

BRIGHTON & HOVE CITY COUNCIL

PLANNING COMMITTEE

2.00pm 8 OCTOBER 2014

COUNCIL CHAMBER, HOVE TOWN HALL

MINUTES

Present: Councillors Mac Cafferty (Chair), Jones (Deputy Chair), Hyde (Opposition Spokesperson), Carden (Opposition Spokesperson), Cox, Davey, Hamilton, Littman, Phillips, Pissaridou, C Theobald and Wealls

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

Officers in attendance: Jeanette Walsh (Head of Development Control); Nicola Hurley (Area Planning Manager); Sue Dubberley (Senior Planning Officer); Paul Earp (Planning Officer); Pete Tolson (Principal Transport Officer); Steven Shaw (Transport Planning Officer); Greg Minns (Environmental Health Officer) Hilary Woodward (Senior Solicitor) and Penny Jennings (Democratic Services Officer).

PART ONE

74 PROCEDURAL BUSINESS

74a Declarations of substitutes

74.1 Councillor Wealls was present in substitution for Councillor Wells. Councillor Pissaridou was present in substitution for Councillor Gilbey.

74b Declarations of interests

74.2 Councillor Hyde stated that in common with other Members she had received correspondence from the applicants in respect of application (B), BH2013/03930, Bowling Green, Dyke Road Park, Dyke Road, Hove, confirming that she remained of a neutral mind.

74.3 Councillor Cox referred to application (G), BH2014/01956, Land to rear of 28 Eastern Place, Brighton, stating that the agent was his brother in laws brother with whom he had no regular contact confirming that he remained of a neutral mind.

74c Exclusion of the press and public

74.4 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.

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

74d Use of mobile phones and tablets

74.6 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 'aeroplane mode'.

75 MINUTES OF THE PREVIOUS MEETING

75.1 **RESOLVED** – That the Chair be authorised to sign the minutes of the meeting held on 17 September 2014 as a correct record.

76 CHAIR'S COMMUNICATIONS

76.1 There were none.

77 PUBLIC QUESTIONS

77.1 There were none.

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

78.1 There were none.

79 TO CONSIDER AND DETERMINE PLANNING APPLICATIONS

A **BH2013/03793 - 11B (Former Ice Rink) and 11 Queen Square, Brighton - Full Planning** -- Demolition of former Ice Rink and number 11 Queen Square and erection of a 5no storey building providing 31no residential units (C3) and office use (B1 or A2) at lower ground floor level with associated works.

- (1) It was noted that this application had been the subject of a site visit prior to the meeting.
- (2) The Senior Planning Officer (Sue Dubberley) gave a presentation detailing the constituent elements of the scheme by reference to site plans elevational drawings and photographs showing the site in the context of the residential dwellings in Wykeham Terrace and St Nicholas' Church and its surrounding churchyard and in longer views. Although the site was not located in a conservation area it adjoined the Montpelier and Clifton Hill Conservation Area to the north and west side of the site and was close to and visible from the West Hill Conservation Area. St Nicholas Church was a Grade II* listed building dating from the 14th century, the churchyard also contained a number of historic tombs some of which were also listed.

- (3) A modern five storey building was proposed, at lower ground floor the building would be cut into the gradient as the land slopes upwards towards the application site. The upper floors on the front south elevation had been designed with a vertical emphasis with floor to ceiling glazed windows and balconies and doors with glazed balcony railings. The front elevation incorporated a visual break in the building at ground and first floor levels towards the western end, which would allow a view through to the churchyard. A vertical feature photovoltaic panel spanning four floors was also proposed. The top storey would be set back and has been designed as a glass pavilion with a frameless balustrade surrounding the roof terrace. The front elevation would be white painted render on the upper floors with brickwork and glazing to the ground floor office. Proposed elevational treatment of the rear north, west and east elevations was also detailed.
- (4) Reference was also made to the circulated Additional Representations List and it recommended that if approval was granted Condition 7 be amended to read as follows:
- (5) Notwithstanding the details on the approved drawings, the windows on the west elevation at first, second and third floors shall be obscure glazed to a height of 1.7m above the floor of the room in which the windows are installed and non-opening unless the part of the windows which can be opened are more than 1.7m above the floor of the room in which the windows are installed with bottom hung hinges and thereafter permanently retained as such.
Reason: To safeguard the amenities of the occupiers of the properties and to comply with policy QD27 of the Brighton & Hove Local Plan.
- (6) The main considerations in determining this application related to the principle of development, design and impact on the adjoining Conservation Areas, the adjoining listed buildings, impact on neighbouring amenity, transport and sustainability. There was an extant planning permission for the redevelopment of the site and it was considered that the proposed redevelopment of the site would provide a modern building of an acceptable scale, mass and design. The proposed mixed residential and office use was considered to be appropriate for the location. The residential units, including 6 affordable units, would provide a much needed addition to the city's housing stock. The detrimental impact on some views of the listed terrace, church and adjoining conservation area was considered to be acceptable when balanced against the advantages of an appropriate, well designed scheme, while the taller parts of the building could be seen from some sensitive locations these viewpoints have already been compromised by other tall buildings such that any additional harm caused would be incremental.
- (7) The amenity impact of the increase in scale and mass on adjoining residential properties of the infill development is considered to be acceptable within the context of the form of neighbouring development and surrounding architecture. Therefore the development was recommended minded to grant for the reasons set out in the report.

Public Speakers and Questions

- (8) Ms Diane Moody spoke on behalf of neighbouring objectors living in Wykeham Terrace assisted by Mr Iian Findlay. Ms Moody stated that local residents were extremely disappointed at the extremely negative impact that would result from the proposed scheme. In their view the current scheme was worse than that for which there was an

extant permission, some elements were taller, giving a greater bulk and massing and would be located closer to the properties in Wykeham Terrace. The proposals would have a very negative impact on those dwellings which it would tower above and on the Listed churchyard. The council's own Heritage Team had expressed concerns regarding the scheme.

- (9) Councillor Lizzie Deane in her capacity as a Local Ward Councillor setting out her objections to the proposed scheme. She considered that the height and bulk of the proposed development ran counter to the council's own guidelines and that the reduction in height (1m) of certain elements did nothing to assuage the damage which would be caused overall. Views of St Nicholas churchyard would be compromised and the proposed 60 degree balcony would give rise to severe overlooking. There were no proposals to replace the community facility which had been lost with the closure of the ice-rink and access arrangements for anyone who was wheelchair bound did not appear to have been addressed adequately.
- (10) Mr Paul Zara, the architect for the scheme spoke on behalf of the applicant in support of the proposed development. He explained that the hotel use was no longer considered viable and that the current scheme was considered to be more sympathetic overall, although some of the lower stories were marginally closer to the adjoining properties the upper storeys had been stepped back in order to negate the impact of any overlooking. The windows on the west elevation facing Wykeham Terrace represented an improvement over the approved hotel application as 6 fewer windows were proposed at second and third floor levels. A condition was proposed to ensure that the windows were obscure glazed and non-opening unless the part of the windows to be opened were more than 1.7m above the floor of the room in which the windows were installed.

Questions of Officers

- (11) Councillor Davey sought clarification regarding the implications on daylight particularly to the gardens and rear of the properties in Wykeham Terrace. In answer to further questions it was explained that this was not considered to be significant. The height and proximity of the development to properties in Wykeham Terrace was considered acceptable as the application related to a gap site in a city centre location and the extant permission was for a building of a similar height and mass.
- (12) Councillor Wealls sought clarification as to whether the scheme as as had been suggested was contrary to the council's own policies. If it was at a loss to understand why it was recommended for approval. Reference was made to the existing extant permission and to the fact that the proposed density and mix of unit sizes was considered appropriate.
- (13) In answer to further questions by Councillor Wealls regarding the levels of direct sunlight to the rear of the properties in Wykeham Terrace. It was explained that it was considered that the impact of this scheme would be similar to that for the existing.
- (14) Councillors Hamilton and Jones asked for clarification whether the affordable units would be available to rent or as shared equity (part rent-part buy). It was confirmed that the details of these arrangements had yet to be finalised, the District Valuer had requested that a condition be added to any permission granted.

- (15) Councillor Pissaridou sought clarification regarding the distance between the proposed development from the churchyard and the extent to which the second and third floors of the proposed development would be set back. Councillor Pissaridou sought confirmation whether the existing permission could be built, it was confirmed it could and also asked whether/when it would lapse.

Debate and Decision Making Process

- (16) Councillor Hyde stated that she considered that the extant permission was relevant and did not consider that overall it would give rise to more significant harm than the earlier scheme. Notwithstanding the complexities of the site she considered the current scheme was appropriate and included some improvements on the previous one.
- (17) Councillor C Theobald stated that she was concerned that although re-configured so that some of the scheme had been reduced in height, she considered it regrettable that it was closer to Wykeham Terrace and that some elements were higher. Councillor Theobald also sought confirmation of the location of the wheelchair accessible units within the development and the location of the disabled and motor cycle parking bays. The Principal Transport Planning Officer (Pete Tolson) explained that the disabled bays located in the north east corner of the square would be retained, the applicants would be required to enter into a S278 agreement in respect of the other elements. Councillor Theobald stated that she did not consider it acceptable that no on-site parking would be provided.
- (18) Jim Gowans (CAG) referred to the objections by CAG to the scheme. Whilst supportive of the development of offices and flats they considered the proposed design was poor and failed to respect the architecture of the nearby buildings. They also believed that the building was too high and questioned the need to provide west facing windows which would overlook Wykeham Terrace.
- (19) Councillor Littman stated that the scheme was complex and that he found it very difficult to read in the context of the neighbouring dwellings and churchyard, he was also concerned that the proposed development would give rise to a greater degree of overlooking.
- (20) Councillor Hamilton stated that he not supported the previous application and was concerned that the current application would have a worse detrimental impact particularly on the amenity of the neighbouring dwellings in Wykeham Terrace. He considered that the height of the proposed development would result in overshadowing and significant loss of light.
- (21) Councillor Pissaridou stated that whilst aware that weight needed to be given to the existing permission she had concerns about the proximity of the proposed scheme both to the listed churchyard and the dwellings in Wykeham Terrace and sought further clarification regarding exactly what had been given approval already. This was done by reference to diagrams showing the front elevation of the approved hotel development and showing views of St Nicholas' Churchyard. It was explained that the overall bulk had been settled by the previous application.

- (22) A vote was taken and the application was refused on a vote of 6 to 5 with 1 abstention. A recorded vote was then taken and the reasons for refusal are set out below.
- 80.1 **RESOLVED** - That the Committee has taken into consideration the recommendation set out in section 1 of the report but is however of the view that planning permission should be **REFUSED** on the following grounds:
- (1) The proposed development would result in more than substantial harm to the setting of the listed St. Nicholas Church and the listed Wykeham Terrace by reason of its bulk, scale and massing contrary to policy HE3 of the Brighton & Hove Local plan 2005;
- (2) The proposed development would result in a scheme with direct adverse visual harm within the Montpelier and Clifton Hill Conservation Area by reason of its bulk, scale and massing contrary to policy HE6 of the Brighton & Hove Local plan 2005; and
- (3) The proposed development would result in an unacceptable loss of amenity to residents of the adjoining Wykeham Terrace by virtue of its close proximity and massing resulting in a loss of light and increased sense of enclosure contrary to policy QD27 of the Brighton & Hove Local plan 2005.

Note1: A vote was taken and planning permission was refused on a vote of 6 to 5 with 1 abstention.

Note 2: A recorded vote was then taken on the grounds for refusal set out above proposed by Councillor Littman and seconded by Councillor Wealls. Councillors Hamilton, Littman, Phillips, Pissaridou, C Theobald and Wealls voted that planning permission be refused. Councillors Mac Cafferty, (the Chair) Carden, Cox, Hyde and Davey voted that planning permission be granted. Councillor Jones abstained. Therefore planning permission was refused on a vote of 6 to 5 with 1 abstention.

B BH2013/03930 - Bowling Green, Dyke Road Park, Dyke Road, Hove - Full Planning - - Change of use of Bowling Green (D2) to open air theatre (sui generis) with associated alterations including landscaping and erection of acoustic wall.

- (1) The Planning Officer (Paul Earp) gave a presentation detailing the proposed scheme by reference to diagrams site plans and indicatives. Copies of the previous minutes had been circulated for ease of reference. The Development Control Manager stated that the previous application was deemed to be deferred pending completion of the noise assessment. The comments of Environmental Health in relation to the assessment were set in paragraphs 5.9-5.14 of the report.
- (2) Members were reminded that the application related to the former bowling green which was located to the south west corner of Dyke Road Park. The green was a flat piece of land with vegetation around the side and rear boundaries. The site was accessed from the Rose Garden. High fencing ran along the front of the bowling green and the gate was currently locked preventing any access to the space. The existing redundant bowling green had an area of 1444m² and the wider site, including the adjacent hut and surrounding landscape, added a further 667m² giving the application site a total area of 2111m².

- (3) It was noted that the applicant had submitted a letter requesting amendments to the proposed planning conditions and removal of the S106 transport payment as set out in the Late Representations List and below: (the applicant's rationale in requesting these changes was set out in the Late Representations List)
- To remove the requirement for a Section 106 Contribution of £26,250 together with the associated Travel Plan and monitoring framework;
 - Condition 3 – Amend to allow events to finish at 10pm as originally proposed,
 - Condition 4 – Amend to allow up to 22 events per month;
 - Condition 5 – Amend to allow up to 6 events per week;
 - Condition 8 – Amend to allow up to 5 amplified events per week, whilst noting that there would still be an overarching Condition 7 limiting amplified events to 28 each year. The applicants had stressed that amplified events would be limited to theatre/live screenings etc.; and
 - Condition 11 – The applicants believed that this condition had been included in order to prevent firework displays, and were requesting that it be amended to state “no firework displays.” Stage pyrotechnics formed an integral part of some performances.
- (4) The Officer response was that following deferment of the application a Noise Assessment had been submitted which had examined the impact of the proposed use on the residential amenities of neighbouring residents. The proposed conditions were considered necessary to safeguard residential amenity and could be reviewed once the venue was operational. The S106 was intended to provide a contribution towards providing pedestrian and cycle improvements on Dyke Road and considered necessary to provide for the impact generated by the proposed use.
- (5) The Chair stated that that in view of the amendments requested by the applicants he proposed that during the debate the Committee should first give consideration to whether or not they wished to remove the requirement that the applicant enter into a S106 agreement and then subsequently to consider each of the proposed conditions in turn in order to agree either the conditions recommended in the report or the proposed amendments. Councillor Jones and Littman concurred that this represented the most appropriate way forward and other Members of the Committee confirmed their agreement.

Questions for Officers

- (6) In answer to questions it was explained that should use of the area as an open air theatre cease in the future the area would be re-instated.
- (7) Councillor Wealls enquired regarding the decision taken at the meeting of the Environment, Transport and Sustainability Committee the previous evening in relation to transport measures proposed for the Dyke Road area. The Principal Transport Officer (Steven Shaw) stated that these related primarily to proposed cycle lane facilities and

were separate from the issues to be considered in relation to this site. Applicants were required to contribute towards measures to mitigate any material impact that could result. If the venture was successful it would undoubtedly have a material impact on the highway due to an increase in trip generation. It was important to note however that the contribution was required pro-rata over a five year period; if the theatre did not result in that level of movements then the applicants would not be required to pay anything.

- (8) Councillor Littman sought clarification regarding proposed times at which performances should cease. It was explained that noise from performances or those leaving an event would be more audible after a time at which traffic noise dipped. Whilst some types of noise might not be noticeable through traffic noise, some would be very noticeable when traffic levels dropped. Crowd noise, for events finishing after 10.00pm were likely to be above ambient and background noise levels and could therefore give rise to nuisance. The conditions proposed were intended to give the applicants flexibility when arranging events whilst avoiding nuisance.
- (9) In answer to questions regarding lighting it was explained that this would be brought in for each performance and removed at the conclusion of each run of productions. It was noted that the existing hut would be used as a dressing room and for storage between performances.

Debate and Decision Making Process

- (10) Councillor Wealls stated that he considered it inappropriate for the applicants who were a charity to pay towards works which it appeared the Council was intending to fund in any event.
- (11) Councillor Cox expressed his agreement with the views put forward by Councillor Wealls.
- (12) Councillor Davey stated that whilst inclined not to require the applicant to enter into a S106, he did however consider that they should take responsibility for managing any additional traffic movements arising. It was appropriate for a condition to be added to any permission requiring them to provide a travel plan. The site was not the most easily accessible by public transport, especially in the evening and it was likely therefore that it would generate some additional traffic.
- (13) Councillor Phillips stated that on the face of it, it did not seem unreasonable to require a S106 contribution unless/until a trigger figure was reached.
- (14) Councillor Hyde stated that she thought the Brighton Open Air Theatre (BOAT) proposals represented an exciting opportunity which would improve the cultural offer available in the city. They were a local charity and in her view should be supported, if they were unable to proceed because conditions proposed were too onerous, that would be unacceptable.
- (15) Councillor Hamilton stated that he did not understand why the issue of whether or not the applicant should make a S106 contribution was being revisited. Members had been clearly (and unanimously) of the view when they had discussed the application at their meeting on 2 April 2014 that they did not consider it appropriate for a S106 contribution

to be sought. He remained of the view that numbers at the site would be relatively low and did not agree with S106 contributions or the proposed payment triggers, this was a very worthwhile scheme, he did not agree that debate about this should be re-opened

- (16) Councillor Cox agreed expressing the same concerns set out by Councillor Hamilton. He considered that the Council should be doing its utmost to facilitate this type of activity and remained of the view that S106 contributions should be waived.
- (17) The Development Control Manager (Jeanette Walsh) explained that as the application had been withdrawn pending receipt of a detailed noise assessment, the application needed to be reconsidered. Officers remained of the view that it would be appropriate for S106 contributions to be sought and for the recommended conditions to be applied to any permission granted. Members were unfettered in their decision making and could form a different view. The Legal Adviser to the Committee (Hilary Woodward) concurred.
- (18) Councillors Jones and Littman stated that they considered that Officers had followed the proper procedures in bringing issues relating to the proposed S106 to their attention whilst agreeing that it would be appropriate for Members to consider this and the proposed amendments to conditions put forward by the applicants individually as suggested by the Chair.
- (19) Councillor Pissaridou stated that she regarded the proposal as an imaginative one which should be supported.
- (20) Councillor Littman stated he thought it likely that attendance at performances would be weather dependent, it was likely that they would be more concentrated during certain months of the year (it would be in operation for 5 months), for example in May during the Brighton Festival. It was important that the applicants had the flexibility to do this.
- (21) Councillor Cox stated that he hoped that the facility would be well used by local schools and colleges and Councillor Hyde cited the walled garden in Rottingdean, which was used for outdoor performances and was a much loved and well used by the local community. If this resource became established she felt confident that it was likely to be used in the same way and would be popular with schools and colleges, especially for matinee performances.
- (22) Councillor Littman also stated that he supported a later finish time for events as he did not consider the time requested by the applicants to be unreasonable or that in view of the distance from the nearest dwelling houses that this was likely to give rise to unacceptable levels of noise disturbance. Other Members concurred in that view.
- (23) The Chair stated that he sensed that the mood of the Committee was to remove the requirement for a S106 agreement.
- (24) A vote was taken as to whether the Committee wished planning permission to be subject to a S106 agreement and members voted 10 for with 2 abstentions that the requirement for a s106 planning obligation should be removed, but that the requirement for a Travel Plan to be submitted should be required as a condition.

- (25) Each of the conditions on which amendment had been sought by the applicants was then voted on in turn, with a majority of Members agreeing with each proposed amendment. For ease of reference the conditions as agreed are set out in the resolution below.

Condition 1 – Unchanged, no amendment requested.
 Condition 2 - Unchanged, no amendment requested.
 Condition 3 – As referred to in paragraph (3) above.
 Condition 4 As referred to in paragraph (3) above.
 Condition 5 As referred to in paragraph (3) above.
 Condition 6 – Unchanged, no amendment requested
 Condition 7 - Unchanged, no amendment requested
 Condition 8 – As referred to in paragraph (3) above.
 Condition 9 - Unchanged, no amendment requested
 Condition 10 Unchanged, no amendment requested
 Condition 11 As referred to in paragraph (3) above.
 Conditions 12 to 22 – Unchanged, no amendment requested.

- (26) The applicants had requested amendments to each of the conditions set out below and Members voted on each of them in turn.

79.2 **RESOLVED** – (1) That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in section 11 of the report and the policies and guidance set out in section 7 and resolves to **GRANT** planning permission subject to the Conditions and Informatives, Pre-Commencement Conditions and Pre-Occupation Conditions also set out in section 11 of the report save as amended below:

(2)

Condition 3 (As amended)

No events shall occur outside of the hours of 09:00 to 22:00 Monday to Saturday and 11:00 to 18:00 on Sundays. **Reason:** To safeguard the amenities of the locality and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.

Condition 4 (As amended)

The development hereby approved shall hold a maximum of 22 performances/events per month. **Reason:** To safeguard the amenities of the locality and to ensure that the development has an acceptable impact upon the operation of the transport network and to comply with policies SU10, QD27 and TR1 of the Brighton & Hove Local Plan.

Condition 5 (As amended)

The development hereby approved shall hold no more than 6 events per week. **Reason:** To safeguard the amenities of the locality and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.

Condition 8 (As amended)

The development hereby approved shall hold no more than 5 amplified events per week.
Reason: To safeguard the amenities of the locality and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.

Condition 11 (As amended)

There shall be no firework displays involved in any events.

Reason: To safeguard the amenities of the locality and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.

New Condition: Travel Plan

2. That a financial contribution to help finance pedestrian and cycle improvements on Dyke Road was not necessitated by the proposed development and the officer recommended s106 planning obligation to secure the same would not therefore be sought.

C BH2014/01523 - 7 Symbister Road, Portslade - Full Planning - Demolition of existing building and erection of a part three/part four storey building to form 9no flats incorporating communal garden to rear and 4no off street parking spaces to the front.

- (1) The Area Planning Manager (Nicola Hurley) gave a presentation detailing the constituent elements of the scheme by reference to photographs of the existing site, plans and elevational drawings.
- (2) The main considerations in determining the application related to the loss of the industrial unit, the design and appearance of the proposed development, impact on residential amenity, standard of accommodation, transport and highway concerns, land contamination and sustainability. It was considered that the proposed development made efficient and effective use of land within the built up area and would enhance the character and appearance of the site and wider area. The development would not have significant impact on amenity through loss of light or privacy, or increased overshadowing or noise disturbance, nor would it create a harmful demand for travel. It was considered that loss of the existing commercial premises had been justified and minded to grant approval was therefore recommended.

Public Speakers

- (3) Mr Julian Panico spoke on behalf of neighbouring objectors setting out their objections to the proposed scheme. He stated that in his view the immediate area had reached saturation point in terms of new development, citing Besson House/Turner House, plus Gordon Mews Offices (30 homes), Gordon Road/Norway Street/ Rothbury Mews (around 30 homes), Panorma House, Vale Road (approximately 40 homes), Vale Park (approximately 40 homes), Portslade Mews, former Infinity Food/ BPP site (approximately 40 homes), now a further 9 properties were proposed which represented over development when seen in the context of the development which had already been built or for which permission existed. The proposed new dwelling houses were completely out of keeping with the appearance of the existing neighbouring development and would result in unacceptable levels of overlooking. There were also grave concerns about additional traffic and parking which would be generated by the

development. Gordon Road and its immediate environs were already a traffic pinch point.

- (4) Mr Richard Mason spoke on behalf of the applicants in support for their scheme. He stated that a great deal of thought had been given to the siting of the dwellings within the site to ensure that existing building lines were maintained and there was an acceptable distance between the new buildings and the existing properties to the rear. The upper floors of the development had been scaled in order to avoid overlooking and all but one of the balconies had been removed in order to address this issue.

Questions of Officers

- (5) Councillor Hamilton sought clarification regarding configuration of the balconies within the proposed development and it was confirmed that two balconies had been deleted from the plans for the frontage of the development. There would be one balcony to the rear. The scheme had originally included balconies to the second and third floor flats but the plans had been amended and these had been replaced with windows to match the rest of the rear elevation.
- (6) Councillor Pissaridou sought confirmation regarding how the development would line up with the frontage of the existing terraced houses.
- (7) Councillor Wealls asked regarding proposed parking arrangements and whether the area fell within a Controlled Parking Zone. The Transport Planning Manager (Steven Shaw) confirmed that the number of parking spaces proposed for development was considered appropriate as it was in line with Supplementary Planning Guidance Note 4 on Parking Standards. The applicant was proposing 4 on-site parking spaces to the front of the property. Councillor Wealls also sought clarification of the distance between the new development and the nearest car club. It was confirmed that two car club bays were located to the north of Portslade Station and that others located in Worcester Villas were a short walking distance from the application site. Councillor Wealls enquired whether any research had been undertaken indicating the level of take up of car club membership. It was explained that no data was available and that, generally, the success of car clubs depended on the other controls in place within an area.
- (8) Councillor Wealls requested details of the distances between the rear of the properties and those located in Franklin Road. He stated that he found it difficult to determine the degree of any potential overlooking from the photographs and other perspectives shown.

Debate and Decision Making Process

- (9) Councillor Hamilton stated that he was unable to support the proposed form of development on a number of grounds. He considered that the number of units proposed would result in increased vehicles and vehicle movements and would generate the need for considerably more parking than would be provided on site, in an area where all of these things were already problematic. The proposed flats constituted over development of the site and would give rise to potential overlooking. His preference would have been for the addition of 3 modest terraced houses which would complete and blend in with the existing terrace.

- (10) Councillor Pissaridou concurred in that view stating that she lived in the area and was aware that there was a shortage of on-street parking. The proposed development would exacerbate existing problems. She also considered that the proposed development was inappropriate in its design and would overwhelm the existing properties in Franklin Road.
- (11) Councillor Cox considered that the site was suitable for small scale terraced housing which would be sympathetic to the existing houses. This scheme sought to cram a lot onto a tight site where there was an opportunity to provide a better scheme than that proposed.
- (12) Councillor C Theobald agreed that it would have been more appropriate to complete the existing terrace. The level of parking was inadequate as she considered that a car parking space per unit should have been provided as a minimum. The car club spaces were not located a short walking distance from the site and she did not consider that the manner in which the proposed parking spaces had been configured at the front of the development was suitable.
- (13) The Chair, Councillor Mac Cafferty stated that there was a dire need for more housing across the city, in his view the proposed development represented an intelligent response to that.
- (14) A vote was taken and Members voted that permission be granted on a vote of 7 to 5.
- 79.3 **RESOLVED** – That the Committee has been taken into consideration and agrees with the reasons for the recommendation set out in section 11 of the report and the policies and guidance in section 7 and resolves that it is **MINDED TO GRANT** planning permission subject to a S106 agreement and the Conditions and Informatives set out in section 11.

D BH2014/01015 - 12 Mallory Road, Hove - Full Planning - Demolition of existing dwelling and erection of five bedroom dwelling, detached outhouse in rear garden and associated works.

- (1) The Area Planning Manager (Nicola Hurley) gave a presentation detailing the scheme by reference to site plans (which included the outbuilding), block plans and elevational and sectional drawings and the roof plan. Reference was made to the letters of objection received from the two Local Ward Councillors.
- (2) The proposed two storey dwelling would replace a lower (existing) chalet bungalow in a street of individually styled two storey dwellings. It was considered that in this location the scale of the proposed dwelling reflected the general scale of development in the area and would add to the diversity of building styles. Conditions were proposed to ensure that the north side wall was painted to reflect light and erection of an obscure panel to the side of the rear terrace and on that basis it was not considered that the proposed development would adversely impact on the amenities of the occupiers of neighbouring properties and approval was therefore recommended.

Questions of Officers

- (3) Councillor Cox requested to see “before” and “after” images showing the current appearance of the dwelling on the site and on completion.
- (4) Councillor Pissaridou enquired regarding the use of the outbuilding and whether permission was required for this use. The Development Control Manager explained that as the outbuilding would be ancillary to the main house and its future use could not be speculated upon and would not constitute grounds for refusal.
- (5) Councillor Hyde contended that if it was intended that the outbuilding would include a shower room, that would not be ancillary to the main house enquiring whether a condition relating to permitted development rights should be added. The Legal Adviser to the Committee (Hilary Woodward), clarified the outbuilding would not be incidental to the main dwelling house, there was a difference between “ incidental” and an “ancillary” use and an appropriate condition should be added to any permission granted to ensure that use of the outbuilding was ancillary to use of the dwelling.
- (6) Councillor Wealls sought clarification whether both of the neighbouring properties would be equidistant from the new development. It was confirmed that one would be closer, however there was adequate spacing between the plots.
- (7) Councillor Hyde enquired regarding the roofline of the proposed development, it was confirmed that it would have a gable rather than a pitched roof. Councillor C Theobald enquired whether the proposed development would be higher than its neighbours. It was confirmed that it would be higher than number 10 but not number 14.

Debate and Decision Making Process

- (8) Councillor Hyde stated that she considered the proposed roof slope would be inappropriate particularly as it would be metal clad, considering that would be completely out of keeping with the neighbouring dwellings and the prevailing street scene.
- (9) Councillor C Theobald concurred stating that she considered it regrettable that it was proposed to replace the existing dwelling. She considered the building currently on site to be of more sympathetic appearance with its neighbours than the proposed form of development.
- (10) A vote was taken and of the 11 Members present when the vote was taken planning permission was granted on a vote of 9 to 2.

79.4 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in section 11 of the report and the policies and guidance in section 7 and resolves to **GRANT** planning permission subject to the Conditions and Informatives set out in section 11.

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

E **BH2014/00645 - 15 Upper Rock Gardens, Brighton - Full Planning** –Erection of 1 no two storey one bed house to side/rear of 15 Upper Rock Gardens.

- (1) It was noted that this application had been the subject of a site visit prior to the meeting.
- (2) The Area Planning Manager (Nicola Hurley) gave a presentation showing site plans and drawings showing the existing and proposed elevations and the differences between the previously refused application. It was noted that listed Building consent had already been given to erect a 1no two storey one bed roomed house to the side and rear of 15 Upper Rock Gardens. This was a tandem application in conjunction with the listed building application which was still under consideration.
- (3) It was explained that the main difference between this and the previously refused scheme, which had been dismissed on appeal, was the alteration to the roof, which by reducing the massing to the rear now had less effect on the adjacent buildings. The proposed roof now sloped away from the property to the rear and it was considered that this amendment would overcome the inspector's concerns that the siting of the development would impair the outlook and enjoyment of the amenity space of the adjoining dwelling.
- (4) Loss of part of the garden had also been cited previously as a reason for dismissing the appeal as it was considered that the host building would be left with insufficient amenity space. In order to address this concern. Amended plans were currently expected indicating a shared space for occupiers of the proposed house the HMO. It was therefore considered that loss of part of the garden was outweighed by the benefit of providing a new residential unit, particularly as some of the garden was to be retained. Many units in the vicinity did not have private amenity space. For these reasons it was considered that the scheme now overcame the previous reasons for refusal and minded to grant approval was recommended.

Debate and Decision Making Process

- (5) Councillor Mac Cafferty, the Chair stated that he fully understood the weight which needed to be attached to the Inspector's previous appeal decision. Therefore, although he felt deeply uncomfortable about the siting, limited floor space of the new dwelling and level of amenity proposed he felt that he had no option but to support the proposed scheme.
- (6) Councillor C Theobald referred to the potential impact of the the proposal on the portico to the Listed Building. However, the Development Control Manager stated that this had been assessed as part of the Planning Inspector's earlier deliberations and had been deemed a later addition which could be removed. Councillor Theobald stated that she was of the view that the proposals were an overdevelopment of the site and as such she could not support them.
- (7) Councillor Hyde stated that she was concerned that the resulting shared amenity space would be inadequate, she was also concerned about the impact of the new building on the portico entrance of the existing building. The proposed building had a very limited floorspace and overall in her view the applicants were seeking to cram too much onto the site and it represented over development.

- (8) A vote was taken and on a vote of 8 to 3 planning permission was granted for the reasons set out below.

79.5 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in section 11 of the report and the policies and guidance in section 7 of the report and resolves to be **MINDED TO GRANT** planning permission subject to the receipt of satisfactory amended plans and the Conditions and Informatives also set out in section 11.

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

F BH2014/00646 - 15 Upper Rock Gardens, Brighton - Listed Building Consent
Erection of 1no two storey one bed house to side/rear of 15 Upper Rock Gardens (LBC).

- (1) A vote was taken and on a vote 8 to 3 listed building consent was granted for the reasons set out below.

