

**BRIGHTON & HOVE CITY COUNCIL**

**PLANNING COMMITTEE**

**2.00pm 7 APRIL 2021**

**VIRTUAL**

**MINUTES**

**Present:** Councillors Littman (Chair), Osborne (Deputy Chair), Childs (Opposition Spokesperson), Miller (Group Spokesperson), Henry, Fishleigh, Janio, Shanks, C Theobald and Yates

**Co-opted Members:** Jim Gowans (Conservation Advisory Group)

**Officers in attendance:** Nicola Hurley, Planning Manager; Matt Gest, Planning Team Leader; Russell Brown, Senior Planning Officer; Emily Stanbridge, Senior Planning Officer; Jack Summers, Planning Officer, Michael Tucker, Planning Officer, Emma Kumar, Empty Property Officer; Andrew Renaut, Head of Transport Policy and Strategy; Hilary Woodward, Senior Solicitor and Penny Jennings, Democratic Services Officer

**PART ONE**

**118 PROCEDURAL BUSINESS**

**118a Declarations of substitutes**

118.1 There were none.

**118b Declarations of interests**

118.2 There were none.

**118c Exclusion of the press and public**

118.3 In accordance with Section 100A of the Local Government Act 1972 (“the Act”), the Planning Committee considered whether the public should be excluded from the meeting during consideration of any item of business on the grounds that it is likely in view of the business to be transacted or the nature of the proceedings, that if members of the public were present during it, there would be disclosure to them of confidential information as defined in Section 100A (3) of the Act.

118.4 **RESOLVED** - That the public are not excluded from any item of business on the agenda.

**118d Use of mobile phones and tablets**

118.5 The Chair requested Members ensure that their mobile phones were switched off, and where Members were using tablets to access agenda papers electronically ensure that these were switched to 'airplane mode'.

**119 MINUTES OF THE PREVIOUS MEETING**

1190.1 **RESOLVED** – That the Chair be authorised to sign the minutes of the meeting held on 10 March 2021 as a correct record.

**120 CHAIR'S COMMUNICATIONS**

120.1 The Chair stated that there were four issues as part of his communications that day.

## Questions of Clarification to Speakers

120.2 Firstly, he had noticed lately that Committee was spending a lot of time asking questions of public participants. This was right and proper, as it helped the Committees with its deliberations. However, protocol dictated that these questions must only be in order to clarify something the participant had said in their presentation. Of late, some time had been wasted by asking participants questions better suited to being answered by Officers. To try to alleviate this, he was suggesting that in future, Members listened to contributions from public participants, and then let them step down without questioning, but ask them remain in attendance, in case, during the period set aside for questions to Officers, any Member has a question of clarification for them.

## Site Visits

120.3 Next, Committee site visits. Some Members had expressed concerns about the reduced number of Committee Site Visits held over the last year, due to Covid-restrictions. Whilst he understood these concerns Officers had needed to balance requests for site visits against national pandemic lockdown restrictions designed to protect everyone's safety.

120.4 In most cases, Members had been able to visit sites under their own steam. Where a more formal site visit had been needed, Officers had found ways to do that safely. For example, the virtual site visit by Jane Mosely to Preston Park Avenue.

120.5 As Lockdown eased, Officers would expand the offer of Committee Site Visits. A protocol setting out the staged changes had been agreed by the Planning Committee Working Group last week, this would be shared with Members shortly and will come into effect for the next committee in meeting in May.

## Virtual Meeting Arrangements

120.6 Members were aware that the temporary legislation allowing decision-making via Virtual Council and Committee Meetings, ran out on 6th May, and the Government had indicated its intention not to extend it. There is a challenge to this reversion in the High Court, due to be held later this month. Whilst we waited to hear the outcome, Officers

were preparing for the introduction of face-to-face meetings in June – including June’s Planning Committee. In order to ensure social distancing was maintained, this was likely to take the form of a Hybrid Meeting, with only those who need to be physically present, in attendance, and everyone else able to attend virtually.

