

# **BRIGHTON & HOVE CITY COUNCIL**

## **PLANNING COMMITTEE**

**2.00pm 4 OCTOBER 2023**

### **COUNCIL CHAMBER, HOVE TOWN HALL**

#### **MINUTES**

**Present:** Councillors Loughran (Chair), Allen (Deputy Chair), Cattell, Hamilton, Nann, Robinson and C Theobald

**Co-opted Members:** Jim Gowans and Roger Amerena (Conservation Action Group)

**Officers in attendance:** Nicola Hurley (Planning Manager), Alison Gatherer (Lawyer), Mathew Gest (Planning Team Leader), Emily Stanbridge (Senior Planning Officer), Jack Summers (Planning Officer), Michael Tucker (Senior Planning Officer) and Shaun Hughes (Democratic Services Officer).

#### **PART ONE**

##### **41 PROCEDURAL BUSINESS**

###### **a) Declarations of substitutes**

41.1 Councillor Pickett substituted for Councillor Shanks. Councillor Winder substituted for Councillor Pumm.

###### **b) Declarations of interests**

41.2 Councillor Cattell declared they had work with the applicant for BH2022/00456: Former Dairy, 35-39 The Droveaway, Hove. The councillor remained of an open mind on the application.

###### **c) Exclusion of the press and public**

41.3 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.

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

###### **d) Use of mobile phones and tablets**

41.5 The Chair requested Members did not use their mobile phones during the meeting, and if necessary, inform the chair if they needed to make or take a call, and where

Members were using tablets to access agenda papers electronically ensure that these were switched to 'aeroplane mode'.

## **42 MINUTES OF THE PREVIOUS MEETING**

42.1 **RESOLVED:** That minutes of the meeting held on 6 September 2023 were agreed.

## **43 CHAIR'S COMMUNICATIONS**

43.1 The Chair addressed the committee and thanked Liz Hobden (Head of Planning) as follows: Liz has decided to move on to pastures new after providing sterling services to the Council's planning team since 1995.

Liz joined Brighton Borough Council in 1995. She has seen through significant change at the Council including the transition of the Council to Brighton & Hove City Council when she then became a Manager of an Area Development Control team. In 2001 she became Planning Policy Team Manager.

In 2017 she was appointed Chief Planning Officer. This was at a time when there was a lot of change required to the way in which planning departments work combined with significant changes to policy frameworks.

In this leadership role Liz immeasurably improved the efficiency and delivery of the planning service thus ensuring that 90% of all major and minor applications are determined within the Government's recommended timeframe. As quality improved so have appeal numbers fallen significantly. The number of enforcement cases requiring intervention has also fallen due to a the more proactive change in their management.

With the help of the new City Plan the average number of new homes being permitted since 2017 has increased with a step change. This is a significant achievement which we wish to continue going forward. In these roles she has sought to ensure that the Council successfully works with residents, developers and a range of stakeholders.

Liz is very hard working, and she leaves on a high note with an accomplished record of achievement. One of those latest achievements has been responsibility for the training and education of Cllrs to the newly formed Planning Committee under this Labour Council. As Chair of Planning Committee, I can confirm that her dedication and level of commitment on a range of complex technical and managerial issues has benefited from her full attention. She must get the accolade for being one of the most long standing and dedicated officers not just in the planning department but also in the Council.

Thanks, were also received from Councillors Cattell and Theobald.

## **44 PUBLIC QUESTIONS**

44.1 There were none.

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

45.1 Councillor Theobald moved that a site visit be made to 48 St Aubyns, Hove. This was seconded by Councillor Pickett. The committee voted by 2 to 7 against a site visit.