87.6 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in section 11 of the report and the policies and guidance in section 7 and resolves to **GRANT** Listed Building Consent subject to the Conditions and Informatives also set out in section 11.

G BH2014/01956 - Land to Rear of 28 Eastern Place, Brighton - Full Planning -
Erection of 1no four bedroom dwelling.

- (1) The Area Planning Manager (Nicola Hurley) gave a presentation detailing the constituent elements of the scheme by reference to site plans, site photographs, floor plans and elevational drawings which showed the differences in ground levels across the site. The principle of the development had been accepted in the two previously refused applications as set out in the report. The lawful use of the site was as a scaffolders yard, which had been in situ for 30 years. The site had been used for storage and distribution but also for repair and maintenance of the scaffolding and as such the site would be classed as a sui generis use, which meant that there was no presumption against loss of employment floorspace. Therefore a residential use would add to the existing housing stock within the city and was considered acceptable.
- (2) The applicant had attempted to address the reasons for refusal by proposing a single residential dwelling on the site and by relocating the development further away from the boundaries of the site and the rear of 28 Eastern Place and by altering the design, detailing and materials.
- (3) The development would make efficient an effective use of the site and would have no significant adverse impact on the character and visual amenity of the site or the wider surrounding area, approval was therefore recommended.

Public Speakers

- (4) Mrs Amanda Godfrey spoke on behalf of neighbouring objectors. Mrs Godfrey displayed visuals of the proposed development (prepared by the objectors).She considered with

its box like cedar cladding would be completely out of keeping with the character and appearance of the neighbouring dwellings and those in the surrounding area. The development would be situated directly adjacent to their homes and was of a height and dimensions such that it would result in overlooking and would have an overbearing impact on their properties. The boundary wall was in Mrs Godfrey's ownership and the applicants would have to erect their own. In view of its previous use it was believed that the site could constitute contaminated land, this did not appear to have been addressed.

- (5) Mrs Lucy Lauener, the applicant spoke in support of her application accompanied by Mr Charles Meloy the architect for the scheme. Mrs Lauener stated that the visuals displayed by the objector contained inaccuracies and in that the proposed form of development had been designed in order provide sustainable family dwelling which would not result in overlooking or be unneighbourly. The development should be considered in the context of the existing site which was an eyesore bearing in mind its previous use. Earlier plans had been amended and only one dwelling house was proposed for the site.
- (6) Councillor Littman sought clarification regarding the appearance of the cladding material proposed. Mr Meloy explained that a proprietary dark timber stain would be applied using a two stage process, this would maintain the materials appearance and protect it from any adverse effects of weathering.
- (7) Councillor Hyde asked why a modern design had been chosen which appeared to have an appearance at variance with that of its neighbours. Mr Meloy explained that the site straddled an area which had two differing architectural styles and in consequence it had been decided to create a simple contemporary building which would sit within its own site.

Questions of Officers

- (8) Councillor Phillips asked to see photographs showing the adjacent dwellings. Councillor Pissaridou also asked to see images of the site in relation to dwellings in the surrounding area. It was confirmed that drawings of the proposed dwelling house were indicative.
- (9) Councillor Littman referred to the reference that had been made in the report which referred to the land as potentially being contaminated and sought clarification as to how this would be addressed. It was confirmed that Condition 5 of the proposed conditions would address this matter and had been added at the request of Environmental Health who had raised no objections.
- (10) Councillor Hyde sought clarification as to the distance between the application site and the neighbouring dwellings.

Debate and Decision Making Process

- (11) Councillor Hyde stated that she had two major concerns in relation to the proposed form of development, the distance between it and the neighbouring dwellings and the in terms of its appearance which she considered to be whimsical and of a design which

was completely inappropriate to its location and would be detrimental to neighbouring amenity.

- (12) Councillor Davey stated that he considered that the site was a big plot, the current application was modest compared to previous applications and represented a good modern design.
- (13) The Chair, Councillor Mac Cafferty stated that whilst design considerations were subjective he considered the proposed form of development represented an innovative design in its own right.
- (14) A vote was taken and planning permission was granted on a vote of 7 to 3 with 2 abstentions.

79.7 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in section 11 of the report and the policies and guidance in section 7 and resolves to **GRANT** planning permission subject to the Conditions and Informatives set out in section 11.

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

80.1 There were none.

81 INFORMATION ON PRE APPLICATION PRESENTATIONS AND REQUESTS

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

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

82.1 That the Committee notes the details of applications determined by the Executive Director Environment, Development & 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 & 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 Chairman and Deputy Chairman 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.]

83 LIST OF NEW APPEALS LODGED WITH THE PLANNING INSPECTORATE

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

84 INFORMATION ON INFORMAL HEARINGS/PUBLIC INQUIRIES

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

85 APPEAL DECISIONS

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

The meeting concluded at 6.35pm

Signed

Chair

Dated this

day of