#### Appeal Decisions

- 120.7 Finally, the Chair stated that he would like to talk about appeal decisions. He would like to draw attention to the outcome of two recent appeals where Members, as a Planning Committee, had overturned Officers’ recommendations and refused planning applications. The role of a Planning Committee was to determine large and controversial applications. Committee Members had to give great weight to Officer’s advice, but the final decision was rightly theirs. Where, after careful consideration and debate, Members disagreed with an Officer recommendation, rightly they overturned it.
- 120.8 However, a key part of this was the requirement in law, that they acted reasonably in so doing. In the cases of 136 Ladysmith Road (a new HMO), and 23 Trafalgar Street (a new mixed-use shop and bar), the Planning Inspector had ruled that they had not done so, allowing them to uphold cost claims from the appellants against the Local Planning Authority. The basis for awarding costs was that the decision of the Local Planning Authority was unsubstantiated and unreasonable and had caused unacceptable cost to the applicants. These costs, which in the former case had not yet been agreed, and in the latter amounting to £1,200, would impact on the Planning Service’s budget. These rulings served to remind Members of the importance of the decisions they made being judicious, balanced, and above all, reasonable.

#### 121 PUBLIC QUESTIONS

- 122.1 There were none.

#### 122 TO AGREE THOSE APPLICATIONS TO BE THE SUBJECT OF SITE VISITS

- 122.1 It was noted that in recognition of the current Covid 19 pandemic and in response to Central Government Guidance alternative arrangements had been put into place to ensure that Committee Members are able to familiarise themselves with the application sites; this included enhanced presentations provided by officers and placed on the council website.
- 122.2 The comments made by the Chair in relation to easing of current Covid restrictions in respect of site visit arrangements which would be re-introduced incrementally, was noted. It was also noted that some Members had visited sites independently and that if requested socially distanced or in one instance a virtual site visit had taken place. Enhanced visuals continued to be provided in order to assist Members in their decision making.

#### 123 TO CONSIDER AND DETERMINE PLANNING APPLICATIONS

- 124.1 The Democratic Services Officer read out all the agenda Items. It was noted that all Major applications and any Minor applications with speakers were automatically reserved for discussion.

123.1 The following application was not called for discussion and it was therefore deemed that the officer recommendation(s) were agreed including the proposed Conditions and Informatives and any additions / amendments set out in the Additional / Late Representations List:

**Item D:** BH2020/02762: 46-48 West Street, Brighton BN1 2RA - Full Planning

**A BH2020/03745 - Sussex County Cricket Ground, Eaton Road, Hove BN3 3AN - Variation of Condition**

**MAJOR APPLICATIONS**

1. The Planning Manager introduced the report and gave a detailed presentation using enhanced visuals.

Questions of Officers

2. Councillor Henry sought clarification as to whether the hours of operation of the new public house were the same as those of the previous establishment on site.
3. Councillor Theobald raised the same question as her recollection was that the pub previously on site had ceased operation at an earlier hour. Her concern was that allowing for clearing up post closure the premises would close far later. There would also be a number of residences in closer proximity to the new development including the flats above. The Environmental Health Officer had reviewed the proposed opening hours and had raised no objections, given that they were the same of those of the previous public house and would align with those of other nearby licensed premises.
4. The Planning Manager explained that the exterior terrace had to be cleared by 10.30pm and that a condition of grant had been that the flats located above were required to have an adequate level of soundproofing, this would be 30% above the level required under Building Control regulations.
5. Councillor Shanks enquired regarding parking control arrangements, whether the development would be car free and whether the site now fell within a controlled parking zone. It was confirmed that it was no longer considered appropriate for the Local Planning Authority to impose the car free condition because parking in the local area and limiting the issue of parking permits was already covered through the management of the Controlled Parking Zone. Condition 65 would therefore be removed from the current permission.

Debate

6. Councillor Henry stated that he supported the officer recommendation. Residents were used to a pub operating in the area and those buying flats above would be aware of the public house use and its hours of operation.

