

BRIGHTON & HOVE CITY COUNCIL

PLANNING COMMITTEE

2.00pm 24 APRIL 2013

COUNCIL CHAMBER, HOVE TOWN HALL

MINUTES

Present: Councillors Hawtree (Chair), Jones (Deputy Chair), Hyde (Opposition Spokesperson), Carden (Opposition Spokesperson), Bowden, Cobb, Davey, Gilbey, Mac Cafferty, K Norman, Robins and C Theobald

Co-opted Members: James Breckell (Conservation Advisory Group)

Officers in attendance: Paul Vidler (Deputy Development Control Manager), Zachary Ellwood (Area Planning Manager), Anthony Foster (Senior Planning Officer), Maria Seale (Major Projects Officer), Guy Everest (Senior Planning Officer), Rob Fraser (Head of Planning Strategy), Pete Tolson (Principal Transport Planning Officer), Steven Shaw (Principal Transport Planning Officer), Hilary Woodward (Senior Solicitor) and Ross Keatley (Democratic Services Officer).

PART ONE

187. PROCEDURAL BUSINESS

187a Declarations of substitutes

187.1 Councillor Bowden was present in substitution for Councillor Phillips; Councillor Ken Norman was present in substitution for Councillor Wells and Councillor Robins was present in substitution for Councillor Hamilton.

187b Declarations of interests

187.2 Councillor Mac Cafferty declared an interest in relation to Application A: BH2012/02205 – Anston House, 137 – 147 Preston Road, Brighton as – in his role as role as the Lead Member for major projects – he had met the applicant with the Head of Planning & Public Protection, Martin Randall, but he had not pre-determined his view on the matter. He confirmed the nature of the meeting had been information gathering; he remained of an open mind and would remain during the consideration and vote on this application.

187.3 Councillor Bowden declared an interest in relation to Application B: BH2012/04048 – Land at Brighton Marina comprising Outer Harbour West Quay and adjoining land explaining that a deputation was due to be reported to the next meeting of the Economic Development & Culture Committee for which he acted as Chair, and as such

he would not want to prejudice his position and would withdraw from the meeting during the consideration and vote taking. Councillor Bowden also declared an interest in relation to Application F: BH2013/00162 – Plinth, Kings Esplanade, Hove, as he had already expressed a view on the matter when it came before the Economic Development & Culture Committee; he stated he would withdraw from the meeting during the consideration and vote on this application.

- 187.4 Councillor Robins declared an interest in relation to Application C: BH2013/00245 – Land adjoining 10 New England Road and rear of 53 New England Street, Brighton as he worked for the company that may own the land abutting the application site. He confirmed that he remained of an open mind and would remain present during the consideration and vote on this application.
- 187.5 Councillor Davey declared an interest in relation to Application K: BH2013/00500 – 119 Portland Road, Hove, as he knew the applicant personally. He stated he would withdraw from the meeting during the consideration and vote on this application.
- 187.6 Councillor Hawtree declared an instance of lobbying in relation to Application K: BH2013/00500 – 119 Portland Road, Hove. He stated he knew the applicant to be a local trader in the area but remained of an open mind and would remain during the consideration and vote on this application.

187c Exclusion of the press and public

- 187.7 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.
- 187.8 **RESOLVED** - That the public are not excluded from any item of business on the agenda.

188. MINUTES OF THE PREVIOUS MEETING

- 188.1 The Democratic Services Officer, Ross Keatley, noted that following amendments to the minutes: at paragraph 180.1 the resolution should read ‘minded to grant’; at Application D the reference number should be amended to read ‘BH2012/00287’ and paragraph 180.5 should be deleted.
- 188.2 **RESOLVED** – That, with the above changes, the Chair be authorised to sign the minutes of the meeting held on 4 April 2013 as a correct record.

189. CHAIR'S COMMUNICATIONS

- 189.1 There had been a minor typographical in the minutes from the meeting held on 13 March 2013 in relation to Application D: Land rear of 140-146 Springfield Road, Brighton. Paragraph (17) stated that ‘planning permission was refused’ and this should read ‘planning permission was granted’. This error had been amended on the

published minutes on the Council's website, and a corrected hardcopy had also been produced for the Chair to sign.

- 189.2 It was reported that the Council's *Food Growing & Development* Planning Advice Note had been shortlisted for two awards for innovation: the National Royal Town Planning Awards and a South East Centre for the Built Environment 'Construction Excellence' award. This Planning Advice Note was published summer 2011 aiming to inspire and encourage developers to integrate food growing into any landscaping plans, substituting non productive plants with productive, edible plants. It is the first of its kind nationally and has received a very positive response from developers and planning applicants. Despite the absence of any additional requirements on developers, there has been a sharp rise in proposals for food growing from 1% to 38% of residential applications since the introduction of the PAN.

190. PUBLIC QUESTIONS

- 190.1 There were none.

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

- 191.1 There were none.

192. TO CONSIDER AND DETERMINE PLANNING APPLICATIONS

Major Applications

A. BH2012/02205 - Anston House, 137 - 147 Preston Road, Brighton - Full Planning Permission

Demolition of existing building and erection of a new building ranging from 7no to 15no storeys providing 231 residential units, circa 2,019 sqm of non-residential floor space (including a mix of B1a Office, Retail and Community floorspace), 158 car parking spaces and 240 cycle spaces, landscaping and other associated works.

- (1) It was noted that this application had been the subject of a site visit prior to the meeting.

Introduction from Officer(s)

- (2) The Senior Planning Officer, Anthony Foster, and the Head of Planning Strategy, Rob Fraser, introduced the application and gave a presentation by reference to plans, photographs, elevational drawings, photomontages, a model and a sample of materials. Attention was also drawn to items listed on the Late List, and it was noted that since the publication of the Late List a petition had been received with 380 signatures in opposition to the scheme. The application site currently contained Anston House a 7 to 9 storey purpose built block that had been vacant for almost 25 years. The site had a frontage to Preston Road, and the adjoining site was Telecom House to the south which was 10 storeys in height; the site also ran parallel to Dyke Road Drive which contained residential properties between 3 and 4 storeys. Preston Park, a Grade II listed park and garden, was also opposite the site. The Preston Village Conservation

Area lies to the east of the site. Permission was sought for the demolition of Anston House and the construction of 231 residential units and 2,019 sqm of commercial space; the scheme would provide 30% affordable housing.

- (3) Parking would be situated on the ground and lower-ground floors of the site, and the commercial space would be at the ground and first floors with an active frontage and accessed via a main central lobby. At first floor level there would be a landscaped courtyard, and the residential accommodation would be divided into five blocks of varied size and number of units. At the front of the building there would be a series of overhangs above the ground and first floor levels by 5 metres, and the rear of the property would be set away from the properties on Dyke Road Drive by a minimum of 21 metres. The scheme would also include roof top allotments. During the consultation period overhanging balconies had been removed at the rear of the proposed scheme, together with screening and half height obscured glazing to address overlooking and the amount of affordable housing had been increased from 26% to 30%.
- (4) It was highlighted that the key policy issues related to the loss of office space; the provision of housing and the provision of affordable housing. The site was identified for use as high tech commercial space or general office space, and normally the planning authority would oppose the loss of the space; however, the Emerging City Plan had a strategic allocation on this site to allow for mixed use development of office and residential space, and Officers had sought to retain a minimum of 3000 sqm office floorspace. However the wider area was considered a secondary office location, rather than a primary, and the Council had an obligation to find more housing sites in line with the NPPF. In these circumstances significant weight had been given to the strategic allocation and the scheme proposed 2,019 sqm of commercial space which would be attractive to the digital media and creative sectors. An employment land study review had also highlighted that the financing of such office space in the current economic climate was challenging.
- (5) In relation to the provision of housing the NPPF sought a significant boost in the housing supply and required local authorities to provide for the lifetime of plans. Policies in relation to housing delivery were out of date in the current agreed Local Plan, and the City Plan sought 11,300 new residential units by 2030, and set the trajectory for three 5 year phases for the life of the plan. Due to the economic climate it had become increasingly difficult to bring new development forward and the site was considered to be one of the critical sites. The provision of affordable housing was important given the needs of the city, and the 30% provided for in the application fell short of the 40% in the Local Plan and the emerging City Plan; however, the proportion was considered against a set criteria and the viability of schemes was key to the agreement of affordable housing. In this instance the applicant had been able to demonstrate – through the submission of evidence – that viability could not be achieved at 40% affordable housing; however, the District Valuer had stated that the scheme would be able to meet 40%. Officers had considered this, but were recommending an exception to policy as the scheme would enable delivery in the early life of the City Plan. It was felt that a rigid application of the policy would delay implementation on the site, and a two year permission had been recommended to encourage early delivery.

