

PLANNING COMMITTEE	Agenda Item 2 (a) Brighton and Hove City Council
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BRIGHTON & HOVE CITY COUNCIL

VIRTUAL PLANNING COMMITTEE

2.00pm 6 MAY 2020

MINUTES

Present: Councillors Hill (Chair), Littman (Opposition Spokesperson), C Theobald (Group Spokesperson), Childs, Fishleigh, Janio, Mac Cafferty, Miller, Shanks and Yates

Co-opted Members: Mr Roger Amerena (Conservation Advisory Group) - Apologies

Officers in attendance: Liz Hobden, Head of Planning; Matthew Gest, Planning Team Leader, Planning Applications; Russell Brown, Senior Planning Officer; Joanne Doyle, Senior Planning Officer; Sven Rufus, Planning Officer; David Farnham, Development and Transport Assessment Manager; Hilary Woodward; Senior Solicitor and Penny Jennings, Democratic Services Officer

PART ONE

124 PROCEDURAL BUSINESS

124a Declarations of substitutes

124.1 There were none.

124b Declarations of interests

124.2 The Chair, Councillor Hill, stated that she had been lobbied in respect of Application A, BH2020/00470, Carden Avenue, opposite 3 & 4 Dale Drive, Brighton, confirming that she remained of a neutral mind and would remain present during consideration and determination of the application. Councillors Childs, Fishleigh, MacCafferty, Miller, Shanks, Theobald and Yates confirmed that they had also been lobbied in respect of that application and that they also remained of a neutral mind and would remain present at the meeting during consideration and determination of the application.

124c Exclusion of the press and public

124.3 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.

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

124d Use of mobile phones and tablets

- 124.5 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 'silent'.

125 MINUTES OF THE PREVIOUS MEETING

- 125.1 It was noted that the minutes of the meeting held on 22 April 2020 and of that days meeting would be circulated for approval to the meeting on 20 May 2020.

126 CHAIR'S COMMUNICATIONS

- 126.1 The Chair welcomed all present to this "virtual" meeting which was also being webcast and would be capable of repeated future viewing.

127 PUBLIC QUESTIONS

- 127.1 There were none.

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

- 128.1 The explained that in line with current Central Government guidance in relation to the Covid 19 pandemic, formal site visits had not been arranged. To reflect that in depth presentation material and visuals had been circulated in advance of the meeting and had also been appended to the agenda papers published on the council website. If, however, Members considered that they required more detailed information in order to determine any application a site visit could be requested either at this point on the agenda or at any point in the proceedings. No site visits were requested at this point in the meeting.

129 TO CONSIDER AND DETERMINE PLANNING APPLICATIONS

- 129.1 The Democratic Services Officer called over those applications which were not automatically called by virtue of the fact that there were speakers in respect of them. This applied in respect of all applications except application C, BH2019/02055, 10 Gladstone Terrace, Brighton which was also called for discussion.

A BH2020/00470-Carden Avenue, Opposite 3 & 4 Dale Drive, Brighton BN1 8NT - Full Planning

Replacement of existing 11.7 metre high telecommunications monopole with relocated 20.0 metre high telecommunications monopole supporting 12no antenna apertures, with installation of ground-based equipment cabinets and associated works.

- (1) It was noted that an in-depth presentation had been provided by officers in advance of the meeting and was included on the council website detailing the scheme by reference to site plans, elevational drawings and photographs which also showed the proposed scheme in the context of neighbouring development. The main considerations in determining the application related to the design and appearance of the proposed development, the impact of the proposal on neighbouring amenity and sustainable transport matters.
- (2) The site was an established location for telecommunications apparatus. The proposed mast and cabinets would be considerably taller and bulkier than the existing apparatus and whilst nearby street lamps and trees would to some extent obscure and conceal the proposal there would be an adverse impact on the appearance of the area. However, the applicant had submitted a justification for this location based on technical and operational constraints. Paragraph 112 of the NPPF encouraged the provision of 5G infrastructure in order to support economic growth and social well-being through the increased connectivity 5G would provide. Central Government was also supportive of the provision of 5G network infrastructure.
- (3) Whilst it was considered that the proposal would result in some visual harm, this had been mitigated in accordance with Policy QD23 of the Brighton and Hove Local Plan and would not amount to a serious adverse impact on the character or appearance of the area. On balance, this was considered to be outweighed by the substantial public benefit arising from the provision of 5G services and therefore does not warrant refusal of the application and approval was therefore recommended.