**46 TO CONSIDER AND DETERMINE PLANNING APPLICATIONS**

46.1 All the agenda items were called for discussion by the Committee.

**A BH2022/00456 - Former Dairy, 35-39 The Droveaway, Hove - Removal or Variation of Condition**

1. The Planning Manager introduced the application to the committee.

## Speakers

2. Ward Councillor Bagaen addressed the committee and stated that registered providers not taking up the housing was an issue. The requirement for affordable housing was known when the application was agreed. It should be considered that only exceptional circumstances would a commuted sum be acceptable instead of the affordable housing, this is not the case here. Hove Park ward needs affordable housing and if a commuted sum is accepted it will go into a pot and not be used in the ward. The committee were requested to refuse the application.

3. Sirius Taghan was not available to address the committee on behalf of the applicant.

## Answers to Committee Member Questions

4. Councillor Nann was informed by the Head of Strategy & Supply that the council had considered taking on the affordable housing units, and it was noted that the council do take on S106 agreement acquisitions and each case is subject to financial viability study, with technical and management considerations. The site had been previously reviewed in 2021 and found to not support a purchase for low rent levels for affordable housing. The move to a commuted sum is considered a practical option and supports the wider housing supply programme within the council.

5. Councillor Robinson was informed by the Head of Strategy & Supply that good progress was being made regarding the annual housing targets in the city and the Buy-Back scheme has been very successful. The detailed figures would be provided to the councillor after the meeting as they were not available to the officer during the meeting.

6. Councillor Theobald was informed by the Head of Strategy & Supply that the lowest number of units a registered provider would be prepared to accept varied. Some would take small numbers; however, each decision was independently made. Discussions are held between the council and the registered providers quarterly and are ongoing.

7. The Planning Manager noted that the funding mechanism had changed a few years ago and it was more difficult for registered providers to access funding for smaller sites.

8. Councillor Cattell was informed by the Head of Strategy & Supply that the commuted sum would help secure up to 10 new dwellings. It was also noted that the council are exploring expanding the list of registered providers.

9. Councillor Nann was informed by the Head of Strategy & Supply that there was a spread of affordable housing across the city with some concentrations in certain areas and there was a need to increase supply in all areas. The case officer informed the councillor that if the application was refused by the committee, the council would need to

demonstrate that the applicant was not able to viably achieve the affordable housing, however the applicant has done this. The commuted sum is the practical way forward.

10. Councillor Robinson was informed by the Head of Strategy & Supply that the commuted sum would amount to 30% of the purchase price for 10 units, not 100%. The case officer informed the councillor that the viability assessment of the original scheme was accepted and 16% was accepted. The sum of £780,300 was equal to the properties that would have been built at the site.
11. Councillor Pickett was informed by the case officer that the city was split into three zones regarding pricing and the application lay in zone two, where the commuted sum was deemed acceptable.
12. Councillor Allen was informed by the Planning Manager that policy stated that commuted sums were acceptable in exceptional circumstances and as no registered providers had taken up the units the commuted sum were therefore acceptable.
13. Councillor Nann was informed by the Head of Strategy & Supply that the location can have a bearing on the cost of affordable housing, however, units can be brought across the city.
14. Councillor Loughran was informed by the Head of Strategy & Supply that the valuation policy was applied equally across all three zones of the city. The Planning Manager advised that three units were acceptable in the original scheme and the contribution was the only matter to look at as the principal was agreed.

#### Debate

15. Councillor Cattell considered that the situation would not change if the committee agreed to grant permission. The background explanations given by the officers was very helpful and the commuted sum was good. The councillor noted that there were less affordable homes as a result of fewer larger housing schemes across the city. The councillor considered and refusal would be difficult to defend at appeal and supported the application.
16. Councillor Theobald considered the lack of affordable housing a long-term problem along with the number of larger schemes coming forward. The councillor did not consider the commuted sums to be the same as actual affordable housing.
17. Councillor Robinson considered the developer should go away and try again to get registered providers to take the units. The councillor was minded to refuse the application.
18. Councillor Nann was concerned that there were areas without affordable housing.
19. Councillor Hamilton considered the situation had been going on for years and noted that properties in Hove Park were averaging at £1.2m for a family home. The councillor did not consider the contribution to be large enough, however, the guidance had been followed. The councillor supported the application.
20. Councillor Allen considered the application to be within policy and therefore supported the application.

21. Councillor Loughran was informed by the Head of Strategy & Supply that the valuation did not support the council buying the properties. The council would only manage the units if the council bought them.
22. The Planning Manager noted that the committee did not have the authority to create policies for other committees regarding the spending of the commuted sum across the whole city.

Vote

23. A vote was taken, and by 8 to 1 the committee agreed to grant permission.
24. **RESOLVED:** That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in the report and resolves to **AGREE** the amended Head of Terms to the proposed S106 Agreement, subject to a review mechanism. The remainder of the S106 Heads of Terms would as per the original Committee agreement.

**B BH2022/00487 - 48 St Aubyns, Hove - Full Planning & Demolition in CA**

1. The Planning Manager introduced the application to the committee.

Answers to Committee Member Questions

2. Councillor Theobald was informed by the case officer that there were no trees on the site, however there were two significant trees in the far southwest corner close to the site boundary that required protection during building works by condition. There was no parking at the site, however, two existing spaces would be accessible. When the case officer visited the site there were no cars parked and they were informed that the garages were for storage and vintage cars.
3. Councillor Pickett was informed by the case officer that the trees would have investigation holes dug to define the tree roots and then protection measures would be defined. If it was not possible to protect the trees, then the applicant would need to make an application to vary or remove the condition. The councillor was informed that the development adhered to national space standards.
4. Councillor Robinson was informed by the case officer that the Heritage team had no objections to the proposals having looked at the main impact on the road to the rear of the site, which is screened by trees. The councillor considered the conservation areas guidance was not met by the development.
5. Councillor Nann was informed by the case officer that the development was considered more attractive than the existing garages and concrete parking area in consideration of the conservation area. The application is considered acceptable.
6. The Planning Manager noted that in July 2023 the Heritage team had confirmed they now had no objections following earlier concerns.
7. Councillor Loughran was informed by the case officer that the Heritage team had no objections. It was noted that the land to the rear of 47 was not amenity space as this

was occupied by hardstanding and garages. The Planning Manager confirmed there was no loss of amenity space. The case officer confirmed under policy DM1(F) there was no loss of amenity space and that policy DM2 was not relevant. The councillor was informed that the urban design team had made no comments.

8. Councillor Cattell was informed by the case officer that the density of the scheme was considered acceptable.

#### Debate

9. Councillor Robinson expressed concerns that no residents wished to speak on the application.
10. Councillor Theobald expressed concerns regarding the conservation area and the limited space for the hotel and lack of parking spaces. The councillor considered one dwelling would be better than two smaller dwellings.
11. Councillor Pickett considered two dwellings too much for the site and one would be better.
12. Councillor Nann considered the development was better than the existing garages, but not good for the conservation area.
13. Councillor Allen considered another location would be better for the development than this site in a conservation area.
14. Councillor Loughran considered the design quality was not the same as the surrounding area and the development was visible from other roads. The councillor considered the proposed cumulative flat roofscape to be harmful and would disrupt the rhythm of the townscape. The councillor did not support the application.

#### Vote

15. A vote was taken, and by 1 to 8 the committee voted against the officer recommendation.
16. Councillor Robinson proposed a refusal as the development was considered harmful to the conservation area, with the views from Vallance Road causing harm and the design is not in keeping with the conservation area. Councillor Cattell seconded the motion to refuse.

#### Vote

17. A recorded vote was taken and councillors Allen, Cattell, Nann, Winder, Robinson, Pickett, Theobald and Loughran voted for the refusal. Councillor Hamilton voted against the refusal.
18. **RESOLVED:** The Planning Manager to agree the wording of the refusal with the proposer and seconder.

**C BH2023/00568 - 248 Dyke Road, Brighton - Full Planning**

1. The Planning Manager introduced the application to the committee.

## Answers to Committee Member Questions

2. Councillor Pickett was informed by the case officer that there was no policy against a Home of Multiple Occupancy (HMO) having a double bedroom with single beds. The councillor was informed that there were no other HMOs within 50m, the application was equivalent to 1.05% increase. The councillor was informed that the applicant had reduced the number of bedrooms to create the communal space. The Planning Manager stated the committee needed to determine the application before them.
3. Councillor Cattell was informed by the case officer that the application conformed to the national space standards.
4. Councillor Theobald was informed by the case officer the usual consultations had taken place via letters and on the council website. The Planning Manager confirmed that action could only be taken against the unauthorised use if the planning team were informed.
5. Councillor Robinson was informed by the case officer that the 11 persons in one HMO was not against policy. The national space standards had been met. It was noted that short holiday lets would require planning permission and enforcement action could be taken if the HMO was used as a holiday let. The Planning Manager stated that each AirBnB was looked at individually on a case-by-case basis to consider whether planning permission was required and would depend on a number of factors including frequency of use.
6. Councillor Nann was informed by the case officer that currently the ground floor was a separate flat and this would be converted to communal areas with the rest of the house turn over to 11 bedrooms and one study room on the top floor for the HMO and this required planning permission. Currently there are 14 bed spaces.
7. Councillor Loughran was informed by the case officer that the combined communal space of the ground floor and loft study room was equal to 40sqm, and it was acceptable to have the communal space across two separate floors.

## Debate

8. Councillor Theobald considered the property could be a family home in this street of nice houses, where an HMO of 11 was out of character and too much. The councillor was against the application.
9. Councillor Cattell considered the HMO to be of a good size with good rooms and noted there was a housing crisis in the city. The property offered a safe secure space to share. The study room was a good idea. There was a need for low-cost accommodation. The councillor supported the application.

## Vote

10. A vote was taken, and by 7 to 2 the committee agreed to grant planning permission.

11. **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 in the report.

#### **D BH2023/01414 - 41 Upper North Street, Brighton - Full Planning**

1. The Planning Manager introduced the application to the committee.

##### Answers to Committee Member Questions

2. Councillor Theobald was informed by the case officer that there were no other Houses of Multiple Occupancy in the road currently, however, it was noted that one other property was currently applying for planning permission.

##### Debate

3. Councillor Cattell considered that the property could be a 5-person family home, the property was generously laid out, and low-cost accommodation was much needed in this area close to the city centre. The councillor supported the application.
4. Councillor Robinson considered the property was good for young people but not for families in this location near the city centre. The layout was good.
5. Councillor Theobald considered the property was good for an HMO and the room sizes were good. The councillor supported the application.
6. Councillor Loughran considered the kitchen to be very small and not suitable for 5 persons.

##### Vote

7. A vote was taken, and by 6 to 2 the committee agreed to grant planning permission. (Councillor Allen had left the meeting and took no part in the discussions, vote or decision-making process).
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 in the report.

#### **E BH2023/01522 - 45 George Street, Brighton - Full Planning**

1. The Planning Manager introduced the application to the committee.

##### Speakers

2. Michael Landragin addressed the committee as a resident via a speech read out by the Democratic Services officer as follows: 1) The Noise Impact Assessment was arranged by the operators of the bar and that the assessment has been undertaken to support the retrospective Change of Use application. Having taken legal advice, I have strong concerns about the impartiality of the report, even though both Environmental Health



and Planning have advised that they trust that it will have been impartial and professional. I feel that the contents and readings given within this Noise Impact report should be viewed with caution. 2) The building (Albion Court) is in fact mostly residential, comprising 18 residential flats, occupied by a mix of owner occupiers and tenants, and that there are 3 residential floors above the commercial premises making the application. 3) Although it seems the operators of the bar have been more careful with music noise levels recently, and the Planning report says that the bar has made changes to reduce the noise impact to the building including the flat above, the concern is that this may not continue once/if the Change of Use is granted, unless there are clear conditions attached restricting the volume level of music played or restrictions to more reasonable social hours that music can be played in the bar. 4) In regard to the extended opening until 1am for special occasions, how will this be monitored by the Council? Please be aware that the Leases for the building state that music from whatever source between the hours of 11pm and 8am is not permitted.

3. Emmi Edwards addressed the committee as the one of the applicants and stated that the bar was a safe space for non-binary, trans and LGBTQIA+ members of the community that employed five members of staff and served non and low alcohol drinks. The bar had donated 50% of their Pride takings to charities. There was considered to be no noise outside the bar and no complaints had been received or calls for police attendance. They usually close around 10.30pm when the customers had left. It was noted that the noise assessment calculated a high of 26 decibels in the flat above the bar, which is below 30 decibels limit.

#### Answers to Committee Member Questions

4. Councillor Theobald was informed by the applicant that a low/non-alcohol bar does not require a licence, only alcohol levels above 0.5% require one. It was also noted that music volume levels have been changed by moving speakers away from the ceiling, closer to ground level, soft furnishings have now been introduced, both in line with Environmental Health guidelines.
5. Councillor Cattell was informed by the applicant that they had sought legal advice and were informed that planning permission was not required. It is now noted that a change of use from Sui Generis to another Sui Generis use requires planning permission.

#### Debate

6. Councillor Hamilton welcomed the application and noted the bar opened 5 days a week only and would close at 11pm. The councillor supported the application.
7. Councillor Cattell considered the bar to be a start of a revolution and considered the acoustic guidance had been followed and Environment Health had accepted the noise report. The councillor supported the application.
8. Councillor Allen stated they were encouraged as it was clear the applicant had been talking to neighbours and this bar would boost variety in Kemptown. The councillor supported the application.
9. Councillor Theobald considered the change to a non-alcohol bar a good thing and hoped it would not upset the neighbours.

10. Councillor Loughran noted there was a condition relating to noise. The councillor supported the application.

Vote

11. A vote was taken, and the committee agreed unanimously to grant planning permission.
12. **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 in the report.

**F BH2023/01950 - 18 Woodland Way, Brighton - Full Planning**

1. The Planning Manager introduced the application to the committee.

Answers to Committee Member Questions

2. Councillor Nann was informed by the case officer that the owners of the property lived on site.
3. Councillor Loughran was informed by the case officer that the policy CP6 covers a wide range of accommodation. It was noted that there was no policy against holiday lets and the application was small scale accommodation for two persons only.
4. Councillor Cattell was informed that the property would be accessed via the garage access road.
5. Councillor Nann was informed that if the access road was private any covenants or restrictions would need to be resolved by the applicant.
6. Councillor Theobald noted the area was hilly and the dwelling house was higher than the application structure.

Debate

7. Councillor Theobald considered the access difficult, and any anti-social behaviour could go unchecked. Other properties could also convert garages. The councillor was against the application.

Vote

8. A vote was taken, and by 5 to 2, with 1 abstention, the committee agreed to grant planning permission. (Councillor Allen had left the meeting and took no part in the discussions, vote or decision-making process).
9. **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 in the report.

**G BH2023/01955 - Former Peter Pan's Playground Site, Madeira Drive, Brighton - Full Planning**

1. The Planning Manager introduced the application to the committee.

## Speakers

2. Roy Pennington addressed the committee as a resident and stated that they had spoken to the applicant 3 weeks ago regarding the application and they said would do something about the pedestrian access across the road. The resident also stated that they had written to the Planning committee regarding access issues and requested a site visit. If the application was approved there would be a significant increase in people attending the site. The gate giving access to the site is not mentioned in the report and should be taken into account. The speaker requested that a condition be added to improve pedestrian access to the site, and they considered that rubber matting would improve the accessibility from the pedestrian gate to the vehicle gate.
3. David Samuel addressed the committee as an interested party and stated they represented the Life Saving Club with 256 members offering lifesaving training to adults and children at the site. All members are volunteers who attend events and schools. The club became homeless in 2021 and were looking for a new home. Sea Lanes agreed to take the club and offered the storage units for the club's use. It was not known that planning permission was required as the lockers were like-for-like the existing units.