- (6) It was highlighted that the site was located in a tall buildings corridor of the city where the principle of taller buildings was accepted; in the context of this corridor the scheme would be considered 'very tall', and would have an impact on the surrounding area, but this was considered acceptable. The scheme had emerged in consultation with the South-East Design Panel and they had suggested reconfigurations which had led to the current proposed design. The key to the success of the scheme would be the considerable landscaping at ground floor level and at the podium, and the height of the building at the rear did not exceed 9 storeys. The overall height of the building in close proximity to Preston Road was not seen as an issue, and it was considered that it was a slim building when approaching the road edge. Officers acknowledged it would be impossible to overcome the bulk of the scheme, but the setbacks had been carefully used to emphasise the vertical lines. The design was considered an efficient and effective use of the land; and providing a high quality building.
- (7) The Heritage Officer had expressed concern in relation to the height and the front building line as well as concern about the impact on the Conservation Area; the Conservation Advisory Group (CAG) had also raised an objection. English Heritage had raised no objection, but had acknowledged there would be some impact; however, this was alleviated on the medium and longer distance views. The units would be capable of achieving lifetime homes standards, and most had private amenity space – with the exception of those to the rear where the balconies had been removed following consultation. There would also be a children's play area and full details of this were sought through condition.
- (8) The rear of the proposals would be between 21-24 metres from the rear of the flank elevations of the properties on Dyke Road Drive, and this distance was within guidance. Daylight and sunlight assessments had been undertaken which had shown the majority of properties would continue to receive the same level of light, and where there was an impact this was not considered to be significant. As well as the removal of balconies to the rear, the windows at the rear would be obscured to half height to help prevent overlooking. A revised shadow study to Preston Park and an independent assessment had also been undertaken, and this had identified a difference in the length of shadows; however, it concluded the shadowing would be for a limited part of the day and within guidelines. The scheme also proposed the loss of three trees on the site – 2 limes trees and 1 sycamore tree – two of which were protected by TPOs, and the arboriculturalist had objected to this. The scheme sought to provide 9 new trees on the site, and this was considered acceptable – a detailed landscape plan had also been submitted.
- (9) The application proposed 158 parking spaces for commercial and residential use, and it was considered that parking at the scheme would not cause problems in relation to displacement parking, and there would also be a car park management plan. The scheme proposed 24 disabled spaces, and the Sustainable Transport Officer sought an additional 10 spaces which could be secured through condition, and the provision of parking would be monitored through the travel plan. The net increase of traffic levels would fall within day to day variations. The scheme was proposed to achieve BREEM level excellent, and there was a low carbon energy solution that could be upgraded at a later date. In summary it was highlighted that the scheme proposed 30% affordable housing; was located in a tall buildings corridor; the site had been vacant for almost 25

years; proposed a two year consent and was considered high quality design with a mix of uses. The recommendation was minded to grant for the reasons set out in the report

Public Speakers and Questions

- (10) Mr Shaw and Ms Dadkhah spoke in objection to the scheme in their capacity as local residents. They stated that they welcomed development on the site, and were aware of the need for housing across the city; however, they noted that this one site would provide 40% of the annual housing requirement. Standards had been lowered; there was a loss of character and it was felt the viability argument put forward by the applicant could set a precedent for future development in the city. Reference was made to the emerging City Plan and comments around protecting and enhancing character, and the scheme was likened to the 'Holiday Inn' on the Brighton seafront. The scheme would sit close to the pavement; was considered grossly dominant and 'scraped' the minimum guidelines in relation to overshadowing of the park. It was also noted that in justifying tall buildings alternate plans proposing lower and medium height buildings should be provided. The Committee were asked to not accept a scheme that fell short of local and national standards, and that was dictated by financial constraints.
- (11) Councillor Littman spoke in his capacity as the Local Ward Councillor and stated that local residents were not being unreasonable. He did not doubt that development was necessary on the site; however, the proposals were for a scheme that was too tall and too dense and would overshadow Preston Park – as well as the loss of light and privacy. The scheme only proposed 75% of the minimum level of affordable housing that would be expected, and the District Valuer felt that the scheme would be viable with the full 40%. Councillor Littman questioned how the application could be recommended for approval and stated that in this instance he thought Officers were wrong, he emphasised that the District Valuer had said that the scheme would not be viable. Approval of this scheme could set a precedent for other developers, but felt that this scheme would be an 'early loss' in the lifetime of the City Plan. Despite the building being derelict for a number of years a better scheme could be bought forward.
- (12) Mr Latham spoke in support of the application on behalf of the applicant. He stated that the proposals were the culmination of two and a half years of work; which had been undertaken with local people. In October 2010 a competition had been held in relation to the design, and since then a number of options had been considered. Consultation had been done with the South-East Design Panel, and a public exhibition had been held. The proposal before the Committee was the result of all this work, and it was considered this was the 'best deal'. The scheme provided much needed homes for the city and new flexible employment space for digital and media centres; there would also be a direct financial investment in local facilities. The applicants were proud of the scheme they were proposing, and the site had been derelict for some years. There had been a careful collaborative process, and a balancing of all elements. The importance of the scheme was recognised and approval would send a strong message about development within the city.
- (13) Councillor Carol Theobald asked about the height of the flats, and it was confirmed the average ceiling height would be 2.6 metres, and the penthouses would be higher.

- (14) At this point in the proceedings Officers become aware that some Members of the Committee had been sent information by both objectors and the applicants directly that the officers themselves, they had been party to. The Senior Solicitor, Hilary Woodward, noted that any information Members were sent that could potentially influence how they might vote needed to be shared with Officers to be verified. Councillor Hawtree expressed concern that information had been submitted from both objectors and the applicant, and Councillor Bowden noted that he had received additional information, but had decided not to read this. The Committee agreed to a short adjournment to allow Officers to consider the information. Following the adjournment the Deputy Development Control Manager, Paul Vidler, highlighted there were two documents – one from Urban Splash (the applicant) and one from the Brighton Society – that had not been seen by Officers; it was confirmed that these did not raise any new material considerations that had not already been considered, and it was recommended that the Committee continue to determine the application. The Committee resumed asking questions of the applicant in relation to their submission.
- (15) Councillor Cobb asked for more information on the location of the office and work spaces in relation to the children's play areas. In response it was explained that it would largely be at street level overlooking Preston Road; there were some areas in the courtyard, but none of this overlooked the children's play area.
- (16) In response to queries from Councillor Hyde it was explained that consultation had been undertaken with residents, and there had been a public exhibition. The applicant understood the strength of feeling from residents, but it was felt on the whole the scheme was a positive contribution to the neighbourhood. A great deal of work had been undertaken on the best way to arrange the building, and the design was such that it stepped away from the properties on Dyke Road Drive, and the height would be similar at the rear to the existing properties. A great deal of analysis had been undertaken, and – with the exception of the two front towers – the blocks were similar height to surrounding buildings.
- (17) It was confirmed for Councillor Jones that the rear of the proposals would be approximately 21-25 metres away from windows at the rear of the properties on Dyke Road Drive – this was within guidelines. The lower half of the windows would be obscurely glazed and it was confirmed they would be a mixture of living rooms and bedrooms.
- (18) It was confirmed for Councillor Bowden that the building was partially masked by two large trees that aligned with each of the two towers; however, it was acknowledged that the building was still visible above the trees and the Senior Planning Officer confirmed the images used in the presentation by Officers had been verified and their locations agreed with the Conservation Team.
- (19) Councillor Robins asked for more information in relation to the allotments, and it was confirmed they would be more in the form of raised planting beds up to 800mm deep, but they could be used to grow food.
- (20) Following queries from Councillor Davey the following points were made: a large majority of the residential units would be above recommended minimal guidelines for units nationally; however, there were 37 1no. bedroom flats that would be below this

guideline, but these would not be the affordable homes units. The smaller units would create more affordable homes across the development as a whole. In relation to the overshadowing of the rose garden it was highlighted that the assessments had shown this would be minor, and where it did occur it would track with the movement of the sun – the majority of the overshadowing would also take place in late afternoon when there was already overshadowing from mature trees.

- (21) It was confirmed for Councillor Bowden that a number of the affordable homes units would have direct views of Preston Park, and the stepped design had been used to accommodate this.
- (22) Following a query from Councillor Cobb it was confirmed the height of the ceiling in the penthouses was 5 metres in part – stepping down to 2.6 metres at the rear.

Questions to Officers

- (23) Mr Breckell asked about the pressure on the local authority to meet housing targets, and if this had been used by the developer as a means to justify a reduction in the standards at the site. In response the Head of Planning Strategy explained that the local authority wanted to see an effective and efficient use of sites, and this sometimes resulted in challenging levels in relation to density due to the lack of sites across the city. The current economic climate also had made meeting targets more difficult, but this did not affect the design approach and position of the local authority. Mr Breckell went on to ask if the local authority were of the view that the building was too tall, and in response it was explained that the design was discussed by the South-East Design Panel who encouraged the developer to go higher on one of the towers to provide a clear differential. The original configuration of the site was different, but it was felt this would establish a new building height on Preston Road rather than present a single one off case for a very tall building.
- (24) The differences in width at the front and rear of the scheme were clarified for Councillor Cobb.
- (25) Councillor Hyde asked for more information in relation to the recommendation to grant, and in response the Head of Planning Strategy explained that the reference to the building line came from the tall building guidance and this was an important element in the consideration of the impact on the site. There were some more unattractive buildings in this corridor, and it was envisaged the scheme could set a new standard for design on other potential sites.
- (26) Councillor Jones asked for more information in relation to the disparity of the views from the applicant and the District Valuer in relation to the viability and level of affordable housing. In response it was explained that the issue was the technical viability of the scheme; Officers had considered whether the housing would actually be delivered to allow the Council to deliver a 5 year land supply.
- (27) Following questions from Councillor Bowden it was explained that the emerging City Plan had been drafted with flexibility to demonstrate it could remain valid for a significant period of time, and there was flexibility with the criteria that would be taken into consideration. In assessing the appropriate level of affordable housing

consideration needed to be given to a series of factors to ensure the delivery of schemes and housing in the city.

- (28) In response to Councillor Robins in relation questions about the trees it was explained that the aboriculturalist objected to the loss of the 3 trees; however, the proposed replacement trees were considered to be acceptable. Further details had been requested on the protection of other trees on the site.
- (29) In response to queries about the access for Fire Services from Councillor Gilbey it was confirmed that this matter fell under the remit of the Building Regulations. It was also clarified that the overhangs at the front of the scheme would be 4.25 metres from Preston Road.

Debate and Decision Making Process

- (30) Mr Breckell stated that CAG had been of the view that this application should not have reached the point of determination at Committee, and it was a scheme based on the necessity to meet targets. It was the first building to use the Tall Building Policy, and the design was 'second rate'. Mr Breckell asked that the Committee to refuse the application for reasons in relation to the height and design.
- (31) Councillor Carol Theobald stated that it had taken a very long period of time for proposals to come forward in this site, and she felt the proposals were ugly, and a softer design would have been more appropriate. The s106 contributions sought were too onerous, but the landscaping in the centre of the scheme was good. The scheme was too high and would overshadow Preston Park, and it was too close to the building to the rear. There was also concern about access for the Fire Services, and that the aboriculturalist rarely objected to schemes. Councillor Carol Theobald stated she wanted to see the site developed, but could not support this scheme.
- (32) Councillor Jones stated he did not feel the design was 'terrible', but the developers had tried to work within a brief dictated by finance; he welcomed the landscaping and the mixed use, but had concerns with the scale and the overlooking of the rear of Dyke Road Drive. He also had concerns in relation to the affordable housing here, and felt there was a 'slip' in standards to provide housing at the site quickly. He stated he was still considering his final position on the matter.
- (33) Councillor Hyde stated she largely agreed with the comments made by CAG, but she had an appreciation of the reasons for the Officer recommendation, and she was concerned this scheme could set a precedent. She believed it could be overdevelopment of the site, and was too close to Preston Road.
- (34) Councillor Gilbey highlighted the potential impact of the scheme on other areas of the city – in particular the New England Quarter; she also expressed concern about the amount of play space and the shortage of schools in that part of the city.
- (35) Councillor Carden stated that, in his view, the Committee turned down a number of applications, and he thought the scheme was 'beautiful'. There had been proper consultation on the proposals, and the recommendation would not have been in support if Officers were of the view that the design was below standards.

- (36) Councillor Mac Cafferty noted that appropriate mitigation would be sought through the s106 contributions in relation to facilities and schools. The scheme provided homes and employment space, and the 2 year consent would push the development forward helping provide economic benefits to the city. The city was excellent at creating start up business, but these often had problems when they reached a certain size and many relocated outside of the city. The developer was award winning, and the design was excellent. Councillor Mac Cafferty noted the evolution of design in the city, and stated this was a bold project which should be welcomed to the city.
- (37) Councillor Davey expressed concern that ‘the bar had been set too high’ and he would be supporting the application – particularly the mixed use. This was a strong example of a consent that was viable.
- (38) Councillor Ken Norman stated the design was bold, but was more suited to the city centre. He acknowledged that the site needed to be redeveloped, but this was too much. It would be overpowering, and the site did not necessarily warrant such a large scheme, and a more suitable design was needed.
- (39) A vote was taken and the Officer recommendation to be minded to grant was not carried on a vote of 4 in favour to 5 against with 3 abstentions. Councillor Cobb proposed reasons for refusal and these were seconded by Councillor Gilbey; a short adjournment was then held to allow Councillor Hawtree, Councillor Cobb, Councillor Gilbey, the Deputy Development Control Manager, the Senior Lawyer and the Senior Planning Officer and the Head of Planning Strategy to draft the reasons for refusal in full. These reasons were then read to the Committee, and it was agreed they reflected what had been put forward by Members. A recorded vote was then taken with the proposed reasons for refusal and Councillors Cobb, Gilbey, Ken Norman, Robins and Carol Theobald voted that planning permission be refused; Councillors Hawtree, Carden, Davey and Mac Cafferty voted that planning permission be granted and Councillor Jones, Hyde and Bowden abstained from the vote.
- 192.1 **RESOLVED** – That the Committee has taken the Officer recommendation to be minded to grant into consideration, but resolves to **REFUSE** planning permission for the reasons set out below:
- i. The proposed development by reason of its height, density, bulk and form is overbearing, out of keeping with the surrounding area and would have a detrimental effect on properties to the rear in Dyke Road Drive and the listed Preston Park and would set an undesirable precedent. The proposed development is therefore contrary to policies QD1, QD2, QD4, QD27, HE6 and HE11 of the Brighton and Hove Local Plan 2005 and SPGBH15: Tall Buildings.
 - ii. It has not been satisfactorily demonstrated that 40% Affordable Housing cannot be achieved and the proposal is therefore contrary to policy HO2 of the Brighton and Hove Local plan 2005 and policy CP20 of the Brighton and Hove Submission City Plan Part One.
 - iii. The amount of commercial floorspace proposed does not comply with policy DA4 the Brighton and Hove Submission City Plan Part One and policy EM2 of the Brighton and

Hove Local Plan 2005 and would result in a potential shortfall of office space in the City.

B. BH2012/04048 - Land at Brighton Marina comprising Outer Harbour West Quay and adjoining land - Removal or Variation of Condition

Application for variation of condition 70 of application BH2006/01124 as amended by BH2012/00042 (Major mixed use development comprising new engineered basement structure to create platform on Spending Beach and West Quay, 853 residential units in 11 buildings ranging from 6-40 storeys, Class A, D1, D2 and B1 uses, Lifeboat Station, 496 parking spaces, alterations to pontoons and moorings, new bridges, informal and formal recreation space and alterations to access arrangements) to allow revisions to basement structures over Spending Beach and West Quay with associated landscaping and engineering works to accommodate revised car parking layout. Total number of car parking spaces and main access point to remain unchanged.

- (1) It was noted that this application had the subject of a site visit prior to the meeting.

Introduction from Officer(s)

- (2) The Major Projects Officer, Maria Seale, introduced this application and gave a presentation by reference to plans, photographs and elevational drawings; attention was also drawn to matters listed on the Late List. Since the closure of the Late List 9 additional letters of objection had been received, and 1 from the Brighton Marina Residents Association withdrawing their objection; no new material matters had been raised. In 2006 permission was granted for a major mixed use scheme comprising 853 residential units and a 40 storey tower; the permission had commenced in 2008 and was currently live. The original scheme involved two platforms to be constructed; one over the spending beach and one to the south of the West Quay public house. Three layers of car park had originally been proposed under the spending beach, and this structure involved wave chambers. The current application proposed the relocation of the parking from under the spending beach to the development to the south of the West Quay public house and the creation of 3 new levels of basement parking. The access point to the parking and overall number of parking spaces would remain the same.
- (3) A new pile structure over the Spending Beach was now proposed, and the application was considered a minor material amendment to a major scheme. The amendment did not alter the size or scale of the scheme, and in making a decision the principle of the original development could not be revisited. The Case Officer had requested some new plans, but these largely related to matters of clarification. The primary reason for the application was to make the first phase of the development more viable by providing the parking upfront without the need to provide temporary measures, and the use of piling would be less complex. Revised environmental assessments had been undertaken, and all expert consultees had responded without raising any concerns. Members were also made aware that an almost identical scheme was granted permission in 2007 – although this had now lapsed. The application was a minor amendment to help bring forward a major mixed scheme. The application was recommended to be minded to grant for the reasons set out in the report.

Public Speakers and Questions

- (4) Mr Powell and Professor Watts spoke in objection to the application in their capacity as local residents. They stated that the car parks would be in the wrong place, and some residents would have to walk approximately 250 metres. The ecology of the Marina would also be destroyed, and access for the disabled would not work, and residents would be disturbed continuously by noise. The scheme was not sustainable, and the provision of photovoltaic panels had been removed from the application. The 40 storey building would tower over the Marina and the application would mean the loss of 80 berths. The original 2006 permission was not considered of a high enough standard, and the situation had changed affecting the engineering – this could leave the wave wall vulnerable. Questions were raised in relation to the Council's powers to determine planning matters at the Marina.
- (5) Councillor Davey asked for more information on what had changed that might affect the engineering. In response Professor Watts explained that the traffic was extremely congested, and the ramps were not adequate for this. Councillor Davey went on to ask about the risk to ecology, and it was explained that there were starlings that roosted under the West Quay public house that would be affected; as well as cockles and sand shrimp. The ecology of the inner harbour was also at risk as the changes could affect the sluice gates and consequently if they became blocked the anaerobic conditions in the inner harbour could change encouraging the growth of algae, and potential increase in bad odours.
- (6) Councillor Robins asked for more information in relation to a document shown in the objectors' presentation. In response the Senior Solicitor explained that the Brighton Marina Act gave the Council reasonably to determine planning applications within the Marina; there were various other consents that the applicant would or may need to apply for, but a separation of the Council as the planning authority and the Council corporately were noted.
- (7) Councillor Mears spoke in her capacity as the Local ward Councillor, and stated that permission had been granted in June 2006 at a special meeting of the then Planning Applications Sub-Committee. The application would create 3 levels of underground parking that would be visible at low-tide as a large concrete wall, and would not enhance the Marina. The report did also not address the changes to the sustainability measures and the removal of earlier features of the scheme that made it a 'green project'. The scheme had also changed in terms of affordable housing and the 3 bed family units no longer formed part of the scheme. Councillor Mears concluded by stating that she did not consider this application to be a minor amendment.
- (8) Mr Goodall and Mr Towner spoke in support of the application on behalf of the applicant. They stated that in 2007 an identical application had been approved, but this had lapsed in 2010; the application did not seek to introduce additional car parking or look different, but bought the car parking forward to make the scheme more viable. The whole scheme had been put on hold 5 years ago, and this would kick start it and deliver some of the s106 monies upfront. There had been work undertaken to look at both physical and mathematical models, and this had demonstrated that the piled structure on the spending beach was better as it was more porous and would create

less wave deflection. It was also stated that the issues in relation to ecology highlighted by the objectors were incorrect.

- (9) Councillor Hyde asked about the water circulation, and for further details to give assurance. In response Mr Towner explained that the coffer dams would not block any of the sluice gates; if there was water level difference water would flow into the inner harbour and ensure a flow of water; there would not be the changes to the conditions as suggested.
- (10) It was confirmed for Councillor Cobb that the applicants had called the piles 'porous' to mean the gaps between them, rather than the actual materials.
- (11) Councillor Davey asked how the application made the scheme more viable, and in response Mr Goodall explained that the units would be more marketable as they could be sold with the parking spaces. It was also highlighted that, following more tests and subject to approval of the scheme, the applicant would be ready to commence with the new permission in September 2013.

Questions for Officer and Decision Making Process

- (12) The Major Projects Officer highlighted that the amended plans were submitted at her request to help clarify some minor matters of discrepancy. The photovoltaic panels had been removed as they were no longer required to meet the sustainability standards. There would also be no loss of berths as they would be relocated where there was spare capacity.
- (13) Councillor Gilbey asked about different levels of traffic, and it was explained that the transport assessment had shown the proposed changes would lead to a reduction in the estimated use; monitoring had also been undertaken to provide evidence that traffic levels at the Marina had changed little in recent years.
- (14) In response to series of questions from Councillor Hyde the following response were given: there was no evidence to suggest that the harbour would need to be closed during construction, and this would be secured through a construction methodology condition. The Sustainability Officer was satisfied with the proposals in the report, starlings were not endangered by the scheme, and the construction was not under the West Quay public house where they nested. The Senior Solicitor covered the response in relation to Marina Management Organisation under the Marine and Coastal Access Act 2009, and explained that the two regimes operated in parallel and the applicant would need to apply to the MMO for a licence; this did not affect the powers of the Council in relation to the Town and Country Planning Act. Lastly in relation to concerns about the visible concrete wall it was acknowledged that this would be visible at lower tide, but it was considered acceptable in the context of the other visible concrete walls at the Marina.
- (15) It was confirmed for Councillor Cobb that there had been 4 deeds of variation to the s106 agreement since the 2006 permission; these had all been dealt with under delegated powers.

(16) A vote was taken and planning permission was granted on a vote of 8 to 2 with 1 abstention.

192.2 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation, and the policies and guidance set out in the report and resolves to be **MINDED TO GRANT** planning permission subject to the Conditions and Informatives set out in the report.

Note: Councillor Bowden was not present during the consideration and vote on this application.

C. BH2013/00245 - Land Adjoining 10 New England Road and rear of 53 New England Street, Brighton - Full Planning Permission

Temporary change of use of land for 5 years from scrap metal yard to residential and the erection of 36 containers in one block of 5 containers in height and one block of 3 containers in height for use as individual dwelling units.

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

Presentation from Officer(s)

(2) The Senior Planning Officer, Guy Everest, introduced the application and gave a presentation by reference to plans, photographs and elevational drawings. The application site related to an open yard used for storage and vehicle parking, and temporary consent was sought for 5 years for 3 to 5 storey blocks of self-contained residential units with internal shower rooms and balconies – constructed from shipping containers. The accommodation would be provided by Brighton Housing Trust (BHT), and the 5 year consent would help to alleviate short term housing needs without prejudicing development in the London Road area. Sussex Police had not raised any issues in relation to crime prevention, and it was noted condition 5 had been amended in relation to the railings and the gate to New England Road. The development was considered appropriate in this location, and the nature of the use would not create harm to amenity. Condition 4 in the application asked for more information on the colour of the units, and there was an additional condition recommended in relation to a walking and cycling plan. The application was recommended for approval for the reasons set out in the report.

Public Speakers and Questions

(3) Mr Humphris spoke in objection to the application in his capacity as a local resident. He stated that he was not opposed to the scheme, but did not feel the application was sustainable, and it could constitute ‘planning by stealth’ and there was concern that after the five year period an application for a permanent arrangement would come forward. There would be a loss of privacy as the units had windows at each end of the converted containers, and it was felt the drawings did not represent the project properly. Furthermore nearby trees would have to be felled or heavily pruned, and there would be an overdevelopment of the site that the local infrastructure would not be able to cope with or support – there was also no way for ambulances or the Fire

Services to get onto the site. There was also no elevator access to the upper floors, and there was not enough information on sound insulation.

- (4) Mr Labrum spoke in support of the application on behalf of the applicant. He stated he worked for BHT and the organisation already had a substantial amount of housing in the city; however, there was an issue with moving people from temporary to permanent accommodation. This temporary solution would help to alleviate this problem over the next few years; there was no intention to take the site beyond the 5 year consent, and it was envisaged this could help over 100 homeless people.
- (5) Councillor Davey asked for more information on the background of the people who would be using the accommodation. In response it was explained that there were projects across the city, and they would be used for people who had been with the Trust for 6 – 18 months and were more ready to move on. They would be well known to the Trust and would continue to be supported in the accommodation.
- (6) Councillor Hawtree asked about potential noise from the recycling bins in the neighbouring yard, and in response it was explained that they would be moved away from the site and inside an existing warehouse.
- (7) Mr Labrum confirmed for Councillor Jones that there were no plans that would affect the trees.
- (8) Councillor Bowden asked for more information on how else the units had been used, and in response Mr Labrum explained that there were coming from Holland where they had been used as student accommodation. At the beginning of the project there would be a dedicated member of staff present on the site for half of the week, and once things had bedded down there would be weekly meetings on site.

Debate and Decision Making Process

- (9) Councillor Hawtree asked for any comments from the Committee in relation to potential colour of the units. Members felt this could be considered when they were in situ, and the existing colour known.
- (10) Councillor Carden welcomed the scheme and wished it every success.
- (11) Councillor Robins stated that this type of scheme might help to deter crime in the area generally.
- (12) Councillor Carol Theobald concurred with others comments and felt this was an excellent idea, and the area was suitable.
- (13) Councillor Gilbey welcomed the proposals, and felt the colour could be determined when the units arrived.
- (14) Councillor Bowden welcomed the scheme, and commended BHT for finding creative solutions.

(15) Councillor Hawtree noted he welcomed the application particularly the use of pre-fabricated buildings.

(16) A vote was taken and planning permission was unanimously granted.

192.3 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation, and the policies and guidance set out in the report and resolves to **GRANT** planning permission subject to the Conditions and Informatives set out in the report, and the amended and additional conditions set out below.

i. **Condition 1 amended reason to read:**

Reason: The planning permission is not suitable as a permanent form of development and to comply with policies HO2, HO3 and HO4 of the Brighton & Hove Local Plan; policy WMP 6 of the East Sussex, South Downs and Brighton & Hove, Waste and Minerals Plan; and policy DA4 of the Brighton & Hove Submission City Plan Part One.

ii. **Amend Condition 5 to read:**

No development shall commence until details at a 1:20 scale of external doors, windows, balconies, stairways, walkways and railings and gate to the New England Road frontage have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Reason: To ensure a satisfactory appearance to the development and to comply with policies QD1 and QD2 of the Brighton & Hove Local Plan.

iii. **Additional Condition:**

15. No development shall take place until a Travel Plan for the development setting out measures to promote walking and cycling has been submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall be subject to annual review, which should include regular monitoring of the use and need for additional cycle parking spaces. The Travel Plan shall be implemented in accordance with the approved details and in accordance with details submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that satisfactory facilities for the parking of cycles are provided and to encourage sustainable travel and to comply with policies TR1 and TR14 of the Brighton & Hove Local Plan.

Minor Applications

D. BH2012/03222 - 5 Roedean Heights - Full Planning Permission

Demolition of existing house and construction of 7 residential apartments with new access from Roedean Road.

Presentation from Officer(s)

(1) The Area Planning Manager, Zachary Ellwood, introduced the application and gave a presentation by reference to plans, photographs, elevational drawings and an artist impression. Information was highlighted on the Late List and it was noted that since the publication of the agenda the applicant had lodged an appeal to the Planning

Inspectorate against non-determination and the Committee were asked to give an indication of their view had they been in a position to determine the application; as such the recommended had been changed to 'minded to refuse'. The application was for the construction of 7 flats, and the site abutted the boundary of the South Downs National Park (SDNP). The applicant had submitted drawings to indicate that the proposed development would serve as a transition line between the house to the east and the larger development to the west – Ocean Heights. The proposals would be for access from both Roedean Heights and Roedean Road to the south – this would involve cutting through the bank, and included an underground car park. Contextual elevations were used to show the difference in height between the proposals and Ocean Heights to the east, and the house to the west. The applicant had submitted photomontages to show that the visual impact reduced the further way from the development.

- (2) It was noted that the character of Roedean Heights was very different from Roedean Road, and consisted of 5 large detached properties, and Officers were concerned that this application would impact on the distinctive character of the road. Furthermore the scale and bulk failed to address the area, and it was felt the development would harm views from the SDNP. The principle of the new access was acceptable, but the applicant had not been able to submit sufficient details to suggest that the access would not harm the area. Finally it had not demonstrated that the proposed development would meet required levels of sustainability, and Officers were not satisfied this could be done without redesign. The application was recommended to be minded to refuse for the reasons set out in the report, and the amended reasons on the Late List.

Public Speakers and Questions

- (3) Mr Copping spoke in objection to the scheme on behalf of local residents and the residents association. He was aware that CJ Planning had submitted a representation against the application, but they were unable to attend and he would be speaking on their behalf. The development would have a detrimental impact on surrounding and adjoining areas, and the character of Roedean Heights was residential with family sized dwellings; flats would be an exception to this. There was concern in relation to highway safety and the Committee were asked to support the Officer recommendation.
- (4) Councillor Mears spoke in her capacity as the Local Ward Councillor. She stated that the previous speaker had covered many of her own concerns, and she noted that the application just fell short of the number of units necessary for affordable homes. The access to Roedean Road was considered dangerous, and would be a concern for pedestrians as the entrance cut through the bank.
- (5) It was noted that the applicant's agent had registered to speak in support, but was not present at the Committee meeting.

Questions for Officers, Debate and Decision Making Process

- (6) Councillor Hyde noted there had been reference to Ocean Heights, and she noted the distinction between Ocean Heights on Roedean Road, a busy road, and the proposals

on Roedean Heights a small road with a few detached houses. She stated she would support the Officer recommendation.

- (7) Councillor Carol Theobald stated she thought the proposals were more unacceptable than Ocean Heights.
- (8) Councillor Hawtree stated he was not averse to mixture of styles, but did not feel this was appropriate given the setting.
- (9) A vote was taken and planning permission was minded to refuse on a vote of 10 to 1.

192.4 **RESOLVED** - That the Committee has taken into consideration and agrees with the reasons for the recommendation, and the policies and guidance set out in the report and resolves to be **MINDED TO REFUSE** planning permission for the reason set out below.

- i. The scale, bulk and appearance of the proposed building is excessive, fails to respect the immediate and wider context of the application site, and would appear as an incongruous addition to the area, out of keeping with the prevailing character of the locality. The proposal would harm strategic views from the South Downs National Park to the north of the site, and from Marine Drive to the south / east of the site. The proposed development would create a more built up or 'urbanised' edge to the National Park boundary by itself and in conjunction with Ocean Heights, in contrast to the existing dwelling and neighbouring dwellings along Roedean Heights which provide a less intrusive and developed boundary to the urban area. The proposal is therefore contrary to policies HO4, QD1, QD2, QD3, QD4, NC7 and NC8 of the Brighton & Hove Local Plan.
- ii. The proposed building would have an overbearing impact and create a sense of enclosure when viewed from the dwellings and gardens to either side. Increased overshadowing of neighbouring dwellings and garden areas would also be caused. The proposed development is therefore contrary to policy QD27 of the Brighton & Hove Local Plan.
- iii. The information submitted regarding the proposed underground car park, vehicular access and any clearing and regrading works required to provide clear sight lines, is incomplete and in parts contradictory. The applicant has failed to demonstrate that these elements of the proposal would result in an acceptable appearance and would not cause an increased highway safety risk. Furthermore the required ground works could result in unstable land and no technical information such as details of retaining walls has been submitted. Based upon the information submitted the proposed development is therefore contrary to policies QD1, QD2, QD3, QD4, SU8 and TR7 of Brighton & Hove Local Plan.
- iv. The proposed development would not provide a level of sustainability which would adequately address the requirements of policy SU2 of the Brighton & Hove Local Plan and the guidance set out in SPD08 'Sustainable Building Design'. Sufficient justification has not been provided to demonstrate that the level of sustainability recommended in SPD08 could not reasonably be met.

Note 1: Councillor Ken Norman was not presented during the consideration and vote on this application.

Note 2: The application was referred to the Planning Inspectorate for appeal on the grounds of non-determination. The Committee were asked to express a view on the application had they been in the position to determine it.

E. BH2012/03673 - Blocks A & B, Kingsmere, Brighton - Full Planning Permission

Erection of additional storey to Blocks A and B to create 8no flats with private roof gardens, with associated additional car parking and cycle storage.

- (1) A vote was taken a planning permission was granted on a vote of 7 in favour with 2 abstentions.

192.5 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation, and the policies and guidance set out in the report and resolves to be **MINDED TO GRANT** planning permission subject to the completion of a s 106 Obligation. Conditions and Informatives as set out in the report, and the additional condition below:

- i. No development or other operations shall commence on site in connection with the development hereby approved, (including any tree felling, tree pruning, demolition works, soil moving, temporary access construction and or widening, or any operations involving the use of motorised vehicles or construction machinery) until a detailed Construction Specification/Method Statement for the construction of the cycle storage has been submitted to and approved in writing by the Local Planning Authority. This should provide for the long-term retention of the trees. No development or other operations shall take place except in complete accordance with the approved Construction Specification / Method Statement. **Reason:** To protect the trees which are to be retained on the site in the interest of the visual amenities of the area and to comply with policies QD1 and QD16 of the Brighton & Hove Local Plan.

Note: Councillors: Carden, Ken Norman and Carol Theobald were not present during the consideration and vote on this application.

F. BH2013/00162 - Plinth, Kings Esplanade, Hove - Full Planning Permission

Erection of stone clad plinth with surrounding paving at base, incorporating lighting scheme set flush in ground & on plinth for use to display sculptures & art.

Presentation from Officer(s)

- (1) The Area Planning Manager introduced the application and gave an introduction by reference to plans, photographs and elevational drawings. The proposals were for a plinth to exhibit art pieces that would change periodically. The plinth would have stone cladding; with granite sets and appropriate up-lighters. The actual height of the plinth would approximately the height of the beach huts.

Questions for Officers, Debate and Decision Making Process

- (2) It was confirmed for Councillor Cobb that the plinth would have a suitable anti-graffiti treatment. Officers also noted that they could add an informative in relation to relocation of a nearby waste bin.
- (3) It was confirmed for Councillor Gilbey that the permission was just for the plinth; pieces of art would each need to be the subject of separate applications, and these would be either be delegated or committee decisions based on the number of representations.
- (4) Councillor Hawtree noted he welcomed the application.
- (5) A vote was taken and planning permission was unanimously granted.

192.6 **RESOLVED** – That the Committee has taken into consideration and agrees with the reason for the recommendation, and the policies and guidance set out in the report and resolves to **GRANT** planning permission subject to the Conditions and Informatives set out in the report, and the amended informative set out below.

- i. **Amended Informative 2. to read:**
The applicant is reminded that the display of structures and works of art upon the plinth hereby approved is operational development and that separate Planning Consent will be required either individually or for a programme of display.

Note: Councillors Bowden, Carden, Ken Norman and Carol Theobald were not present during the consideration and vote on this application.

G. BH2012/03252 - 150 Ladies Mile Road, Brighton - Full Planning Permission

Demolition of garage and outbuilding in garden to North side of existing bungalow and erection of new two storey detached dwelling.

- (1) A vote was taken and planning permission was granted on a vote of 8 in favour and 1 against.

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

Note: Councillors Carden, Ken Norman and Carol Theobald were not present during the consideration and vote on this application.

H. BH2012/02173 - 39 Upper Gardner Street, Brighton - Full Planning Permission

Change of use from retail (A1) to café (A3) on lower ground, ground and first floors and retrospective change of use from café (A3) to office (B1) on second floor and replacement of ground floor sliding doors and fenestration above.

Presentation by Officer(s)

- (1) The Area Planning Manager introduced this application and gave a presentation by reference to plans, photographs and drawings. It was also noted that the 'Argus' (a local newspaper) had incorrectly reported that Councillor West had objected to the scheme. The premises was a converted warehouse where the previous business had failed, and the principle of the loss of employment was already in place. The application proposed office space on the second floor, and a café on the ground and first floors with ancillary use in the basement, more appropriate traditional entrance doors would be installed at the front. The loss of the retail space was not contrary to policy and the site was not located within the regional shopping centre. The application gave more flexibility and was recommended for approval for the reasons set out in the report.

Questions for Officers, Debate and Decision Making Process

- (2) It was confirmed for Councillor Robins that the application sought to align the hours of activity with the premises licence, and no vertical drinking was to be permitted at the premises.
- (3) Councillor Jones expressed a concern about noise, and noted the premises had previously been a deli; Officers considered there were appropriate controls of noise in the licence.
- (4) Councillor Davey stated that the use was inappropriate, and the previous business had failed due to the inappropriate location.
- (5) A vote was taken and planning permission was granted on a vote of 8 in favour with 1 against.

