refused by notice dated 28 April 2008.
- The development proposed is the erection of a two-storey rear extension.

## Decision

1. I allow the appeal and grant planning permission for the erection of a two-storey rear extension at 25 Sunnydale Avenue, Patcham, Brighton, East Sussex BN1 8NR, in accordance with the terms of the application (Ref BH2008/00859), dated 8 March 2008, and the plans submitted therewith (Nos:- 479/01 and 479/02), subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
  - 2) The materials and finishes to be used in the construction of the external surfaces of the extension hereby permitted shall match those used in the existing building in colour, style, bonding and texture.

## Main Issues

2. The main issues are firstly, the visual effects of the development on the character and appearance of the area and, secondly, the impact the extension would have on the living conditions of the occupiers of the adjoining houses.

## Reasons

3. The character of Sunnydale Avenue is one derived from its arrangement of closely-grouped, predominantly two-storey detached and semi-detached houses set on even building lines. There is little uniformity to the appearance of the buildings, many of which appear to have been altered in various ways over a period of time. The appeal property is a detached, two-storey house of quite modest proportions and floorspace in comparison to the nearby dwellings. It is proposed to enlarge the dwelling by extending it at the rear with a two-storey addition, projecting about four metres into the rear garden.

The extension would match the design of the host building in all key respects, with a pitched and hipped roof and brick elevations.

4. Concerning its effects on the character and appearance of the area, little of the extension would be seen from Sunnydale Avenue. Such limited visual impact as would be caused would be acceptable bearing in mind the remoteness of the development from any public vantage point, the varying styles and scale of the surrounding buildings and the fact that the extension has been designed to blend in with the appearance of existing building. On this issue I do not consider that there would be any conflict with the provisions of Policies QD1, QD2 and QD14 of the Brighton and Hove Local Plan.
5. As far as the impact of the development on the living conditions of the neighbours to each side of the property is concerned, the extension would be set in from both side boundaries. It would only project as far to the rear as the conservatory extension at No 27 Sunnydale Avenue which is set on slightly higher ground. Bearing in mind the distance between the two buildings and the way in which they are sited away from the common boundary, I consider that the degree of physical impact that the development would have on the occupiers of No 27 Sunnydale Avenue to be acceptable.
6. In respect of No 23 Sunnydale Avenue, the extension would be set back at first floor level to minimise its impact in relation to that dwelling. Being on the north side of that property, set in from the boundary and bearing in mind the positions of the windows within that dwelling, I do not believe that the appeal proposals would be unduly harmful in terms of excessive overshadowing or undue overbearing impact. To both sides of the appeal site overlooking would be avoided by the use of obscured glazing or high level windows to those rooms which have elevations facing towards the adjoining houses. I therefore conclude that in all respects the development would comply with the provisions of Policies QD2, QD14 and QD27 of the Local Plan on this issue.
7. As to conditions, the Council suggests that the materials and finishes to be used in the extension should in all respects match those of the existing building. I agree that such a stipulation is necessary in the interests of preserving the visual amenity of the area and I have imposed an appropriate condition accordingly. I have considered all the other matters raised, including the objections to the development made by the neighbours to the Council at the time it was considering the application, but nothing is of sufficient weight to override my conclusions above and the reasons for them.

*David Harmston*

Inspector



**APPEALS RECEIVED****WARD****APPLICATION NUMBER****ADDRESS****DEVELOPMENT DESCRIPTION****APPEAL STATUS****APPEAL RECEIVED DATE****APPLICATION DECISION LEVEL****WISH**

BH2008/01689

Garages rear of 8-16 St Leonards Road Hove

Demolition of existing garages and construction  
of three new 2 storey houses.

APPEAL LODGED

14/10/2008

Delegated

**WARD****APPLICATION NUMBER****ADDRESS****DEVELOPMENT DESCRIPTION****APPEAL STATUS****APPEAL RECEIVED DATE****APPLICATION DECISION LEVEL****PRESTON PARK**

BH2008/00005

Top Flat 309 Ditchling Road Brighton

Loft conversion to include rear dormer window.