7. Councillor Fishleigh stated that she considered that the terminal hour of 10.30pm for use of the terrace was late. It was explained however that as this had been agreed by the earlier permission it would not be considered reasonable to amend that.
8. Councillor Theobald raised the same point and had concerns that noise from events could result in noise nuisance to the flats above the new premises. Councillor Theobald was advised that the hours of operation of the terrace were the same as those associated with the previous use and had not resulted in complaints or problems.
9. Councillor Janio stated that the proposed variation was reasonable and supported it.
10. Councillor Osborne considered that the proposal which would only be for an additional hour of operation would be acceptable.
11. Councillor Littman, the Chair, stated that he had noted that there would be superior soundproofing and that Environmental had raised no objections.
12. A vote was taken, and the Committee voted unanimously that planning permission be granted.
- 124.1 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in the report and resolves to **GRANT** planning permission subject to the conditions and informatives also set out in the report.

**B BH2017/01108 -Site of Sackville Hotel, 189 Kingsway, Hove BN3 4GU - Deed of Variaton**

1. The Principal Planning Officer introduced the application and gave a presentation by reference to enhanced visuals.

Questions of Officers

2. Councillor Osborne sought clarification regarding the trigger for the proposed changes.
3. Councillor Osborne also enquired regarding the definition of intermediate homes. It was explained that it was an affordable home purchase option whereby shares in the ownership of the property were purchased with no additional rental element. It was a part buy option rather than part rent, part buy.

Debate

4. Councillor Theobald stated that she fully supported the proposal which provided individuals with a route into the property market.
5. Councillor Osborne considered that it was preferable to offer a variety of affordable housing options and that this was something which needed to be continued to be worked towards with applicants/ developers.
6. The Chair, Councillor Littman confirmed that he also supported the scheme and moved to the vote.

7. A vote was taken and Members voted unanimously that a second Deed of Variation to the S106 Agreement be granted.
- 124.2 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in the report and resolves to **GRANT** a second Deed of Variation to the S106 Agreement so that the developer is obligated to provide all seven units in the form of Shared Ownership Housing and/or as Shared Equity Housing.

**C BH2020/03276 - 1A to 2B Whitehawk Road, Brighton BN2 5FA - Full Planning**

1. The Planning Manager introduced the report and gave a detailed presentation using enhanced visuals. Reference was also made to information set out in the Late/Additional Representations List.

Questions of Officers

2. Councillor Theobald sought confirmation regarding the height of the proposed development in relation to the neighbouring dwellings and it was explained that unit 2B would be 1m higher than the neighbouring building.

Debate

3. Councillor Yates stated that he considered that the proposed scheme would improve access to the site and was acceptable overall, any potential impact had been minimised as far as practicable.
4. Councillor Childs, concurred considering that the scheme represented effective use of the available space.
5. Councillor Fishleigh considered the scheme to be acceptable but that further work was needed in respect of highway arrangements in the vicinity as there had been a number of near misses.
6. Councillor Theobald stated that she was unable to support the scheme which in her view was too tall, top heavy with an unsightly corner elevation.
7. A vote was taken and the Committee voted by 9 to 1 that planning permission be granted.

- 124.3 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in the report and resolves to **GRANT** planning permission subject to the Conditions and Informatives set out in the report.

**D BH2020/02762 - 46-48 West Street, Brighton BN1 2RA - Full Planning**

1. This application was not called for discussion and the officer recommendation was therefore taken as having been agreed unanimously.

124.4 **RESOVLED:** That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in the report and resolves to **GRANT** planning permission subject to the Conditions and Informatives also set out in the report.

**E BH2021/00282 - Unit 3, Goldstone Retail Park, Newtown Road, Hove BN3 7PN - Variation of Condition**

1. The Planning Manager introduced the report and gave a detailed presentation using enhanced visuals. Reference was made to additional information set out in the Late/ Additional Representations List.