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

Note: Councillors Carden, Ken Norman and Carol Theobald were not present during the consideration and vote on this application.

I. BH2012/04042 - 121-123 Davigdor Road, Hove Full Planning Permission

Change of Use of part of car park to hand car wash (Retrospective).

- (1) It was noted that this site had formed the subject of a site visit prior to the meeting.

Presentation from Officers

- (2) The Area Planning Manager introduced the application and gave a presentation by reference to photographs, and plans, attention was also drawn to the officer's report and the recommendation that temporary consent be limited to one year. It was noted that the car wash was already in operation and the application was retrospective. It was also noted that at the site visit it had been apparent that the activities were going on beyond the extent of the red line in the plans. There was also an existing

enforcement notice in respect of the canopy, but this unauthorised canopy was not part of the application. The 1 year consent was considered proportionate to assess the traffic and amenity impact.

Public Speakers and Questions

- (3) Mr Barnes spoke in opposition to the application in his capacity as a directly affected party. He stated he was a local trader and he and his staff used the retail park and noted the problems created by the car wash which made the area dangerous for pedestrians and cyclists. There was doubt expressed that the applicant would abide by planning conditions as the car wash had been in unauthorised operation for 2 years, and was operating outside of the proposed area; there was also a van used on the site for storage of materials. The operation of the car wash caused congestion, and sometimes created long queues to enter the site.
- (4) Councillor Davey asked for more information on the impact, and in response Mr Barnes explained that it impacted upon other people trying to use the retail park to the extent that it could take 15 – 20 minutes to gain access to the site.
- (5) Mr Collins spoke in support of the application on behalf of the applicant. He stated that the car parking spaces were available to be used as they had previously been used in conjunction with the adjoining office block; however, since a change of use at that premises only 4 of the spaces were required, freeing up the rest of the parking. As covered in the report sustainable transport had no objection to the use of spaces as they were surplus to requirement, and the applicant refuted the claims that the operation of the business caused increased congestion, or impacted on Davigdor Road. There was no policy objection, and the applicant was willing to accept the permission for one year.
- (6) Following a query from Councillor Robins it was explained by Mr Collins that he could not say for certain how many days each week the car wash operated.
- (7) Councillor Hawtree asked for information on why operation was taking place outside of the red line on the plans. In response Mr Collins explained that he was asked to proceed with the application within this line, and it would be necessary to monitoring the operation if granted.
- (8) Mr Collins confirmed for Councillor Gilbey that there were 20 unused spaces in the car park, but the application area requested the use of 8. Following a further query from Councillor Hyde it was confirmed the applicant leased the 8 spaces.
- (9) Councillor Hawtree asked if there was any arrangement with the use of the 'Wickes' (a nearby hardware supplier) car park, and in response Mr Collins said he was not able to comment.
- (10) Following a query from Councillor Carol Theobald it was explained that staff at the car wash were able to use the restroom facilities in the office block.

Questions for Officers

- (11) The Area Planning Manager confirmed that the hours of operation in the refused 2011 application were 08.00 to 18.00, and there was a leaflet on the case file with advertised 08.00 to 18.30 seven days a week.
- (12) It was confirmed for Councillor Hyde that the applicant had been operating since the 2011 application was refused.
- (13) In response to queries from Councillor Bowden it was explained that the canopy was the subject of a separate planning enforcement action and not part of this application, and the loss of the parking on the site had been alleviated through the change of use of the office building. In these circumstances Officers had not indentified any material impact through the application, and there would no grounds to refuse an application on the basis it was retrospective or that part of the site was the subject of an enforcement notice.

Debate and Decision Making Process

- (14) Councillor Hyde noted that the site had been operating since 2011, and at the site visit it had been clear that the car wash was operating outside of the proposed area. She expressed concern in relation to the proper management of the site, and said she could not support the Officer recommendation.
- (15) Councillor Cobb echoed the comments made by Councillor Hyde, and expressed concern that the Committee could be minded to grant an application that would not be true reflection of the operation of the site.
- (16) Councillor Davey suggested that an additional condition be added, if granted, in relation to the hours of operation.
- (17) Councillor Bowden stated that he lacked confidence in the management plan.
- (18) Councillor Gilbey noted that she had reservations, but on balance she agreed that the Officer recommendation was appropriate, and she would support the application.
- (19) Councillor Carol Theobald stated that it was difficult to have faith that the site would be operated in line with the permission if granted.
- (20) Councillor Mac Cafferty noted that no pre-determination should be made on the application in relation to either the separate enforcement notice or the retrospective nature of the application; he echoed comments made by Councillor Gilbey, and stated he would support the Officer recommendation and seconded Councillor Davey's proposal to regulate the hours – suggesting they be 08.00 to 18.00.
- (21) The Deputy Development Control Manager endorsed the comments of Councillors Gilbey and Mac Cafferty, and stated that, if granted, any activity outside of the red line would be the subject of potential enforcement action.
- (22) Councillor Carden noted he agreed with the comments made by both Councillors Gilbey and Mac Cafferty.

(23) A vote was taken and planning permission was granted on a vote of 7 to 3 with 1 abstention.

192.9 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation, and the policies and guidance set out in the report and resolves to **GRANT** planning permission subject to the Conditions and Informatives set out in the report, and the additional condition set out below:

- i. The use hereby permitted shall not be open to customers except between the hours of 08.00 and 18.30 each day.
- ii. **Reason:** To safeguard the amenities of the locality and to comply with policy QD27 of the Brighton & Hove Local Plan.

J. BH2013/00254 - Land to South of 32 Cambridge Grove, Hove - Full Planning Permission

Erection of 1 no. 3 bedroom dwelling.

Presentation from Officer(s)

- (1) The Area Planning Manager introduced the application and gave a presentation by reference to plans, photographs and elevational drawings. There were listed buildings in the immediate vicinity of the application site, and there was a detailed planning history of applications for dwellings on this site. The proposals were for a 2 storey building that would be sunken to give the impression of a single storey dwelling from the road frontage; the living accommodation would be on the ground floor with the bedrooms on the lower ground floor. It was noted on the elevational drawings that there was a fence that had been erected along the boundary wall without planning permission. The application also included a sedum roof, and it also noted there would be mutual overlooking between the proposed dwelling and the neighbouring building. Officers had concerns in relation to the loss of the historic gap, and although the applicant had sought to reduce the bulk of the dwelling, it was considered it would relate poorly to the wider area, and create a loss of character to the Conservation Area. The development itself would be overbearing, and result in a cramped form of development. Concerns had also been expressed in relation to the green wall, and how it would be maintained, and the dwelling would not comply with code level for sustainability. The application was recommended for refusal for the reasons set out in the report.

Public Speakers and Questions

- (2) Mr Phillips spoke in support of the applicant in his role as the architect. He stated that there was support for the scheme from 10 neighbours who felt it would enhance the area; there was also no objection from Environmental Protection or CAG. He felt this related well to the NPPF as it was the effective use of brownfield site, and he felt the position of the Heritage Officer was contrary to the advice of the appeal inspector. It was unlikely the scheme would result in a loss of light, and it would not overlook any of the neighbours as the house would only be 2.7 metres above ground level.

- (3) Following a query from Councillor Davey it was confirmed by Mr Phillips that it was his view the site was brownfield.
- (4) In response to Councillor Davey it was explained by Mr Phillips that his company had local experience of planting and maintaining green walls and roofs.

