

BRIGHTON & HOVE CITY COUNCIL

PLANNING COMMITTEE

2.00pm 22 MAY 2024

COUNCIL CHAMBER, HOVE TOWN HALL

MINUTES

Present: Loughran (Chair), Allen (Deputy Chair), Miller (substitute), Earthey (substitute), Nann, Robinson, Shanks, Theobald, Thomson and Galvin.

Officers in attendance: Chris Swain (Team Leader), Jane Moseley (Planning Manager), Helen Gregory (Senior Planning Policy Officer), Colin Bannon (Heritage Officer), Andy Renaut (Head of Transport Policy & Strategy), James Pearce (Principal Transport Development Officer), Katie Kam (Senior Lawyer), Alison Gatherer (Lawyer).

PART ONE

113 PROCEDURAL BUSINESS

a) Declarations of substitutes

113.1 Councillor Miller substituted for Councillor Robinson. Councillor Earthey substituted for Councillor Fishleigh

b) Declarations of interests

113.2 There were no interests declared.

c) Exclusion of the press and public

113.3 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.

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

d) Use of mobile phones and tablets

113.5 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’.

114 MINUTES OF THE PREVIOUS MEETING

114.1 The minutes of the meeting held on 8 May 2024 are to be circulated with the 5 June 2024 agenda.

115 CHAIR'S COMMUNICATIONS

115.1 The chair provided an outline of the procedure of the meeting.

116 PUBLIC QUESTIONS

116.1 There were none.

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

117.1 There were no requests for site visits to items on the agenda.

118 TO CONSIDER AND DETERMINE PLANNING APPLICATIONS

118.1 The Chair called the application on the agenda to the committee. As there was only one application, it was automatically called for discussion.

119 BH2021/04167 - BRIGHTON GASWORKS LAND BOUNDED BY ROEDEAN ROAD (B2066), MARINA WAY AND BOUNDARY ROAD, BRIGHTON - FULL PLANNING

119.1 The Planning Manager, Team Leader and Senior Planning Policy Officer introduced the application to the committee.

119.2 Speakers:

119.3 Marie Sansford addressed the committee as a resident in opposition to the development and member of Action on Gasworks Housing Safety, Affordability & Transparency (AGHAST), stating that they represent more than 1000 people who live or work near the development site. The resident stated that AGHAST had been campaigning for four years to prevent development on the site and that former gas works should only be developed when not in residential areas. Concerns were raised regarding the development being too contaminated for development. The resident raised concerns regarding the brownfield policy, stating it did not yet have mechanisms for assessing the degree of contamination of former industrial sites. Marie expressed concern that risk assessments had been conducted by the remediation industry without medical or independent oversight. The resident requested the committee to fully consider Professor Roy Harrison's independent report on contamination and air quality provided by AGHAST. The resident shared DEFRA guidance that stated, 'local planning authorities should be satisfied that a proposed development will be appropriate for its location and not pose an unacceptable risk'.

- 119.4 Stephen White addressed the committee as a resident in opposition to the development, stating that 1700 objections had been received and expressed that the concerns of the community had been ignored despite best efforts to engage with the planning process. Stephen stated that City Plan guidelines originally envisaged the site as suitable for 85 dwellings, not as a site where buildings of over 6 storeys would be permitted. The resident further stated that the design was out of keeping with the area, as defined by the National Planning Policy Framework. Concerns were raised regarding the provision of parking. The resident claimed that more than 200 jobs currently provided by the site would be lost as a result of development and shared that noise, dust, and the release of toxins into the atmosphere were material planning considerations upon which the application could be refused. The resident also raised concerns regarding apartment blocks acting as wind-tunnels.
- 119.5 Beccy East, representing the Brighton Gasworks Coalition which includes AGHAST, addressed the committee as a resident in opposition to the development, stating that all 23 amenity organisations of the coalition supported housing on the site, but not tower blocks. The resident stated that a planning expert was commissioned to examine the officer's report and noted omissions. The resident raised concerns regarding the provision of services including community, education, and health facilities, stating that there was no evidence of a formal assessment of the local needs for such services that will arise as a result of development of the site and questioned why this had not been provided. The resident stated that the developer apportioned fees and profits incorrectly and fail to mention that they will make 50% profit on remediation costs.
- 119.6 Councillor Gill Williams addressed the committee in opposition to the development, reading a letter from a resident that raised concerns regarding the toxic nature of the contaminated site. The resident's letter informed the committee that a young relative had passed away recently as a result of toxic waste and iterated the resident's concern that a similar incident could occur a result of the site being developed. Councillor Williams drew attention to recent scandals and stated that they did not want the same to happen as a result of the committee allowing the site to be developed on contaminated ground. They highlighted that they did not have confidence in the safety provisions of the development as there was not enough evidence of the effects of the decontamination process. Councillor Williams stated that while they support increasing provision of housing in the city, they did not believe that the development would add to the city's housing supply, expressing that it would add instead to developer's profits and empty housing numbers. Councillor Williams also expressed that the design of the development was not in keeping with the local area and raised concerns regarding the developer's assurances to make 'reasonable endeavours' to provide affordable housing.
- 119.7 Ashley Spearing addressed the committee on behalf of the applicant, stating that the redevelopment of the gasworks presented an opportunity to provide 495 homes with almost 3000 square metres of commercial floorspace on a sustainably located site. They provided an overview of the Berkeley Group and the work it had conducted on gas works sites. The applicant provided reassurances to residents concerned about contamination, stating that the Berkeley Group was presently developing 28 former gas works sites in the UK and that the Brighton Gas Works site was less contaminated than others and had already been partially remediated in 2003. The

applicant recognised that residents sought clarity regarding how further remediation work would be undertaken and shared that work had been accelerated with specialist remediation and air quality consultants to develop detailed strategies on how the site would be remediated. The agent stated that the Berkeley Group recognised the need for affordable housing in the city and shared that the developer had worked with Homes England over several years to find alternative ways of delivering affordable homes on the site.

- 119.8 Matt Richardson of Sovereign Network Group addressed the committee on behalf of the applicant, stating that the mix and quality of homes, as well as their sustainability credentials, presented an opportunity to provide affordable housing in the city. They stated that, as a strategic partner of Homes England, the Berkeley Group had access to funding that could be used to fund additional affordable homes not secured through the planning permission. They stated that they were committed to working with St William to secure funding to deliver 40% affordable homes and urged the planning committee to grant planning permission for the development.
- 119.9 James Everett, of EPR Architects, addressed the committee on behalf of the applicant stating that they had been working in the city for many years as a lead designer for Brighton Gas Works and had stated that they had worked closely with townscape and conservation consultant Richard Coleman. James Everett stated that the proposals had come about over four years of positive dialogue and collaboration with Council officers, statutory consultees, and design review panels, explaining that proposals had been refined to respond to public feedback. The agent stated that the developer had been mindful of the potential for impacts on heritage and stated that a priority had been placed on protecting views from Lewes Crescent as well as other strategic views within the city. The agent stated that over 50% of the site was dedicated to the public realm and green spaces and provided further information on the amenities that would be provided on the site. The agent stated that the schemes architecture had been drawn from the city's character and heritage, noting the reinterpretation of white stucco Regency architecture as well as a cluster of buildings drawing on the sites industrial heritage and further stating that the designs align with the National Design Guide.
- 119.10 Imogen Blanning, Senior Development Manager for St. William, addressed the committee on behalf of the applicant, stating that they believed the planning balance weighed heavily in favour of granting planning permission. They cited that all infrastructure and environmental matters had been agreed with Council officers, as well as wind safety and comfort concerns being agreed by the Council's microclimate consultant. Imogen Blanning also outlined the benefits the development would provide to the public realm by providing off-street parking, walking, and cycling connections and community spaces dedicated to food-growing and recreation. They stated that the 2000 square metres of dedicated employment floor space would provide up to 195 new jobs and that landscape proposals would provide an increase in biodiversity net gain of over 1800%.
- 119.11 Member questions:
- 119.12 Cllr Theobald sought clarification regarding the wording of "reasonable endeavours to provide affordable housing" and questioned whether there would be a commuted sum

of affordable housing and whether this was a guarantee. Cllr Theobald also questioned whether the historic wall could be preserved during development. Cllr Theobald drew attention to the South Downs National Park Authority's concerns regarding lighting impact and questioned why this was not addressed in the application.

- 119.13 The Planning Team Leader explained that due to the viability assessment, no affordable housing could be required in the legal agreement, health facilities were not something that could be required as part of the application because they were delivered by the NHS, and there is a lighting condition. They noted that the retention of the flint wall had been considered but was not feasible with the road upgrade needed.
- 119.14 Cllr Shanks was informed that specific leaseholder agreements would prevent individuals from using homes on the site for AirBnB.
- 119.15 Cllr Nann was informed by the Legal Advisor the definition of 'reasonable endeavours' and how it would have to be demonstrated by the developer that they had met the criteria set out in the Section 106 agreement. Ashley Spearing provided additional information regarding the definition, stating that it was drafted by Homes England to ensure they could fund the scheme without a s106.
- 119.16 Cllr Thomson was informed that the application was policy compliant without affordable housing and that the provision of affordable housing was a material consideration.
- 119.17 Cllr Thomson was informed that residents would be given the option of purchasing a parking space at the time of property purchase.
- 119.18 Cllr Galvin was informed that the scheme would be tenure blind. Cllr Galvin was also informed that Homes England funding for affordable housing required to make a scheme acceptable via a s106 agreement could not be secured outside of London.
- 119.19 Simon Croft, District Valuation Service (DVS), acting as the Council's independent viability consultee explained that the application had also been assessed for affordable housing twice before the current iteration and it was determined that the scheme could not viably deliver any affordable housing.
- 119.20 The Planning Manager stated that the site was Community Infrastructure Levy (CIL) exempt.
- 119.21 Cllr Allen was informed that the policy adopted in City Plan part 1 DA2 allocated approximately 2000 square metres of employment floor space and a minimum of 85 housing units to the site. Cllr Allen was informed that the site would always have an estate management presence, and that visitors would need to make arrangements with the concierge to receive visitor access to the sites gated carparks. Cllr Allen was also informed that parking spaces would likely be initially allocated to larger housing units on the site, but that the decision would ultimately be taken by the sales and marketing team.

- 119.22 Imogen Blanning stated that both the Council and the developer had consulted wind specialists that had concluded that the site would be both comfortable and safe.
- 119.23 Cllr Miller raised concerns regarding visitor parking and questioned how visitors' spaces would be allocated, citing further concerns about accessibility and equalities implications.
- 119.24 Brendan Weaver, the applicant's Transport Adviser explained that 6.4% of dwellings would have blue badge parking facilities and explained how visitors' parking permits would be allocated.
- 119.25 Cllr Miller stated that 25% of dwellings would have less than two hours of sunlight and questioned how dark those dwellings would be. Cllr Miller was informed that those 25% of dwellings would still receive adequate daylight.
- 119.26 The Planning Team Leader provided further information on the technical differences between sunlight and daylight.
- 119.27 The Chair was informed that the total sunlight level of the development would be decreased by dwellings that were north facing, and those positioned directly below a balcony.
- 119.28 Cllr Thomson sought reassurances on residents' concerns regarding their health during the development of the contaminated site.
- 119.29 The Planning Manager stated that the Council had an external LEAP Environmental / RSK Group) who acted as the local authority Environmental Health Team in respect of land contamination issues and had verified the information provided by the applicant, confirming they were satisfied that the scheme could be delivered.
- 119.30 The agent stated that stakeholders such as AGHAST had been consulted, that a preliminary risk assessment had been submitted and a detailed site investigation was delivered utilizing historic investigations and recent quantitative risk assessments. The agent stated that risks to groundwater had been assessed and that a comprehensive Odour and Air Quality Management Plan had been developed.
- 119.31 Gary Marshall, on behalf of the applicant stated that the gas production was limited in scope and only took place in the south-west corner of the site. Gary Marshall stated that the three tanks in the south-west corner that were contaminated were excavated in 2003. They further stated that the site was not a typical gas works due to its smaller size and the fact that the most contaminated part of the site had previously been remediated, stating that the site was now predominantly a brownfield site with typical levels of sub-demolition material.
- 119.32 Sarah Horrocks, on behalf of the applicant, stated that they had developed a comprehensive Air Quality and Odour Management Plan that had been reviewed by the Council's external Environmental Health consultants and had been updated on several occasions. They understood concerns over health and stated that while there was a low risk of contamination from the site, a comprehensive monitoring scheme would be secured to continually monitor both on site and off site.