Speakers

2. Councillor Bagaeen spoke in his capacity as a Local Ward Councillor in support of the proposed Variation of Condition which was also supported by his fellow Ward Councillor, Councillor Brown. He stated that he had been concerned to learn that neighbouring Ward Councillors were speaking in opposition to this minor application which was located in his ward and on which as Ward Councillors they had received no objections. The objections seemed to have been led by the Hove Station Neighbourhood Forum who had no locus in this matter. The proposed changes were modest and were wholeheartedly supported

3. Councillors Allock, Ebel and O'Quinn spoke in their capacity as neighbouring Ward Councillors setting out their objections in respect of the proposal, having agreed to split the available time between them. Whist the store had been welcomed by many residents the change in servicing hours proposed was objected to as it could result in an increase in noise early in the morning and late into the night. Any detrimental impact would be greatest there and would also impact on new residents who would occupy planned development nearby. It was disappointing that consultation had not taken place with residents in their ward who would be impacted by the proposed changes.

4. Mr Forsdick of Lidl's spoke on behalf of the applicants in support of their application. He explained that there would be no increase in the number of deliveries and the proposed changes were being requested in order to rationalise existing arrangements and to improve business viability. Deliveries were effected with a very quick turn-around time and an acoustic fence and other sound proofing arrangements were in place to avoid any noise nuisance to the nearest residential dwellings.

Questions of Speakers

5. Councillor Shanks asked why the applicants had not sought a compromise on hours with local residents and Mr Forsdick explained that the proposed changes had been properly advertised and that measures in mitigation had already been put into place.

6. Councillor Osborne sought further clarification regarding current hours and Mr Forsdick explained that these changes would facilitate greater flexibility in the delivery of fresh produce such as milk and perishable goods outside of peak hours of highway activity in the vicinity. He confirmed that a noise impact assessment had been made.

Questions of Officers

7. Councillor Osborne asked whether/what account had been taken of the impact on new development and what weight could be given to that and whether it was possible to effect further amendments to the proposed conditions. The Legal Adviser to the Committee advised that the impact of the scheme needed to be taken into account but there would need to be a clear rationale for any changes to the proposed hours, they would need to be considered to be reasonable and it should be borne in mind that Environmental Health had not raised any objections.

8. Councillor Janio sought confirmation regarding the ability of neighbouring ward councillors to speak in respect of applications and it was confirmed that where an application abutted a neighbouring ward boundary protocol permitted this.

Debate

9. Councillor Henry stated that he considered that the proposal was acceptable he did not consider that noise or other nuisance would result given the location of the site. Councillor Yates fully agreed in that view.as did Councillor Childs.

10. Councillor Theobald stated that in her view as deliveries would be made under a canopied area at some distance from the nearest dwelling houses it was acceptable.

11. Councillor Shanks stated that whilst she would have preferred a later commencement hour on Sunday, overall she considered the application was acceptable.

12. A vote was taken and the 9 Members who were present when the vote was taken voted that planning permission be granted.

124.5 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in the report and resolves to **GRANT** planning permission subject to the Conditions and Informatives set out in the report.

**Note:** Councillor Miller was not present at the meeting when the vote was taken.

**F BH2020/03549 - 74A Hollingbury Road, Brighton BN1 7JA - Full Planning**

1. The Planning Manager introduced the report and gave a detailed presentation using enhanced visuals.

Speakers

2. Councillor Fowler spoke in her capacity as a Local Ward Councillor setting out her objections to the proposed scheme. Whilst the site could take further development the site was inadequate to accommodate four, four-bedroom houses. Vehicular access would be problematic as there was single-lane access to the site with limited outside space and a very limited garden area in view of the anticipated level of occupancy.

3. Mr Strickland spoke on behalf of the applicants in support of their application. He stated that careful consideration had been given to the viability of the site and the



applicant had worked closely with officers in order to overcome residents' concerns and to provide high quality family dwellings without detriment to neighbouring amenity.

#### Questions of Officers

4. Councillor Theobald asked for information regarding differences between the earlier application and the current one and for visuals showing its impact on Hollingdean Terrace.
5. Councillor Osborne enquired regarding access to the site for refuse collection purposes and it was confirmed that kerbside collections could take place without the need for vehicles to enter the site.