Questions for Officers

- (5) The Area Planning Manager noted that the planning authority were of the view that the site was greenfield, and, as such, would ask for code level 5 for sustainability.
- (6) Following a query from Councillor Mac Cafferty it was noted that Officers believed there were buildings in the gap as the other end of the terrace on Cambridge Grove, but this had been part of the original development of the whole mews. and it had been the position of the Council to resist development on this site for a number of years due to the preservation of the gap in the Conservation Area.
- (7) Councillor Bowden noted that the site currently looked derelict and was minded to take the applicant's view that it was a brownfield site.
- (8) Councillor Hawtree suggested that the item be deferred to allow a site visit to take place.

192.10 **RESOLVED** – That the application be deferred to allow a site visit to take place.

K. BH2013/00500 - 119 Portland Road, Hove - Full Planning Permission

Erection of 1no. three bedroom dwelling house.

- (1) It was noted that this application had been the subject of a site visit prior to the meeting.

Presentation from Officer(s)

- (2) The Area Planning Manager introduced the application and gave a presentation by reference to photographs plans and elevational drawings. The application sought to infill the garden, and retain a small forecourt for the attached building; the building would be set in from the rear boundary. The application would require the removal of an attractive bay window; the loss of a terrace area, and the removal of plant/equipment to a less suitable location. The proposed dwelling would be a 2 storey, flat roof building, and gave the impression of a squat building that would be inappropriate with the surrounding area. There would be no windows in the east elevational, and therefore no concern in relation to overlooking. Officers were concerned that this development would impact of the neighbouring buildings, and create a heightened sense of enclosure – especially in the neighbouring garden. It was acknowledged that this was an efficient use of the gap, but any proposal had to be appropriately contextual, and it was felt the proposed did not relate well. There would be harm through: the relocation of the plant equipment and impact of the neighbouring amenity, and the proposed garden size was considered to be inadequate. For the reasons set out in the report the application was recommended for refusal.

Public Speakers and Questions

- (3) Councillor Cox spoke in his capacity as the Local Ward Councillor. He stated that an extension had been built in the past for the popular convenience store, but the viability of the store had been undermined since permission had been granted for a nearby 'Sainsburys'. He had canvassed local views about the application and found that the majority of residents were in favour of the scheme; the scheme would be appropriate for the area. There was an acceptance of the impact on the amenity of the neighbouring property, but the design had been such to help mitigate this. Councillor Cox asked the Committee to support the application.
- (4) In response to Councillor Hawtree it was explained by Councillor Cox that the gap had been lost in the property across the road.
- (5) Mr Lumba spoke in support of the application in his capacity as the applicant. He stated that he was the owner of the adjoining building and had lived there for 25 years, and his business had been affected since the opening of the 'Sainsburys'. He noted that similar designs had been constructed in the area, and the design attempted to echo the surrounding area. Every effort had been made to prevent impact, and the design had been set in at the rear. The design was not unsympathetic, and would not stand out more than any other building, and there were letters of support from neighbours. The proposals would provide good family accommodation; close to local amenities.

Questions for Officers

- (6) In response to Councillor Mac Cafferty the footprint of both the proposed dwelling and the existing building were given.
- (7) Councillor Bowden asked if there were any windows overlooking from the neighbour on Rutland Road, and it was confirmed there were none, the building would be set up against the boundary and the affected property had submitted a letter of objection.
- (8) It was confirmed for Councillor Hawtree that there would be a garden at the ground floor and a terrace at the first floor.
- (9) Using photographs it was confirmed for Councillor Mac Cafferty the potential impact on the street scene.
- (10) In response to Councillor Gilbey it was explained that the existing yard for the shop would be lost in this application, and Officers were concerned about this loss.

Debate and Decision Making Process

- (11) Councillor Cobb stated that she felt sympathy for the applicant in relation to impact on his business, and the design was quite fitting and matched the previous extension. It was confirmed by Officers that they considered the loss of light was significant to cause material harm, and it was considered the proposals were unneighbourly.

- (12) Councillor Jones noted that he felt the application fitted with the street scene, but he noted the impact on the neighbouring garden and stated he would support the officer recommendation.
- (13) Councillor Mac Cafferty stated that he was not convinced that the design was compelling.
- (14) A vote was taken and planning permission was refused on a vote of 6 in favour with 2 abstentions.

192.11 **RESOLVED** - That the Committee has taken into consideration and agrees with the reasons for the recommendation, and the policies and guidance set out in the report and resolves to **REFUSE** planning permission for the reason set out below.

- i. The proposed dwelling, by virtue of its design, scale and siting, relates poorly to the adjacent properties and to the host property and would stand out in the street scene as an incongruous and unsympathetic addition. The proposed dwelling is therefore considered overdevelopment of the site and would look out of character with the existing residential development in the area. For this reason the development is contrary to policies QD1, QD2, QD3 and HO4 of the Brighton & Hove Local Plan which seek to ensure that new developments emphasise and enhance the positive qualities of the local neighbourhood.
- ii. The scheme proposes relocating existing plant to the side elevation of the property fronting Rutland Road and the removal of one of the rear first floor windows. These alterations would significantly detract from the appearance of the host property and would stand out in the street scene as unsympathetic alterations. The scheme is therefore considered contrary to policies QD1 and QD14 of the Brighton & Hove Local Plan.
- iii. Due to the position and bulk of the proposed dwelling, the proposal would result in a significant loss of outlook, light and a heightened sense of enclosure to the residents of 117A Portland Road. The proposal would therefore lead to an unacceptable material loss of amenity and is contrary to policies QD14 and QD27 of the Brighton & Hove Local Plan.
- iv. The scheme does not include suitably sized outside private amenity areas which would be appropriate for a family sized dwelling. The scheme is therefore considered contrary to policy HO5 of the Brighton & Hove Local Plan.
- v. The ground floor bedroom would suffer severe lack of privacy or have limited light and outlook if blinds or curtains were constantly drawn to the window serving the bedroom in order to maintain privacy. The lounge area also has limited outlook and light with one window facing south. Having regard to the above, the scheme is deemed to result in an inappropriate standard of accommodation and is contrary to policies SU2, QD2 and QD27 of the Brighton & Hove Local Plan.

Informatives:

i In accordance with the National Planning Policy Framework the approach to making a decision on this planning application has been to apply the presumption in favour of sustainable development. The Local Planning Authority seeks to approve planning applications which are for sustainable development where possible.

Note: Councillors Carden, Davey, Ken Norman and Carol Theobald were not present during the discussion and vote on this application.

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

193.1 **RESOLVED** – That the following site visits be undertaken by the Committee prior to determination of the application:

Application:	Requested by:
Application J: BH2013/00254 Land to South of 32 Cambridge Grove, Hove	Councillor Hawtree

194. APPEAL DECISIONS

194.1 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.

195. LIST OF NEW APPEALS LODGED WITH THE PLANNING INSPECTORATE

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

196. INFORMATION ON INFORMAL HEARINGS/PUBLIC INQUIRIES

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

197. INFORMATION ON PRE APPLICATION PRESENTATIONS AND REQUESTS

197.1 The Committee noted the position regarding pre application presentations and requests as set out in the agenda.

198. LIST OF APPLICATIONS DETERMINED UNDER DELEGATED POWERS OR IN IMPLEMENTATION OF A PREVIOUS COMMITTEE DECISION (INC. TREES MATTERS)

198.1 That the Committee notes the details of applications determined by the Executive Director, Environment, Development and Housing under delegated powers.

[Note 1: All decisions recorded in this list are subject to certain conditions and reasons recorded in the planning register maintained by the Executive Director, Environment, Development and Housing. The register complies with legislative requirements.]

[Note 2: A list of representations received by the Council after the Plans List reports had been submitted for printing was circulated to Members on the Friday preceding the meeting. Where representations are received after that time they should be reported to the Chair and Deputy Chair and it would be at their discretion whether they should in exceptional circumstances be reported to the Committee. This is in accordance with Resolution 147.2 of the then Sub Committee on 23 February 2006.]

The meeting concluded at 8.27pm

Signed

Chair

Dated this

day of