APPEAL LODGED

14/10/2008

Planning Committee

**WARD****APPLICATION NUMBER****ADDRESS****DEVELOPMENT DESCRIPTION****APPEAL STATUS****APPEAL RECEIVED DATE****APPLICATION DECISION LEVEL****WITHDEAN**

BH2008/00926

13 Harrington Road Brighton

Proposed first floor extension over existing  
ground floor roof to form 2 bedrooms.

APPEAL LODGED

14/10/2008

Delegated

**WARD****APPLICATION NUMBER****ADDRESS****DEVELOPMENT DESCRIPTION****APPEAL STATUS****APPEAL RECEIVED DATE****APPLICATION DECISION LEVEL****REGENCY**

BH2007/04462

Royal Alexandra Hospital 57 Dyke Road Brighton

Conservation Area Consent for demolition of  
existing buildings (former children's hospital)

(resubmission of BH2007/02925).

APPEAL LODGED

03/10/2008

**WARD****APPLICATION NUMBER****ADDRESS****DEVELOPMENT DESCRIPTION****APPEAL STATUS****APPEAL RECEIVED DATE****APPLICATION DECISION LEVEL****WOODINGDEAN**

BH2008/02466

Land adjacent to 49A Channel View Road  
BrightonOutline application for the erection of a single  
dwelling.

APPEAL LODGED

09/10/2008

Delegated

## APPEALS RECEIVED

### WARD

APPLICATION NUMBER

ADDRESS

DEVELOPMENT DESCRIPTION

APPEAL STATUS

APPEAL RECEIVED DATE

APPLICATION DECISION LEVEL

### **HANOVER & ELM GROVE**

BH2007/04079

22 Ewart Street Brighton

First floor extension at rear.

APPEAL LODGED

07/10/2008

Delegated

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### WARD

APPLICATION NUMBER

ADDRESS

DEVELOPMENT DESCRIPTION

APPEAL STATUS

APPEAL RECEIVED DATE

APPLICATION DECISION LEVEL

### **WOODINGDEAN**

BH2008/01918

518 Falmer Road Brighton

Proposed roof conversion comprising change in roof height and design, side dormer, 4 roof lights and solar panels to provide 2 new bedrooms and bathroom.

APPEAL LODGED

08/10/2008

Delegated

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### WARD

APPLICATION NUMBER

ADDRESS

DEVELOPMENT DESCRIPTION

APPEAL STATUS

APPEAL RECEIVED DATE

APPLICATION DECISION LEVEL

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

BH2008/02421

Diplocks Yard 73 North Road Brighton

Construction of new part single storey, part two storey offices. (Resubmission).

APPEAL LODGED

07/10/2008

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### WARD

APPLICATION NUMBER

ADDRESS

DEVELOPMENT DESCRIPTION

APPEAL STATUS

APPEAL RECEIVED DATE

APPLICATION DECISION LEVEL

### **SOUTH PORTSLADE**

BH2008/01895

27-53 Old Shoreham Road Portslade

Internally illuminated pole mounted double sided display unit (retrospective).

APPEAL LODGED

20/10/2008

Delegated

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### WARD

APPLICATION NUMBER

ADDRESS

DEVELOPMENT DESCRIPTION

APPEAL STATUS

APPEAL RECEIVED DATE

APPLICATION DECISION LEVEL

### **PATCHAM**

BH2008/01339

9 Ridgeside Avenue Brighton

Erection of single detached house.

APPEAL LODGED

13/10/2008

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**Brighton & Hove  
City Council**

**INFORMATION ON HEARINGS / PUBLIC INQUIRIES**  
**12 November 2008**

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**This is a note of the current position regarding Planning Inquiries and Hearings**  
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**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: 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: 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: 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: 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: 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: Hearing  
Date: 4 December 2008  
Location: Hove Town Hall

**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: 9 – 12 December  
Location: Brighton 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: 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: 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: 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: 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: 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: Hearing  
Date:  
Location:

### **5 The Sett Portslade**

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

**Maycroft & Parkside London Road & 2 4 6 & 8 Carden Avenue Patcham**

Planning application no: BH2008/00925  
Details of application: Demolition of existing buildings and development of residential care home.  
Decision: Planning Committee  
Type of appeal: Public Inquiry  
Date:  
Location: