

BRIGHTON & HOVE CITY COUNCIL

PLANNING COMMITTEE

2.00pm 30 MARCH 2016

THE RONUK HALL, PORTSLADE TOWN HALL

MINUTES

Present: Councillors Cattell (Chair), Gilbey (Deputy Chair), C Theobald (Group Spokesperson), Mac Cafferty (Group Spokesperson), Barradell, Hamilton, Miller, Morris, O'Quinn, Page, Wares and Wealls

Officers in attendance: Paul Vidler (Planning Manager, Major Applications); Jonathan Puplett (Principal Planning Officer); Alison Gatherer (Lawyer) and Penny Jennings (Democratic Services Officer)

PART ONE

161 PROCEDURAL BUSINESS

161a Declarations of substitutes

161.1 Councillor O'Quinn was in attendance in substitution for Councillor Inkpin-Leissner, Councillor Wealls was in attendance in substitution for Councillor Bennett and Councillor Page was in attendance in substitution for Councillor Littman.

161b Declarations of interests

161.2 There were none.

161c Exclusion of the press and public

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

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

161d Use of mobile phones and tablets

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

162 MINUTES OF THE PREVIOUS MEETING

162.1 **RESOLVED** – That the Chair be authorised to sign the minutes of the meeting held on 9 March 2016 as a correct record.

163 CHAIR'S COMMUNICATIONS

Adoption of the City Plan

163.1 The Chair stated that she wished to place on record her delight that the City Plan had been adopted by a unanimous vote at the meeting of Full Council held on 24 March 2016. This document had now taken effect and would be used when considering future applications.

163.2 The Chair also wished to place on record her thanks to Officers and her fellow Councillors who had contributed to the document and had worked so hard to bring it to fruition, and in particular to Councillor Mac Cafferty who had given significant input when Chair of the Committee.

Webcasting of Meeting

163.3 The Chair highlighted that the meeting was webcast live and was capable of repeated viewing.

164 PUBLIC QUESTIONS

164.1 There were none.

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

165.1 There were none.

166 TO CONSIDER AND DETERMINE PLANNING APPLICATIONS

MINOR APPLICATIONS

A BH2015/01562 - 70 Barnett Road, Brighton - Full Planning

Change of use from four bedroom single dwelling (C3) into five bedroom small house in multiple occupation (C4)

(1) The Principal Planning Officer, Jonathan Puplett gave a presentation by reference to plans, photographs and floor plans. It was noted that consideration of the application had been deferred from consideration at the Committee meetings held on 26 August 2015 and 17 February 2016 in order to allow for investigation into alleged unauthorised use of 55, 59 and 61 Barnett Road as Houses in Multiple Occupation (HMO's). Those

investigations had now taken place and it had been established that these properties were not in use as HMO's but as C3 dwelling houses.

- (2) The application sought permission for change of use from dwelling house (C3) to a smaller HMO (C4). Planning Permission was required because the site was located in a ward where an Article 4 Direction applied, restricting the usually permitted change of use between classes C3 and C4. The main considerations in determining the application related to the principle of development; impact on neighbouring amenity and the impact on sustainable transport. It was not considered in view of the small number of HMO's within a 50 metre radius of the site that this change would result in an unacceptable impact on neighbouring amenity. Comments received from neighbours regarding noise, or other amenity issues such as extra litter were noted; should noise for example become an issue in future, as with any residential properties including single dwellings, powers under Environmental Health legislation could be invoked to investigate any potential noise nuisance. For ease of reference slides were shown setting out the wording in relation to HMO's as it appeared in the newly adopted City Plan which set out policy guidance in respect of this issue and constituted a relevant planning consideration.
- (3) It was considered that the proposed change of use was acceptable in principle and would not have a significant adverse impact on neighbouring amenity or the highway network and approval was therefore recommended.

Public Speaker(s) and Questions

- (4) Councillor Hill spoke in her capacity as a Local Ward Councillor setting out her objections to the proposed scheme. Notwithstanding the officer recommendation and investigations carried out, residents were very concerned that there were already a number of HMO's in the area albeit that they were not necessarily on the HMO register. A resident had advised her of another property in use only that day. It was important to seek to ensure that there was not a proliferation of this use within a residential area.
- (5) A letter was read out on behalf of Mr Bolingbroke the applicant (who was unable to be present) in support of his application.