Public Speakers

- (4) Ms Kelly spoke on behalf of neighbouring objectors setting out their objections to the scheme. There had been no consultation with residents and no other locations had been investigated or put forward and the location and siting proposed would have the most detrimental impact possible in view of the topography of the site. Residents had not been asked whether they wanted this pole and the height and dimensions of the proposed equipment (it was significantly higher than anything existing nearby), would be overly dominant in close proximity to a number of dwellings and would be overbearing and would result in loss of aspect and loss of amenity. The area of signal coverage was also less than with the existing equipment and so more masts were needed and additional extensions which it was anticipated would be needed over time would exacerbate this negative impact.
- (5) Councillor Mc Nair spoke in his capacity as a Local Ward Councillor setting his objections and those of his fellow Ward Councillor, Councillor Wares and in support of local objectors. No evidence had been provided that alternative sites had been explored and it did not replace the existing given that it was to be relocated where it would be more intrusive than the existing which had originally received planning permission due to an administrative error. The assertion that the 20m mast would not detract from the existing street scene or character of the area because it would blend

in with existing structures was refuted as it would be located on an area of verge where there no other tall structures and it would be very prominent in terms of its height and girth. The multiple cabinets which would sit alongside would cause further harm and would be highly visible to neighbouring homes in nearly all directions. It was considered the proposal would be contrary to policies QD23 and QD24 of the Brighton and Hove Local Plan and CP12 and CP15 of the City Plan Part One and should be refused.

- (6) The Democratic Services Officer read out a statement submitted by Ciara Daly of Blue Clarity Design Services Limited on behalf of the applicants in support of their application. EE were in the process of upgrading the network in the area in accordance with Government guidance. This proposed upgrade had been sited and designed in order to support the existing mobile network and to promote improved 5G technology. The pole had been carefully designed to enable a number of antennas to be accommodated which would enable two operators to share one mast whilst minimising height and bulk as far as possible. To ensure efficient continued operation of the network, alternative sites had to be within a short radius of the existing mast to maintain the existing network coverage. If a mast was located even a short distance from the existing site it could leave a gap in the existing network coverage elsewhere. In order to maintain existing coverage, it necessitated a limited search area of approximately 100m from the existing site, dense residential housing made up the entire search area. The height of the replacement mast had been determined by radio planning in order for the upgraded base station to effectively provide coverage to the target area in line with the established network pattern, specific orientations and heights needed to be achieved. This location would enable the whole of the surrounding area to benefit from the improved 5G network and was designed to be future proof by enabling other technologies to be deployed depending on the demand required.

Questions of Officers

- (7) In answer to questions it was confirmed that whilst it was accepted that some visual harm would arise from the proposal it was considered that this was outweighed by the substantial public benefit arising from the provision on 5G services and did not warrant refusal of the application. A condition had also been added requiring making good of the existing site after the removal of the existing mast and cabinets.
- (8) Councillor Shanks sought clarification of the height and width of the proposed masts compared with those currently in existence nearby, also whether it would be possible to apply a condition requiring landscaping/screening to be provided to reduce the visual impact of the proposal.
- (9) Councillor Yates sought further clarification in respect of potential visual harm which could arise.
- (10) Councillor Theobald stated that although reference had been made to the applicant considering alternative sites this did not appear to have been evidenced, asking whether the applicant could be required to investigate other sites. The Head of Planning, Liz Hobden advised that the applicant had explained the rationale for the

chosen site and that the Committee needed to determine the application which was before them.

- (11) Councillor Littman sought clarification in respect of the previously refused applications on which prior refusal had been required and whether/how the situation differed in respect of this current 5G application

Debate and Decision Making Process

- (12) Councillor Janio stated that he recognised the need for 5G technology to be rolled out and the public benefits which would result from it. There was a need for this mast and ultimately for others to be erected across the city. He considered that the application was acceptable and supported the officer recommendation.
- (13) Councillor Theobald cited the large number of objections stating that residents clearly did not want the development and she was in agreement that its appearance would have a negative impact on a number of them and would be voting against the application. Councillor Yates concurred in that view.
- (14) Councillor Yates was of the view that a sufficiently compelling case had not been made for placing the proposed installation at this location, whilst recognising the need for technology to be rolled out across the city and for changes to be made to the existing network that did not mean that it had to be here. He would be voting against the application.
- (15) Councillor Fishleigh was in agreement that the proposed location appeared to be both harmful and arbitrary, she would not be supporting the application.
- (16) Councillor Shanks stated that on balance she considered the proposal to be acceptable and that she would support an additional condition requiring landscaping measures to improve the appearance of the structure i.e., the cabinets at ground level.
- (17) Councillor Miller noted that there was a lot of existing street furniture in the vicinity. Whilst recognising that this was an addition and would be taller and wider he was in agreement that the proposal did not warrant refusal and was in agreement that appropriate landscaping/screening would improve the structures appearance.
- (18) Councillor Mac Cafferty referred to the concerns expressed by residents and whilst sympathetic to them noted that a number of them related to health and other concerns which were not germane planning considerations. He considered that on balance the application was acceptable on planning grounds and would be voting in support of it. Councillor Littman was in agreement.
- 19) Councillor Hill, the Chair stated that she was minded to support the application. The public benefits accruing could only be realised by providing a network across the city as a whole and the scheme was acceptable.
- (20) A vote was taken and on a vote of 6 to 4 planning permission was granted to include a condition requiring additional landscaping to be provided.

- 130.1 **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 and to add an additional condition that suitable landscaping be provided.

B BH2020/00325-Avon Court, 12 Dallington Road, Hove BN3 5HS - Full Planning

Proposed roof alterations incorporating 2no front dormers and 3 rear extensions to form 1no two bedroom flat (C3)

- (1) It was noted that an in- depth presentation had been provided by officers in advance of the meeting and was included on the council website detailing the scheme by reference to site plans, floor plans, elevational drawings and photographs which also showed the scheme in the context of neighbouring development.
- (2) The main considerations in determining the application related to the principle of the development, the design of the extensions, their impact on neighbouring amenity, on highways and the proposed standard of accommodation. It was considered that the proposal would make a minor contribution to the council's housing targets through the provision of well-considered, subordinated extensions to the host building which offered an acceptable standard of residential accommodation without having a detrimental impact on the building itself, the streetscene or neighbouring amenity; the application was therefore recommended for approval.

Public Speakers

- (3) Councillor Nemeth spoke in his capacity as a Local Ward Councillor setting out his objections to the scheme and those of local residents. It was considered that the massing and form of the proposed development would result in un-neighbourly and bulky development which would also increase strain to on-street parking in the area. In addition, the most recent drawings submitted seemed to indicate that it was intended to increase the ridge height of the roof although planning permission for that did not appear to have been sought.
- (4) In answer to questions, the Planning Officer, Russell Brown, stated that if the applicant was seeking to increase the ridge height of the roof planning permission would be required and did not appear to have been requested as part of the current application. The Chair, Councillor Hill, suggested that consideration of the application be deferred pending clarification and the Committee was in agreement.

- 129.2 **RESOLVED** – That consideration of the above application be deferred pending clarification regarding whether the applicant intended to increase the roof height of the proposed development.

C BH2019/02055 -10 Gladstone Terrace, Brighton BN2 3LB- Full Planning

Change of use from existing 3no bedroom residential flat (C3) to 6no bedroom small house in multiple occupation (C4) (retrospective)

- (1) It was noted that an in-depth presentation had been provided by officers in advance of the meeting and was included on the council website detailing the scheme by reference to site plans, floor plans, elevational drawings and photographs which also showed the proposed scheme in the context of neighbouring development.
- (2) The application site related to a first and second floor flat in a three- storey terraced house. The property was not located in a conservation area, but there was an Article Four direction in place restricting the conversion of single dwelling houses to houses in multiple occupation (C4 use class). This application sought consent for change of use from a 3 bedroomed flat to a six bedroomed small house in multiple occupation (C4) (retrospective). The main considerations in determining the application related to the principle of the change of use, impact upon neighbouring amenity, the standard of accommodation which the use would provide and transport issues. Overall, the scheme was considered to be acceptable, although as it was considered that a property housing 6 non-connected adults would be likely to generate more noise disturbance than a typical family using the same space, in consequence a condition had been attached restricting the use of the flat roof as a terrace area to safeguard the amenities of neighbouring properties. Given that the property was a flat it did not benefit from permitted development rights and could not be extended without the need for planning permission. The application was recommended for grant.

Questions for Officers

- (3) Councillor Theobald sought confirmation regarding whether the property was already operating as an HMO as it appeared that retrospective permission was being sought. It was confirmed that the property had been operating as an HMO since April 2019.
- (4) Councillor Shanks sought clarification regarding the number of HMO's identified by the mapping exercise, she was familiar with the area and was aware that there were a large number of multi- occupied properties. It was confirmed that 8 properties had been identified out of 100, within a 50m radius, which fell below the 10% trigger level.
- (5) Councillor Miller referred to the fact that this unit was located in a terraced property and was sandwiched between other flats in the same building. He asked whether there were policies in the City Plan Part 2 which gave the ability to restrict such use.
- (6) Councillor Yates asked whether the mapping exercise identified all properties within the agreed radius e.g., churches/shops or only those dwellings which were in domestic use. The Head of Planning, Liz Hobden, explained that whilst there was no provision within the City Plan to prevent flatted accommodation from being used as an HMO, under the Use Classes Order only HMO's with between 3 and 6 residents represented a change of use.

Debate and Decision Making Process

- (7) Councillor Childs stated that he did not support the application, which , had resulted in the loss of a family home, for which there was a need in the City. An adverse impact could also occur in terms on noise, traffic and refuse generated by this intensified use, also on neighbouring amenity.

- (8) A vote was taken and on a vote of 7 to 3 planning permission was granted.
- 129.3 **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 also set out in the report.

D BH2020/00240 -2C Lansdowne Place, Hove BN3 1HG - Full Planning

Change of use from single dwelling house (C3) to a seven-bedroom house in multiple occupation (Sui Generis) (part retrospective)

- (1) It was noted that an in-depth presentation had been provided by officers in advance of the meeting and was included on the council website detailing the scheme by reference to site plans, floor plans, elevational drawings and photographs which also showed the proposed scheme in the context of neighbouring development.
- (2) The application site was one of a pair of new white rendered town houses built over 4 storeys with a basement level. A small area of open space was located in front of the basement communal space and since its completion the property had been in C3 use as holiday lets. This application sought change of use from C3 to a sui-generis 7 bedroom house in multiple occupation. Much of the construction work to facilitate the change of use had already been undertaken and the application description had been amended to reflect the part-retrospective nature of the application.
- (3) The main considerations in determining this application related to the principle of the change of use, its impacts on neighbouring amenity, the standard of accommodation which the HMO use would provide and the transport impacts. Based on the existing percentage of neighbouring properties in HMO use, which was not greater than 10%, the proposed change would not conflict with policy CP21 and all of bedrooms would be over 7.5msq of floor space although some only just achieved it, they were also of an acceptable layout in terms of room to circulate and all would have natural light from windows. Floorspace calculations did not include the en-suite bathrooms which would provide additional space for occupants. Whilst there were constraints on the communal space it was considered that the openness of the space was sufficient to provide seating for future occupants to dine, relax and prepare meals and was also compensated for by the fact that a number of the rooms in the property were above the 7.5msq set out in the NDSS; approval was therefore recommended.

Public Speakers

- (4) Councillor Clare spoke in her capacity as a Local Ward Councillor setting out her objections to the scheme on the grounds of noise and overdevelopment. Residents had raised concerns regarding noise disturbance generated by the current AirBnB, “party house” use and it was considered that doubling the number of bedrooms would increase that. This was the second application for HMO use in quick succession and would result in a greater intensification of use within the existing envelope. Residents had expressed concern regarding the number of HMO’s already in existence in the area. Also, this would not provide a good housing mix.

- (5) Mr Giles spoke on behalf of the applicants in support of their application. The application had been the result of detailed discussions which had taken place with officers and works had been undertaken in order to transform it from its former use, potentially as a party house and to provide a good standard of accommodation for future occupiers.
- (6) In answer to questions by Councillor MacCafferty, who was familiar with the application site and problems which had arisen from the previous use it was explained that it was intended that the target market was towards young single professionals, it was not located in an area or at a price point which would make it suitable for student housing and the property would cease to be used as a holiday letting. The Head of Planning, Liz Hobden, advised that occupancy of the accommodation could not be controlled by condition and the application being considered was for any occupant. Whilst the agent had indicated that young professionals would be the target market for the units, occupancy by students could not be precluded.
- (7) Councillor Fishleigh asked whether/what consultation had taken place with local residents regarding local residents concerns, given that local parents had expressed concern regarding nuisance generated by the previous short let, party house use.

