

BRIGHTON & HOVE CITY COUNCIL

PLANNING COMMITTEE

2.00pm 8 JANUARY 2020

COUNCIL CHAMBER, HOVE TOWN HALL

MINUTES

Present: Councillors Hill (Chair), Childs, Littman (Opposition Spokesperson), Bagaeen, DrUITT, Fishleigh, Miller, Shanks and Yates

Co-opted Members: Mr R Amerena (Conservation Advisotu Group)

Officers in attendance: Nicola Hurley, Planning Manager; Liz Arnold Principal Planning Officer; Tim Jefferies, Principal Planning Officer (Heritage Team); Alison Gatherer (Lawyer); David Farnham Development and Transport Assessment Manager and Penny Jennings, Democratic Services Officer

PART ONE

70 PROCEDURAL BUSINESS

70a Declarations of substitutes

70.1 Councillor Bagaeen was present in substitution for Councillor Theobald and Councillor DrUITT was present in substitution for Councillor Mac Cafferty. It was noted that Councillor Janio had given his apologies.

70b Declarations of interests

70.2 Councillor DrUITT declared a prejudicial interest in respect of Item E, BH2019/03091, Lace House, 39-40 Old Steine, Brighton by virtue of the fact that he had submitted a letter of support in his capacity as a Local Ward Councillor. He would address the Committee and having done so would withdraw from the meeting and take no part in the discussion or decision making process.

70.3 Councillor Yates referred to applications linked applications C, BH2019/02290 and D, BH2019/02273, 218 Dyke Road, Brighton. He was aware of the initiatives taken by the local community group in connection with returning "the Dyke" public house to use on twitter, but had not expressed an opinion, remained of a neutral mind and would remain present at the meeting during consideration and determination of the application. Councillor Littman also referred to applications C, BH2019/02290 and D, BH2019/02273, 218 Dyke Road, Brighton. The application site was in his ward and he was also of the initiatives by the local community to return the site to use as a

community asset. He expressed an opinion, remained of a neutral mind and would remain present at the meeting during consideration and determination of the application.

- 70.4 It was noted that Members of the Committee had been lobbied and had received communications in respect of applications C and D as referred to above, and remained of a neutral mind.

70c Exclusion of the press and public

- 70.5 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.

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

70d Use of mobile phones and tablets

- 70.7 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 ‘silent mode’.

71 MINUTES OF PREVIOUS MEETINGS

- 71.1 **RESOLVED** – That the Chair be authorised to sign the minutes of the meeting held on 6 November 2019 as a correct record.
- 71.2 **RESOLVED** – That the Chair be authorised to sign the minutes of the meeting held on 4 December 2019 as a correct record.

72 CHAIR'S COMMUNICATIONS

- 72.1 There were none.

73 PUBLIC QUESTIONS

- 73.1 There were none.

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

- 74.1 There were none.

75 TO CONSIDER AND DETERMINE PLANNING APPLICATIONS

- 75a The Democratic Services Officer read out items 75A-E. It was noted that there were no major applications to be considered that afternoon and that any minor applications on which there were speakers were automatically reserved for discussion.
- 75b The Chair, Councillor Hill, explained that this measure was intended to expedite the business of Committee and to avoid the necessity of those who had an interest in applications on which there were no speakers spending hours waiting for the committee to get to their applications.
- 75.c All of the applications set out on the agenda were called for discussion.

A BH2019/03132 - Glenside, Wincombe Road, Brighton- Full Planning

Conversion of existing dwelling house (C3) to form two 1no bedroom flats, one 2no bedroom flat and one 3no bedroom flat (C3) with new front balcony at first floor level, revised fenestration and other associated works.

- (1) The Principal Planning Officer, Liz Arnold, introduced the application and gave a detailed presentation by reference to plans, floor plans, site plans, photographs and elevational drawings setting out the proposed scheme. The application related to a two-storey detached house on the southern side of Wincombe Road which comprised two-storey, detached and semi-detached residential houses set out on large plots. This application had been submitted following a previous refusals which had been dismissed at appeal by the Planning Inspectorate who had considered that the principle of development was acceptable, but had had a number of concerns. Those concerns had included the design of the loft conversion and the standard of accommodation to be provided.
- (2) It was noted that the main considerations in determining this application related to the principle of the development, the design and appearance of the works and how they would impact on the standard of accommodation for future occupiers and the amenity of existing neighbours. It was considered that the scheme as amended and now put forward addressed the previous reasons for refusal and that the concerns raised by the Planning Inspector had also been addressed; approval was therefore recommended.

Questions of Officers

- (3) Councillor Shanks sought clarification of the differences between the currently submitted and previously refused schemes.

Debate and Decision Making Process

- (4) Councillor Littman stated that he considered that the scheme as now put forward was acceptable. He had considered it important however for the Committee to be updated in respect of the current scheme in view of the fact that earlier applications had been refused with those reasons for refusal upheld in part by the Planning Inspectorate. Those concerns had now been addressed.
- (5) As no further matters were raised a vote was then taken. A vote was taken and on a vote of 8 to 1 planning permission was granted.

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

B BH2019/02306 - 40 Dyke Road Avenue, Brighton- Full Planning

Demolition of existing single dwelling (C3) with associated garage and erection of three storey five-bedroom single dwelling (C3)

Officer Presentation

- (1) The Principal Planning Officer, Liz Arnold, introduced the application and gave a detailed presentation by reference to photographs, plans, floor plans and elevational drawings setting out the proposed scheme. The representations received from the CAG set out in the Late/Additional Representations List were also referred to. The application site related to a detached dwelling on the northern side of Dyke Road Avenue, located within the Tongdean Conservation Area well set back from the road and bounded by a brick wall with piers to the street elevation. A number of trees on site were to be removed, although two important elms on the frontage were to be retained.
- (2) It was noted that the main considerations in determining this application related to impact of the development on the character and appearance of the existing site, street-scene and the surrounding conservation area, impact on neighbouring amenity, the trees on site, transport network and sustainability issues. When considering whether to grant planning permission for development in a conservation area the council had a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the area. The Heritage Team had indicated that the proposal would fail to meet the requirements of policies HE6 and HE8 of the Local Plan and would fail to preserve the appearance and character of the conservation area and would therefore cause demonstrable harm to the area with no benefits which might be weighed against that harm. The existing house was of significance and provided a positive contribution to the conservation areas as a whole being distinctive and reflective of the period when it had been built. For the reasons set out in the report the application was therefore recommended for refusal.

Public Speakers

- (3) Mr Lap Chan accompanied the applicants and spoke on their behalf in support of their application. He explained that the approval was sought to demolish the existing dwelling on site in order to provide a home which was fit for modern family living.

Questions of Officers

- (4) Councillor Yates referred to the plot which was referred to as 40A enquiring whether that address formed part of the application site i.e., whether the proposal was to erect one dwelling house on a space that had previously been occupied by two. It was confirmed that, that was not the case.

- (5) Mr Amerena CAG asked whether the Planning Department were aware that demolition works had recently been undertaken to the front wall of the property. It was confirmed that the Heritage Team were aware that parts of the boundary wall had been removed recently as they had been deemed structurally unsound and dangerous. A separate planning application would be required in order to regularise those works and did not form part of the current application.
- (6) Councillor Miller sought further information regarding the differences in site coverage between the existing and proposed schemes and photographs of the existing dwelling in relation to its immediate neighbours and in the context of the Tongdean Conservation Area.

Debate and Decision Making Process

- (7) Councillor Miller stated that given that the dwelling could not be viewed from immediate vicinity he needed to give careful consideration to its acceptability in view of its location in the conservation area as there did seem to be a diversity of architectural styles as a result of earlier conversions.
- (8) Councillor Yates stated that he was in agreement with the officer recommendation. He was of the view that no case had been made for loss of the existing building, and was in agreement that the proposed scheme would be detrimental to the conservation area as it would further dilute and detract from its character.
- (9) Councillor Littman agreed, considering that it was important to protect and enhance the character of the conservation area.
- (10) Councillor Shanks agreed, considering that the existing building should be protected and retained.
- (11) Councillor Fishleigh stated that she could not see that any positive benefits would result from the proposed scheme and therefore supported the officer recommendation that the application be refused.
- (12) Councillor Druitt stated that he was not convinced by the case put forward to remove the existing building and considered that that the existing dwelling was capable of the adaptations necessary whilst retaining its appearance and character.
- (13) Councillor Bagaeen stated that he considered the proposed scheme to be acceptable in that it would provide a sustainable and efficient modern family home. There were a number of differing building styles in the vicinity and the development proposed would not be visible due to the level of screening and the distance that it would be set back from the highway.
- (14) A vote was taken and on a vote of 7 to 1 with 1 abstention the Committee voted that planning permission be refused.
- 75.2 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in the report and resolves to **REFUSE** planning permission for the reasons set out in the report.

C BH2019/02290 - 218 Dyke Road, Brighton - Full Planning

Conversion of existing 2no flats at first floor level to create 2no two-bedroom flats & 1no one bedroom flat incorporating part two storey & part first floor rear extensions with gable roofs, front & rear terraces and associated alterations.

Officer Presentation

- (1) The Chair, Councillor Hill, explained that a joint presentation would be given detailing both applications, with public speakers setting out their views and concerns in respect of both. Following the debate both applications would be voted on separately.
- (2) The Principal Planning Officer, Liz Arnold, introduced the scheme and gave a detailed presentation by reference to plans, elevational drawings, aerial views and photographs showing the site from various properties to give the context of the neighbouring street scene. Comments received from the CAG in respect of both applications were as set out in the Late/Additional Representations List. that the building This property is a grade II listed building purpose built and historically used as a Public House, the ground floor of the building had recently been used solely for retail purposes (through Permitted Development Rights) but in June 2019 planning permission was granted to change part of ground floor (the western part) back to a public house. With regards to the upper floor, in 2018 an Enforcement Investigation had confirmed that the upper floor of the property had been in lawful use as two residential units, separate to the ground floor commercial uses. Since December 2018, the ground floor and garden of 218 Dyke Road, The Dyke Pub had been listed as an Asset of Community Value, this was capable of being a material planning consideration although it should be noted that the listing gave no right of access to the land. The only right which followed from a listing was the right of a community interest groups to bid to purchase the listed land should the owner intend to sell.
- (3) **The main considerations in determining this application related to the principle of development, the impacts of the proposal on the historic character and appearance of the Grade II* Listed Building, related street-scene and wider area, design and appearance, standard of accommodation, impact on amenity, highways and sustainability. As a result of pre-application discussions a conservatory and terrace originally in place for Flat 3 had been removed in response to concerns about the potential for noise disturbance and loss of outlook. A second storey/attic element of the scheme had been dropped entirely in order for the design to be appropriate for the listed building. One of the main objections to the proposal from local residents related to concerns regarding increased traffic generation and congestion. The transport team were however of the view that although there would be an increase in the number of trips to/from the site there would not be of sufficient impact to warrant refusal. Overall the proposed works were**

considered acceptable in relation to the listed building and its setting, the proposal was not considered to harm these heritage assets and approval was therefore recommended.

Public Speakers

- (4) Ms Redfern spoke on behalf of the Dyke Road and Highcroft Villas Local Community Group and the Save the Dyke Road Pub Group setting out their objections to the proposed scheme. Local objectors were very concerned on the impact that the proposals would have on the pub which was a valued community asset, impact on the listed building itself traffic, parking and congestion which would result. Also, in relation to rubbish and litter, overall in their view it would result in overdevelopment of the site.
- (5) Councillor Heley spoke in her capacity as a Local Ward Councillor setting out her objections to the proposed scheme and those of her ward colleague, Councillor Hugh-Jones. They were in agreement with objectors that the proposal represented unacceptable overdevelopment and that there would be multiple issues associated with it including additional traffic during and following the construction period at a busy junction. The proposal would also jeopardise survival of the Dyke pub which was back in use after a three-year community campaign to reinstate it.
- (6) Mr Mc Kee spoke on behalf of the applicant's in support of their scheme. He stated that the scheme had undergone significant amendments in order to respond to objections received and to ensure that the character of the listed building was respected as was the manner in which it related to the neighbouring street scene and wider area, design and appearance, standard of accommodation, impact on amenity, highways issues and sustainability.

Questions of Officers

- (7) Councillors Childs and Druitt sought clarification regarding the status of the garden area in relation to the current public house use, whether it was currently in use in conjunction with the pub use and how that could impact on the Asset of Community Value. Councillor Childs also sought clarification regarding the existing cold storage area, whether it would need to be relocated and the impact that could have on the garden area. It was confirmed that changes to the existing cold storage area were proposed but that alternatives were being found within the area being leased by the pub, and that the garden area was not part of the public house demise.
- (8) Councillor Yates asked questions in relation to the layout and floor plan of the ground floor area of the building. It did not appear that a consistent approach was being adopted and he was concerned about the impact that the proposed changes could have on the asset of community value. If in future an application was made to change use of the garden area he wished to know whether that could nullify the existing permission. It was explained that the ACV gave no right of access to the land concerned although the community interest group had the right to bid to purchase the listed land should the owner intend to sell at a future date

- (9) Councillor Shanks referred to the fact that a large number of objections had been received enquiring whether it would be possible to add a condition(s) which would help to ensure the pub use was protected. It was confirmed that would not be appropriate.
- (10) Councillor Miller sought further clarification regarding access to the flats and in relation to bin storage/collection arrangements as a number of concerns had also been raised in respect of that issue. Access to the garden area would be separate from that to/from the building at ground floor level and would be for use by the flats at first floor level.
- (11) Councillor Hill, the Chair, asked for clarification of the area of garden concerned as it appeared to be separated into two sections. Also access arrangements to the two separate parcels of land
- (12) Councillor Bagaeen sought clarification why three rather than 2 flats were proposed and it was explained that the Committee needed to assess the application before them on its merits. Councillor Bagaeen referred to the layout specification and materials to be used asking what requirements there had been in terms energy efficiency and sustainability. It was explained that these could only be required in respect of new build developments.

Debate and Decision Making Process

- (13) Councillor Littman stated that this site was located within his ward and as such he had followed the community interest which had resulted in re-instatement of the public house. He understood that the additional garden area to the rear of the building did not have specific protection and having considered the information put forward did not consider that there were valid grounds on which to refuse the application.
- (14) Councillor Bagaeen stated that he was unable to support the proposed scheme as did not consider that it was being completed to a sufficiently high standard.
- (15) Councillor Druitt stated that whilst he was pleased at the proposed improvements to be effected to the building and that fact that additional housing was to be provided, ultimately he felt unable to support the scheme due to the potential impact it could have on the ACV.
- (16) Councillor Yates stated that he had listened carefully to all that had been said. Although he had concerns regarding piece-meal future development which could impact on the ACV, there were no grounds on which the application could be refused. Councillor Childs concurred in that view.
- (17) Councillor Miller whilst also noting the improvements which were proposed had some concerns that the ACV could be undermined.
- (18) The Chair, Councillor Hill, reminded the Committee that they needed to consider the applications before them that day. Any further future applications in respect of this site would need to be considered on their respective planning merits.
- (19) A vote was taken and on a vote of 5 to 4 planning permission was granted.

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

D BH2019/02273, 218 Dyke Road, Brighton - Listed Building Consent

Internal alterations and the erection of a two-storey rear extension, with associated works.

(1) A vote was taken and on a vote of 6 to 3 Listed Building Consent was granted.

75.4 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in the report and resolves to **GRANT** Listed Building Consent subject to the Conditions and Informatives also set out in the report.

E BH2019/03091- Lace House, Flats 1-9, 39-40 Old Steine, Brighton- Full Planning

Replacement of existing aluminium framed double glazed windows with aluminium framed double-glazed windows (retrospective). Replacement of existing aluminium framed double glazed windows with aluminium framed double-glazed windows (retrospective).

Officer Presentation

- (1) The Principal Planning Officer, Liz Arnold, introduced the application and gave a detailed presentation by reference to plans and photographs showing the site from locations in the neighbouring street scene. The application site was a stand-alone five storey building divided into self-contained flats located at the southern end of the Valley Gardens Conservation Area and was highly visible. It was adjacent to the Grade II* Listed Royal Albion Hotel and the Grade II Listed Royal York Buildings. It was considered that the replacement windows, as a result of their incongruity with the building's style and the surrounding historic context had clearly harmed the appearance of the conservation area and the settings of the nearby listed buildings. Although the works carried out represented less than substantial harm great weight needed to be given to the fact that any harm to, or loss of, the significance of a designated heritage asset required clear and convincing justification. The test for the local planning authority was whether the public benefit from the use of these windows would outweigh that harm.
- (2) The applicants had indicated that the window design used was necessary to comply with Building Control Regulation requirements relating to protection against falls and means of escape. It had not however been demonstrated that a more appropriate sash window design could not have been made to meet these criteria, it was therefore considered no public benefit had been demonstrated to outweigh the identified harm and refusal was therefore recommended.

Public Speakers

- (3) Councillor Druitt spoke in his capacity as a Local Ward Councillor stating that he did not agree that the window treatment provided was detrimental to the character of the

Valley Gardens Conservation Area nor to the adjacent listed buildings. The building was set well back from its neighbours and the works carried out had significantly improved the appearance not only of the building itself which had been unused and in a poor state of repair for some time but the immediate vicinity. The building itself had been much altered over the years and at one time had operated as a car showroom at ground floor level, original features were not therefore being lost. The windows provided were far safer than those which had originally been in-situ, and of better quality. The manner in which these windows opened met building control requirements in that as there was only one internal staircase meant that whilst it was not possible to fall out of them they could be used as a means of escape by emergency services in the event of a fire.

- (4) The applicant's agent spoke on behalf of the applicants in support of their application accompanied by Ms Mitchell to assist in responding to questions. It was confirmed that the windows currently in situ had been provided in order to meet fire safety regulations, that they were an important safety feature and it was not considered that they were detrimental to the appearance of the building itself, the conservation area or the neighbouring listed buildings. The host building had been much altered over the years the window treatment provided was not considered at variance with its external appearance. If changes were required the replacement windows would be a retrograde step.
- (5) Councillor Miller sought clarification of the applicant's representative regarding the safety aspects referred to. It was explained that the windows which had been installed opened from the top to provide ventilation but that the "gap" was insufficient for anyone to fall through them.
- (6) Councillor Yates noted the information provided by the applicant's representative but considered that other options could have been considered and asked whether/why they had not been. Those present did not have that information.
- (7) Councillor Childs enquired why planning permission had not been requested for these works and it was explained that the applicant's had not been aware initially that permission was required, planning permission had been sought as soon as they were.

Questions of Officers

- (8) In response to questions, the Planning Manager, Nicola Hurley confirmed that building control regulations were separate from planning and that the application needed to be considered on its planning merits. The cost of any replacement/reinstatement works was also not a planning consideration.
- (9) Councillor Shanks sought clarification regarding whether the type of window treatment required had been stipulated when the permission for change of use from B1 office use to residential had been given.
- (10) Councillor Miller enquired regarding when the building had been erected and regarding its former uses. It was confirmed that it had been erected circa 1860 and had, had various uses until the 1970's when it had been converted for use as a car showroom following which it had been in use as office space.

Debate and Decision Making Process

- (11) Councillor Fishleigh stated that in her view the street lighting provided was at far greater variance with the neighbouring streetscene and had a greater detrimental impact. The building was well set back from its neighbours, the host building had been much altered over time and its current appearance represented an improvement.
- (13) Councillor Miller considered that overall as the architectural styles in the Steine differed greatly and this building at apart on its own island he did not agree that the works carried out had resulted in any significant harm.
- (14) Councillor Littman stated that he did not consider that impact of the windows provided was such that it warranted refusal. The building's current external appearance was much improved.
- (15) Councillor Shanks agreed considering the windows provided were acceptable.
- (16) Councillor Bagaeen considered that the windows were acceptable. They were not detrimental to its symmetry and reflected the building as it was now. It was a stand-alone building and the improvements made to it provided a positive rather than negative contribution to the neighbouring street scene.
- (17) Councillor Childs concurred stating that the works carried out to the building had improved it and brought it back into use and were not detrimental to its appearance or to the character of the conservation area or neighbouring listed buildings.
- (18) Councillor Yates stated that he concurred with the officer recommendation considering that other more acceptable safe window treatments could have been pursued. Incrementally changes made to conservation areas could result in them being nibbled away at to the point where their special character became nullified.
- (19) The Chair, Councillor Hill, stated that she was also in agreement with the officer recommendation, considering that it was important to maintain the standards set when works were carried out in a conservation area particularly when in close proximity to listed buildings. It was not appropriate for developers to make the changes they wanted and to then "hope for the best."
- (20) A vote was taken on the officer recommendation to refuse the application, with 8 members of the Committee present when the vote was taken and this was lost on a vote of 2 to 6. Councillor Miller then proposed that that the application be granted on the grounds that the existing windows were not contrary to policies CP12 and CP15 of the Brighton & Hove City Plan Part One and policies QD14, HE3 and HE6 of the Brighton and Hove Local Plan (retained policies March 2016). The proposal was seconded by Councillor Littman and it was agreed that the final wording of the proposed reasons for grant be agreed by the Planning Manager in consultation with Councillors Childs and Littman.
- (21) A recorded vote was then taken and Councillors Bagaeen, Childs, Fishleigh, Littman, Miller and Shanks voted that planning permission be granted. Councillors Hill and

Yates voted that planning permission be refused. Therefore planning permission was granted on a vote of 6 to 2.

75.5 **RESOLVED** – That the Committee has taken into account the report recommendations but resolves to **GRANT** planning permission on the grounds proposed by Councillor Miller. The final wording to be used in the decision letter to be agreed by the Planning Manager in consultation with the proposer and seconder.

Note: Having declared a prejudicial interest in the above application and having spoken in support of the application in his capacity as a Local Ward Councillor, Councillor Druitt withdrew from the meeting and took no part in the debate or decision making process.

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

76.1 There were none.

77 LIST OF NEW APPEALS LODGED WITH THE PLANNING INSPECTORATE

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

78 INFORMATION ON INFORMAL HEARINGS/PUBLIC INQUIRIES

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

79 APPEAL DECISIONS

79.1 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 4.50pm

Signed

Chair

Dated this

day of