## Answers to Committee Member Questions

4. Councillor Theobald was informed by the case officer that the artwork on the north elevation of the lockers was to remain, and the Heritage team had not objected. The access referred to was not part of the planning application as it lay outside of the site. The permissions for the use of the land are temporary ending on 1 April 2032.
5. Councillor Robinson was informed that Planning permission and permission from the landowner were both required. The council are the landowner. It was noted that payments for the use of the land were not a material planning consideration. It was also noted that the regeneration of the listed Madeira Drive arches was ongoing, and it was not known if the development would impact on grant applications for funding the arches. There were no objections from the Heritage team.
6. Councillor Pickett was informed by the case officer that the lockers were on site before and had been removed in 2018, then replaced. It was noted that the Volks railway was outside the red line site boundary and did not form part of the application.
7. Councillor Hamilton was informed by the case officer that the extensions to the temporary permission could be submitted, however, if not then all structures needed to be removed at the end of the temporary period.
8. Councillor Nann was informed by the case officer that a plan to remove the structures was not required by the Planning team.
9. Councillor Loughran was informed by the case officer that 10 years temporary permission aligned with the temporary permissions already granted on the north side of the Volks railway. The Planning Manager noted that temporary permissions can vary in

duration, and it was acceptable to have a temporary permission for 10 years. David Samuel confirmed that they would be the user and the club had previously been housed at Brighton Sailing Club for 15 years, and that Sea Lanes made the only offer of a new home. He also confirmed that the club was a lifesaving club who taught lifeguards and a third of council lifeguards were trained by the club, all of whom were volunteers.

Debate

10. Councillor Theobald considered the club to be useful and asked that the club maintain the structures and look at disabled access to the site. The councillor supported the application.
11. Councillor Cattell noted there were a number of structures along the sea front, and these cannot be seen from the arches. The councillor considered the parking in the area would be more impactful. The lockers were considered to reflect the existing structures and were not offensive. It was noted that this is one of the only sea pools in the country. The councillor supported the application.
12. Councillor Allen considered the lockers would be good for leisure users and the artwork was good for keeping graffiti off. The councillor supported the application.
13. Councillor Robinson considered the use to be good, however, the lockers could be seen from the Madeira Drive terrace.
14. Councillor Loughran considered the lockers would have an impact on the grade II\* listed assets and cause harm which is less than substantial. The councillor considered the 10-year temporary permission too long. The applicant had not supplied any material alternatives. The councillor did not support the application.
15. Councillor Nann considered the application to be reasonable, however, the 10-year temporary permission seemed too long.

Vote

16. A vote was taken, and by 5 to 4 the committee agreed to grant planning permission.
17. **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 in the report.

**H BH2023/01305 - Aymer House, 10-12 New Church Road, Hove - Full Planning**

1. The Planning Manager introduced the application to the committee.

Answers to Committee Member Questions

2. Councillor Cattell was informed that the application had been readvertised following the alterations agreed with the Planning officer.

Debate

- 3. Councillor Hamilton considered the application to be an improvement to the conservation area. The councillor supported the application.
- 4. Councillor Robinson supported the application.
- 5. Councillor Theobald supported the application.

Vote

- 6. A vote was taken, and the committee agreed unanimously to grant planning permission. (Councillor Allen had left the meeting and took no part in the discussions, vote or decision-making process).
- 7. **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 in the report.

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

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

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

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

**49 APPEAL DECISIONS**

- 49.1 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 6.04pm

Signed

Chair

Dated this

day of