Questions for Officers

- (6) Councillor Barradell enquired regarding the enquiries that had been made to establish whether or not these properties were in use as HMO's. Also, how the percentage of these within a given area was assessed as from her calculations it appeared that the if approved this use would exceed the 10% thresh-hold. Councillor Barradell also enquired regarding the number of noise complaints, if any which had been received in respect of this property and in relation to the area generally. Councillor Gilbey also sought clarification of how the percentage figure for an area was arrived at.
- (7) It was explained that the Policy gave guidance in relation to cumulative impact and that this impact fell within that threshold. Whilst there was no information regarding whether there had been/the number of noise complaints, this would not be a planning consideration per se, as noise could be generated other than via HMO's and could be

addressed through environmental health legislation. Enquiries undertaken followed the prescribed arrangements which included checking extant planning applications for HMO use, whether the property was licensed as an HMO and whether it was occupied by students and therefore exempt from Council Tax, also by visits to the property and making enquiries of neighbours.

- (8) Councillor Morris enquired whether the applicant lived at the property and it was confirmed that he did not and the date at which the family previously in residence had moved out. Councillor Morris also referred to the fact that the application was retrospective and enquired whether the number of people coming and going from the property had indicated an HMO use. It was confirmed that the applicant was not resident at the property and that retrospective applications were considered using the same criteria as any other application. The other issues raised were not germane planning considerations.
- (9) Councillor Wealls also sought further information regarding investigations carried out to ascertain whether or not the other properties cited by residents were operating as HMOs. It was explained that in this instance access had been gained to one of the properties and in the case of the others information from neighbours and that the other checks carried out and referred to had not provided any evidence that these properties were operating as HMOs.
- (10) Councillor Page referred to the recent allegation received by Councillor Hill stating that if that property was found to be in use as an HMO that the threshold for the area would then be exceeded and enquiring whether further interim investigations could be carried out. The Chair stated that it would not be appropriate to further delay consideration of this application, to do so could result in an appeal being lodged for non-determination. Any other alleged use could be investigated on the basis of information provided and needed to be dealt with separately.
- (11) Councillor O'Quinn sought clarification regarding the investigations undertaken as several different addresses in the area had been mentioned in addition to those referred to in the officer report.

Debate and Decision Making Process

- (12) Councillor Barradell stated that she did not consider that the investigations carried out had been sufficiently thorough and was concerned that more in depth investigations should have been undertaken. Councillor Wealls echoed those views.
- (13) Councillor Hamilton considered that in addition to the means of information gathering referred to considering that it would also be appropriate to check whether residents were in receipt of housing benefit and the Electoral Register as if number of apparently unrelated individuals were registered that could indicate that a property was operating as an HMO. A plan indicating the location of other HMOs within the vicinity would also have been helpful.
- (14) Councillor Page stated that he was very concerned that there seemed to be a number of instances of HMO use in the vicinity, also citing the number of letters of objection from residents who were clearly very concerned about this issue. As each application

needed to be considered on its merits he was concerned that their concerns should be taken account of. The Legal Adviser to the Committee, Alison Gatherer confirmed that whilst each application needed to be considered on its merits, the Policy gave guidance and also needed to be given due weight. The Policy needed to be applied consistently across the city and in this instance concerns raised had been investigated in line with the agreed process and had not indicated that the other potential HMOs cited were in use as such.

- (15) Councillor C Theobald stated that in her view this use would give rise to more noise and disturbance in an area where there were already a number of HMOs would therefore be unneighbourly and she would not therefore support it. Councillor Miller concurred in that view.
- (16) Councillor Morris stated that in his view approval of this application would take the number of HMOs above the agreed threshold and he would not therefore support it.
- (17) Councillor Page concurred stating that in his view from the information provided there were enough HMOs operating in the area and sufficient justification for another had not been made.
- (18) Councillor Wares stated that in his view the Policy was clear and it was also clear that the policy had been adhered to and the appropriate investigations made. It was important to apply the policy consistently across the city and to encourage landlords to apply through the planning process. If that was not the case it could result in a further proliferation of unregulated and uncontrolled premises.
- (19) Councillor Mac Cafferty was in agreement. Issues had been raised regarding the depth of investigations carried out, but this application had been processed and investigations carried out consistent with the policy and currently agreed procedures and would expose the authority to risk in the event of an appeal being lodged. It would be hard to provide sustainable reasons for refusal.
- (20) A vote was taken and on a vote of 7 to 3 with 2 Abstentions planning permission was granted.

166.1 **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.

B BH2015/04574 - 14 Portland Villas, Hove - Full Planning

Demolition of bungalow and erection of new detached house (C3) and outbuilding to rear garden.