#### Debate

6. Councillor Theobald stated that she could not support the application, having carried out her own site visit she considered that the site was too cramped for the form of development proposed.
7. Councillor Janio was in agreement having looked at the site via Google Maps, he was of the view that the vehicular access arrangements were far too narrow and he could not support the application on that basis.
8. Councillor Osborne noted all that had been said but on balance supported the application.
9. Councillor Shanks stated that the site was well served by public transport and it should not be assumed that all future residents would be vehicle owners.
10. Councillor Childs stated that on balance he supported the application.
11. The Chair, Councillor Littman, noted that the access arrangements were narrow and the site would be developed to its optimum. Notwithstanding that he was prepared to support the application.
12. A vote was taken and on a vote of 7 to 2 planning permission was granted.
- 124.5 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in the report and resolves to **GRANT** planning permission subject to the Conditions and Informatives also set out in the report.

**Note:** Councillor Miller was not present at the meeting when the vote was taken.

#### **G BH2020/03272 - 24 Holland Road, Hove BN3 1JJ - Full Planning**

1. The Planning Manager introduced the report and gave a detailed presentation using enhanced visuals.

#### Speakers

2. Mr Shaw spoke as a local resident setting out his objections to the scheme. Whilst residents welcomed restoration of the building, there were grave concerns that in the absence of any on site management presence the building could give rise to considerable noise and other nuisance, potentially late into the night in the neighbouring residential area to the detriment of neighbouring residential amenity.
3. Councillor Clare spoke in her capacity as a Local Ward Councillor setting out detailing her objections to the proposed scheme. She was in total agreement with the objections of residents. In her view the proposal was contrary to policy QD27 as it was in very close proximity to the residential part of Holland Road. Policy CP6 stated that new hotel proposals should be directed in the first instance to central Brighton area as this was proposed for a Hove location it was not consistent with that approach.
4. Ms Webb spoke in support of the applicants in support of their application. The proposed development would return the building to use in a fully restored condition and would create a lovely venue for small family gatherings and weddings. Objections were in her view based on a misunderstanding of the concept behind the scheme. The applicants had 22 years experience in providing this type of high end offer. The price point was such that it would attract use for hen parties or party house use. Those hiring the venue would not create noise nuisance or behave in a rowdy manner. The building would accommodate up to a maximum of 20 people.

#### Questions of the Applicants

6. Councillor Shanks sought confirmation regarding the internal restoration proposed and it was confirmed that it was intended to reinstate period features which had been removed to recreate an art deco appearance including reinstatement of railings and trees to the front of the property.
7. In answer to questions by Councillor Osborne the applicants explained that whilst consultation with residents had been limited in consequence of the current pandemic situation.

#### Questions of Officers

8. In answer to questions the Planning Manager explained that permission for this use was not personal to the applicants and if permission was granted could be used by another operator in the future.

#### Debate

9. Councillor Henry stated that he had been persuaded by the concerns of residents and the ward councillor. Whilst the venue would be perfect as a boutique hotel in the absence of any on site management presence he was in agreement that there was the potential for significant noise nuisance and that it would be difficult to control that. A high price point did not guarantee impeccable behaviour.
10. Councillor Fishleigh was in agreement stating that large family get togethers would inevitably give rise to noise in a residential area particularly if combined with the

consumption of alcohol. She also considered that those arriving at the site by car could also create highways/parking issues.

11. Councillor Theobald considered that the building was attractive and whilst there were measures to improve its appearance she was in agreement that this use would undoubtedly give rise to noise in view of the numbers of people who would be gathered together.
12. Councillor Osborne was in agreement that in without an on-site presence it would be very difficult to enforce the conditions of any permission granted.
13. Councillor Shanks considered that there were a number of Air bnb establishments which operated well and she could not see any grounds on which to refuse the application.
14. Councillor Janio considered that such facilities were integral to welcoming visitors to the city and considered that that the recommendation should be supported.
15. The Chair, Councillor Littman, whilst welcoming the improvements and restoration to the building considered that this use would be contrary to policy.
16. A vote was taken and on a vote of 8 to 2 the officer recommendation was not carried. An alternative recommendation was then sought and it was proposed by Councillor Fishleigh and seconded by Councillor Theobald that planning permission be refused on the grounds that the proposed scheme was unacceptable as it could give rise to unacceptable levels of noise and disturbance and was contrary to Policy QD27 in view of its close proximity to residential property and Policy QD6 which stated that new hotel proposals would be directed firstly to the central Brighton area. The final wording of the Decision Notice to be agreed by the Planning Manager in consultation with the proposer and seconder.

A further vote was taken on the grounds for refusal put forward by the proposer and seconder. Planning permission was refused on a vote of 8 with 2 abstentions.

- 124.7 **RESOLVED** – That planning permission be refused on the grounds that the proposed scheme was unacceptable as it could give rise to unacceptable levels of noise and disturbance and was contrary to Policy QD27 in view of its close proximity to residential property and Policy QD6 which stated that new hotel proposals would be directed firstly to the central Brighton area. The final wording of the Decision Notice to be agreed by the Planning Manager in consultation with the proposer and seconder.

**H BH2021/00119 - 11 Arundel Drive West, Saltdean, Brighton BN2 8SJ - Householder Planning Consent**

1. The Planning Manager introduced the report and gave a detailed presentation using enhanced visuals.

Speakers

2. Mr Woodward spoke in his capacity as a neighbouring resident setting out his objections to the application. Mr Woodward and the other objectors considered that it was regrettable that this application had been brought before the Committee for consideration without a site visit having taken place in order to fully appreciate the scheme in the context of the neighbouring street scene and neighbouring development. There was an error as a window was missing from the submitted plans, there were concerns that there could be other inaccuracies. The existing property was a substantial sized family house and the proposed scheme would have a negative impact on neighbouring amenity.
3. Mr Zinzan, spoke on behalf of the applicant in support of their application. The existing development did not provide good use of the available floorspace and the proposed scheme sought to address that sympathetically. It was not considered that this scheme would result in a greater degree of overshadowing or overlooking as a result of the roof being raised.

#### Questions of Officers

4. Councillor Fishleigh queried why a site visit had not been undertaken, stating that she had visited the site herself. It was explained that notwithstanding the current arrangements in place in relation to site visits, Members had been offered the opportunity to visit the site or for a virtual site visit to take place but that had not been taken up.
5. Councillor Fishleigh also asked whether it would be possible to condition that replacement roof tiles identical to those currently in situ were used. It was confirmed, however that this would not be deemed to be reasonable. The Legal Adviser to the Committee confirmed that as the application site was not located in a conservation area it was unlikely that imposition of such a condition would be upheld in the event of an appeal.

#### Debate

6. Councillor Theobald was in agreement that a virtual site visit would have been beneficial in addition to the photographs provided by the objectors.
7. Councillor Janio asked for confirmation regarding the specification of the rooflights to be provided and it was explained that they were of a type which would not impact of neighbouring amenity.
8. Councillor Fishleigh stated that the existing building located in her ward was a beautiful Mediterranean style house. Changes proposed were not sympathetic and would in her view have a detrimental impact on neighbouring amenity
9. Councillor Shanks concurred with what had been said but regrettably did not consider that there were sufficient grounds to refuse the application, especially as much of the work proposed could have been carried out under permitted development rights.
10. A vote was taken and on a vote of 6 to 3 to 1 planning permission was granted.

124.8 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in the report and resolves to **GRANT** planning permission subject to the Conditions and Informatives set out in the report.

**125 TO CONSIDER ANY FURTHER APPLICATIONS IT HAS BEEN DECIDED SHOULD BE THE SUBJECT OF SITE VISITS FOLLOWING CONSIDERATION AND DISCUSSION OF PLANNING APPLICATIONS**

125.1 In line with current Central Government guidance in relation to the COVID-19 pandemic, no formal site visits were arranged.

**126 LIST OF NEW APPEALS LODGED WITH THE PLANNING INSPECTORATE**

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

**127 INFORMATION ON INFORMAL HEARINGS/PUBLIC INQUIRIES**

127.1 It was noted that there were none for consideration at this meeting.

**128 APPEAL DECISIONS**

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

The meeting concluded at 5.15pm

Signed

Chair

Dated this

day of