- 119.33 Imogen Blanning for the applicant stated that several meetings had been held with AGHAST to inform them of plans and strategies to monitor air quality. They also acknowledged the importance of keeping residents involved and up to date on the applicant's proposals.
- 119.34 Emma Hellowell, the Council's Contaminated Land Consultant agreed with the agent that the site was different from other gas work developments as it had been used for a much shorter period of time and was more similar to a brownfield site. They stated that the Air Quality and Odour Management Plan was very welcome in addressing the concerns of local residents.
- 119.35 Marie Sansford for AGHAST stated that two meetings were held in August 2023 attended by members of AGHAST and the applicant but stated that before the meetings the developer had refused to provide their remediation strategy. Marie Sansford expressed wider concerns about the health of local residents as a result of contamination.
- 119.36 Emma Hellowell for the Council stated that a remediation method statement or odour management plan could not be provided at the early-stage Marie Sansford mentioned.
- 119.37 Cllr Allen questioned why residents did not trust expert advice that had been provided. Stephen White stated that they trusted the experiences of local residents relating to sites elsewhere and articles in the media on the matter.
- 119.38 Cllr Galvin stated that the south-western corner of the site contained up to 18 metres of underground cracked porous chalk where potential contamination would only be discovered on excavation and requested further information from the developer.
- 119.39 Gary Marshall for the applicant stated that over time tar had leaked directly downwards through the chalk but that this did not affect human health as there was no exposure pathway for contaminants. Gary Marshall stated that the assessment of this contamination pertained to ground water quality, and that assessments of ground water quality indicated that microorganisms would bioremediate such contaminants. It was also stated that Environment Agency assessments in 2003 and 2017 concurred that there was no risk to the environment based upon contaminated materials being left at depth.
- 119.40 Cllr Galvin questioned what would happen if further contamination were to be discovered during excavation. Jane Moseley informed Cllr Galvin of conditions that would address these concerns.
- 119.41 Cllr Earthey questioned why the Council only reviewed the applicants test results rather than carrying out its own, citing concerns of unintentional bias. The Planning Manager explained the standards that chartered members of environmental institutes must adhere to and noted that the planning process relied on applicants carrying out their own tests in accordance with an agreed methodology in agreed locations which was then reviewed by our own experts.

- 119.42 Cllr Miller was informed that most contamination was located in the first 1.5m of ground chalk.
- 119.43 The Planning Manager drew attention to condition 5, stating that a Foundation Works Risk Assessment would need to be submitted.
- 119.44 The Planning Team Leader stated that while the development was dense, it was not as dense as many other recent developments within the city.
- 119.45 Mike Davies from AGHAST and the Conservation Advisory Group (CAG) stated that the neighbouring dwellings were a fifth as dense as the proposed development and cited clause 130 of the NPPF. Mike Davies further stated that Marine Gate was half as dense as the proposed development.
- 119.46 Cllr Miller raised concerns about the quantity of development on site and was informed that extensive verified visuals from agreed viewpoints were available within the planning application submission showing the proposed development and that a number of these had been included in the presentations circulated to councillors.
- 119.47 Cllr Thomson questioned how the food growing areas would be apportioned between 495 properties and was informed by David Ravenscroft, Andy Sturgeon Design, on behalf of the applicant that food growing plots would be available on both the northern and southern podiums and would be allocated through the tenant management system.
- 119.48 Cllr Winder was informed of the details of how food growing and nature areas would support biodiversity on the site.
- 119.49 Mike Davies raised concerns regarding the proposed development's effect on the Kemp Town estate, stating that CAG, as well as Historic England and Save Britain's Heritage, disagreed with the heritage case officer's judgement that the development would have no effect on the estate.
- 119.50 The Planning Team Leader stated that Historic England had not objected to the application.
- 119.51 Matthew Bailey, on behalf of the applicant, outlined the development's overheating strategy, citing use of passive principles to avoid active cooling. They stated that testing scenarios indicated residents would experience satisfactory levels of thermal comfort without active cooling until the 2050s. Matthew Bailey stated that shading throughout the development, as well as ejection of heat through mechanical ventilation systems, would regulate temperature.
- 119.52 Cllr Nann was informed that the development was designed to reflect the historic gas holder on site.
- 119.53 James Everett for the applicant stated that the northern quarter of the proposed development was inspired by the site's industrial history, with the southern quarters being inspired by local geography and Regency architecture. James Everett also provided a general overview of the architectural composition of the development.

- 119.54 The Chair was informed by James Everett that the Circus at the centre of the scheme would serve as the nodal point of the development where varying architectural characteristics would meet.
- 119.55 The Chair was informed that the gas pipeline would go through the circus and follow the yard.
- 119.56 Cllr Thomson was informed that 2000 square metres of the commercial floorspace would be conditioned for employment generation. This would be in addition to retail space.
- 119.57 Cllr Miller cited Section 135 of the National Planning Policy Framework (NPPF) and expressed concerns that the development would not relate to its surroundings.
- 119.58 The Planning Team Leader stated that an independent design review had been conducted and that the development did not necessarily have to match the appearance and character of its surroundings to be appropriate in design terms.
- 119.59 Debate:
- 119.60 Cllr Theobald thanked officers for their work and stated that while there were many aspects of the development that they favoured, the excessive height of the scheme as well as the lack of a definitive affordable housing scheme would prevent them from voting in favour of the application.
- 119.61 Cllr Nann was informed that while affordable housing could be a material consideration in planning applications, the development under discussion was policy compliant without affordable housing as it had been concluded through an independently assessed Financial Viability Assessment (FVA) that the scheme could not viably provide affordable housing.
- 119.62 Cllr Allen stated that harm to the view from Sussex Square would be limited and expressed satisfaction with the remediation plan and welcomed the decontamination of the site. Cllr Allen emphasised the importance of air monitoring in and around the site. Cllr Allen felt that their concerns regarding parking, visitor parking and public engagement had been answered and alleviated and stated that they were leaning in favour of the application.
- 119.63 Cllr Shanks expressed agreement with Cllr Allen and stated that they could not reasonably oppose building on a brownfield site that needed development. Cllr Shanks emphasised the importance of monitoring contaminants and stated that they would be voting in favour of the application.
- 119.64 Cllr Miller expressed their approval of the sustainability measures in place for the development and stated their approval of remediation works. Cllr Miller criticised the quality of the design and the mix of housing on offer, stating that the application did not address the cities need for more family homes.

- 119.65 Cllr Thomson stated that while the developer had responded well to the questions of the committee, they also had a duty to address the concerns of residents. Cllr Thomson expressed their concern regarding provision of affordable housing but felt that they were inclined to vote in favour of the application.
- 119.66 Cllr Winder expressed their view that the proposed development was a missed opportunity to integrate the development into the sea and Marina landscape.
- 119.67 Cllr Nann expressed that they did not feel the proposed development addressed the housing need of the city. Cllr Nann stated that while the architect's explanation of the design of the development had alleviated some of their concerns, they did not feel like the design was in keeping with the rest of the city.
- 119.68 Cllr Earthey stated that they were not completely satisfied with the science and expertise of the developer and agreed with Cllr Theobald's concerns of overdevelopment.
- 119.69 The Chair stated that they felt the north and west of the scheme were successful, but expressed concerns about light levels between blocks, stating that this was an indication of overdevelopment. The Chair stated that some blocks were too high and though they believed the scheme was workable, they expressed dissatisfaction with the scale of the development. The Chair stated that there was a failure to bring the public onboard through the consultation process before submission of the application. The Chair expressed concerns regarding the lack of family homes. The Chair stated that they were inclined to vote against the application.
- 119.70 Cllr Miller expressed concerns regarding the short distances between blocks H & G and G & F, in the centre of development, stating that this would adversely affect lighting in certain dwellings and stated that the density of the development made it difficult to decide their position.
- 119.71 Vote:
- 119.72 A vote was taken, and by 6 to 3 the committee decided against the officer recommendation to approve the application. There was 1 abstention.
- 119.73 The following draft reasons for refusal were proposed by Cllr Miller and seconded by Cllr Nann:
- 119.74 The scheme would represent an overdevelopment of the site with excessive scale, massing density and heights that are not in keeping with area and, along with the material palette, would cumulatively harm the townscape, landscape and seascape of the area and its heritage assets.
- 119.75 The housing mix of the scheme, specifically the lack of larger units, would fail to meet the identified housing need of the city, contrary to City Plan Part One, policy CP19.
- 119.76 The overdevelopment of the site and particularly the height and lack of spaces between buildings would result in an unacceptable standard of accommodation for future residents through loss of light and lack of amenity.

119.77 A recorded vote was taken on the draft reasons for refusal:

- Cllr Loughran – for
- Cllr Miller – for
- Cllr Winder – for
- Cllr Allen – against
- Cllr Galvin – for
- Cllr Nann – for
- Cllr Thomson - against
- Cllr Shanks – against
- Cllr Theobald - for
- Cllr Earthey - for

120 LIST OF NEW APPEALS LODGED WITH THE PLANNING INSPECTORATE

120.1 None for this meeting.

121 INFORMATION ON INFORMAL HEARINGS/PUBLIC INQUIRIES

121.1 None for this meeting.

122 APPEAL DECISIONS

122.1 None for this meeting.

The meeting concluded at 8.26pm

Signed

Chair

Dated this

day of