- (1) The Planning Manager, Major Applications, Paul Vidler, explained that it had been decided that consideration of the application would be deferred in the light of additional information which had come to light earlier that day, and on the basis of which the application would be revisited. Dependant on the outcome of further officer investigations the application would either come back for consideration at a future meeting of the Committee or ,would be dealt with under officer's delegated powers.

166.2 **RESOLVED** – That the position be noted.

C BH2015/03872 - 1 Farmway Close, Hove - Full Planning

Demolition of existing garage and erection of single storey side extension.

- (1) The Principal Planning Officer, Jonathan Puplett gave a presentation by reference to plans, elevational drawings and photographs. The site was situated in a residential cul-de-sac which was characterised by semi-detached dwellings with hipped roofs and side garage extensions. To the side elevation, the application site had an existing angled flat roofed garage extension adjoined to the host property by a parapet wall façade and rendered exterior. The garage currently adjoined the neighbouring garage at no 2 Farmway Close. Additionally, the site had a loft conversion in the form of a hip to gable roof extension, rear dormer and front roof lights.
- (2) The main considerations in determining the application related to the design and appearance of the development, the impact of the development on the residential amenity of neighbouring properties and parking provision. It was considered that the development was of an acceptable design and would not be detrimental to the host property or the street scene. There would be no adverse impact on the residential amenity of neighbouring occupiers, adequate parking would be provided and approval was therefore recommended.

Questions for Officers and Debate and Decision Making Process

- (3) Councillor Baradell referred to an additional letter of representation which had been received referring to the stability of the garage structure. In response to her questions it was clarified that this matter would be subject to a Party Wall Agreement, which would need to be in place prior to commencement of the work but fell outside the remit of the planning regime.
- (4) Councillor Wares enquired regarding the net gain/loss in floor area between the existing garage and the proposed extension. It was confirmed that there would be an overall gain of 2.5sqm. No further issues were raised and the Committee then proceeded to the vote.
- (5) A vote was taken and Members voted unanimously that planning permission be granted.

166.3 **RESOLVED** – That the Committee has taken into consideration and agreed 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.

D BH2015/04563 - 20 Tongdean Avenue, Hove - Full Planning

Demolition of existing house (C3) and erection of 1no five bedroom house.

- (1) The Principal Planning Officer, Applications, Jonathan Puplett gave a presentation by reference to elevational drawings, plans and photographs, highlighting the changes between the previous application refused in July 2015 and the current application. It

was noted that the application related to a detached property situated on the south western side of Tongdean Avenue, which was residential in character. The existing property featured a pitched roof with a two storey front gable extension. In addition, the property featured a dormer window on the roof slope facing No.18 Tongdean Avenue. Tongdean Avenue was characterised by dwelling houses of varying design, form and detailing set within large plots.

- (2) The proposal was to redevelop the site by demolishing the existing house and forming a new detached dwelling in its place. As such the main considerations in determining the application related to the design and appearance of the works and the impact on the character and appearance of the area, the impact of the development on the residential amenity of neighbouring properties, the standard of accommodation and sustainability and transport and highway considerations.
- (3) Whilst it was considered that there was potential to redevelop the site, the proposal as it stood represented an overdevelopment which would be overly dominant of the neighbouring properties when viewed from the rear. The bulk, form and massing of the development so close to neighbouring properties would be oppressive and overbearing particularly to the occupiers of No.18 Tongdean Avenue. The width of the accommodation proposed at second floor level when viewed from the rear had not been substantially reduced. It was noted that the landing and study areas shown on the proposed first floor layout had been set back from the rear elevation, creating a stepped back appearance. However when viewed directly from the rear of the property these elements occupied much of the width of the proposed dwelling, resulting in a dominant appearance which did not appear subservient to the floors below. This dominance was further exacerbated through the large areas of glazing proposed. The formation of balconies on the rear of the site was considered unneighbourly and would provide extensive and elevated views into neighbouring gardens.
- (4) Whilst it was acknowledged that revisions had been made to the previously refused scheme, in order to reduce the bulk of the proposed new dwelling it was not considered that these modifications substantially overcame the previous reason for refusal and refusal was therefore recommended.
- (5) It was noted that the applicant had sent a separate representation to Members of the Committee in support of their application.

Public Speaker(s) and Questions

- (6) Mr Coleman the applicant, spoke in support of his application and was accompanied by his architect Mr Lap Chan. Mr Coleman explained that his family had lived on the site for 11 years and that the application would replace a chalet bungalow which was of little architectural merit, did not respect the topography of the site and which had suffered from a number of unsympathetic extensions over the years with a modern building which was fit for purpose and would provide for his family's needs.
- (7) The building would be of a sympathetic scale and account had been taken of the concerns of neighbours. It should be noted that there was already a degree mutual overlooking between the application site and its neighbours and that this would not be worsened by the proposed scheme. Screening would also be provided which would

mitigate against any perceived loss of privacy. It was important to note that having viewed the amended scheme Councillor Brown, one of the Local Ward Councillors, who had objected to the scheme now supported it, considering that previous concerns had been rectified in this new application. In the current application the top floor had been reduced and set back further and the balconies and window on the side facing 18 Tongdean Avenue had been removed.

Questions for Officers

- (8) Councillor Wares referred to statements in respect of the design and scale of the development set out in the applicant's submission indicating that the scheme was acceptable, stating that these appeared to be at variance with comments set out in the report, and asked for clarification on this point. It was explained that officers considered that the street facing façade of the proposed development was considered broadly acceptable. Whilst it was acknowledged that the rear elevation would not be visible from public vantage points, it would be visible from parts of the neighbouring houses and gardens. It was this element of the scheme that gave rise for concerns as the property would project to the rear of the site over three storeys.
- (9) Councillor Miller asked for further sight of the front and rear elevations.
- (10) Councillor Morris requested in the context of the previous scheme and that currently submitted.
- (11) Councillor Mac Cafferty referred to statements contained in the report relating to perceived overlooking seeking clarification as to why this differentiation had been made. It was explained that due to the topography and sloping nature of the site this was an issue to which consideration would be given at appeal. Additionally, officers remained of the view that the rear of the development would be too bulky. It was considered that the additional bulk at upper floor level in combination with the flat roof design would result in increased massing relative to the existing property.
- (12) Councillor Page stated that he found the side elevations difficult to interpret and sought further clarification of them.
- (13) Councillor O'Quinn asked whether the proposed balconies could also give rise to noise nuisance as well as overlooking.
- (14) Councillor Morris sought clarification regarding the areas of glazing proposed to the rear, given that this appeared to be one of the issues of greatest contention.
- (15) Councillor Barradell sought clarification of the footprint of the current proposals, bearing in mind that amendments had been made also, clarification of the screening and boundary treatments proposed. Councillor Barradell considered that the scheme was complex in view of the topography of the site.
- (16) Councillor Gilbey sought further clarification regarding the impact on the rear garden, the level of oblique views/overlooking in juxtaposition to neighbouring gardens and the height and location of the screening/boundary treatment.

Debate and Decision Making Process

- (17) Councillor Morris enquired whether as the level of rear glazing proposed appeared to constitute the main concern in respect of the scheme whether this the application could be deferred and the applicant invited to amend that element of the scheme. The Chair confirmed that the Committee were required to determine the application as put before them.
- (18) Councillor Miller stated that he considered that the amended scheme was acceptable, particularly in view of the elements of the scheme which had been set back and the fact that boundary treatments and screening were proposed in order to address any potential negative impact.
- (19) Councillor Barradell stated that she considered the proposal represented an improvement on the existing building on site and the proposed scheme was acceptable.
- (20) Councillor Mac Cafferty considered that the scheme was acceptable, and that the glazing proposed could be provided in such way that it did not compromise a 45 degree sight line. In consequence, he considered that there no greater degree of overlooking would result than was currently the case.
- (21) Councillor C Theobald stated that she was in agreement with the officer recommendation that the application should be refused considering that the proposed dwelling would be far too bulky to the rear and would have a negative impact on neighbouring residential dwellings.
- (22) The Chair, Councillor Cattell stated that whilst the proposal represented a bold design she was in agreement that as currently presented it was too bulky and would result in an unneighbourly form of development and should therefore be refused.
- (23) A vote was taken and on a vote of 7 to 5 planning permission was refused in line with the recommendations set out in the officer report.

166.4 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in section 11 and the policies and guidance in section 7 and resolves to **REFUSE** planning permission for the reasons set out in section11.

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

167.1 There were none.

168 INFORMATION ON PRE APPLICATION PRESENTATIONS AND REQUESTS

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

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

169.1 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.]

170 LIST OF NEW APPEALS LODGED WITH THE PLANNING INSPECTORATE

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

171 INFORMATION ON INFORMAL HEARINGS/PUBLIC INQUIRIES

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

172 APPEAL DECISIONS

172.1 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 3.55pm

Signed

Chair

Dated this

day of