Questions of Officers

- (8) Councillor Theobald stated that she had visited the site and had noted that major internal alterations had been undertaken, stated that she was concerned that significant noise nuisance could arise to the neighbouring property via the party wall. Councillor Theobald asked whether/what arrangements had been put into place to mitigate against any noise penetration to the neighbouring property.
- (9) Councillor Mac Cafferty noted the points made by Councillor Theobald and asked whether it would be possible to add a condition to any permission granted seeking to ensure that adequate sound proofing works were undertaken. The Legal Adviser to the Committee, Hilary Woodward, explained that any additional condition would need to be considered to be reasonable and could be appealed against, it was noted that Environmental Health had not raised objections to the application. Councillor Mac Cafferty indicated that if the Committee were minded to grant planning permission he wished to propose that a condition be added seeking that suitable soundproofing be provided.
- (10) Councillor Miller asked whether the mapping exercise carried out had taken account of the number of individual HMO units as he was aware that a number of buildings in the area had been converted/subdivided. It was confirmed that all units had been included. Councillor Miller also noted that the units were referred to as double bedroom sized, asking whether it would be possible to prevent visitors from staying overnight in order to limit occupancy and minimise potential noise nuisance. It was confirmed that would not be possible.
- (11) Councillor Hill, the Chair enquired whether the application property mirrored its neighbour in terms of its layout and room sizes and whether that was also intended to be used as an HMO

Debate and Decision Making Process

- (12) Councillor Miller stated that he did not support the application which he considered would result in cramped living conditions which would result in overdevelopment and could be occupied by more than 7 individuals on occasion.
 - (13) Councillor Fishleigh concurred in that view.
 - (14) Councillors Janio, Shanks and Yates stated that they supported the scheme, which they considered would be an improvement on the previous use.
 - (15) Councillor Mac Cafferty stated that he supported the scheme but remained of the view that a condition should be added to ensure soundproofing was undertaken in order to protect neighbouring amenity.
 - (16) Councillor Hill, the Chair stated that she could not support the scheme and would not be voting in support. She considered that the communal area which was provided at basement level and had limited natural daylight was inadequate, the property was not suitable for HMO accommodation in her view.
 - (17) A vote was taken and Members voted by 6 to 4 that planning it would be appropriate for a condition to be added to any permission granted to seek to ensure that soundproofing works were undertaken. Councillor Mac Cafferty proposed that a condition was provided in respect of soundproofing measures, this was seconded by Councillor Yates. A further vote was then taken and on a vote of 6 to 4 that a planning permission was granted. Officers were authorised to agree the wording in consultation with the Chair, the proposer and seconder.
- 129.4 **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** planning permission subject to the Conditions and Informatives also set out in the report. An additional condition to be added in to seek to ensure appropriate soundproofing measures are put into place as referred to in paragraph 17 above.

E BH2020/00215 - 23 Trafalgar Street, Brighton BN1 4EQ-Full Planning

Change of use of basement and ground floors from retail (A1) to mixed use retail and drinking establishment (A1/A4), installation of new shopfront incorporating separate entrance to upper floor maisonette, installation of external stairs and seating to rear, revised fenestration and associated works.

- (1) It was noted that an in-depth presentation had been provided by officers in advance of the meeting and was included on the council website detailing the scheme by reference to site plans, floor plans, elevational drawings and photographs which also showed the proposals in the context of neighbouring development.
- (2) The application related to the basement and ground floor of a three-storey terraced property within a terrace of six properties on the south of Trafalgar Street opposite the junction with Whitecross Street. The ground floor of the site currently comprised a retail unit with-associated storage at basement level and a rear yard with a two-bedroom

maisonette (Use Class C3) on the first and second floors. This parade was comprised of commercial on the basement and ground floors (all Use Class A1) apart from an NHS dental practice (Use Class D1) over the upper floors of no.21 with residential upper levels. The building was located in the North Laine Conservation Area and was subject to an Article 4 direction but was not a listed building.

- (3) This application sought planning permission for change of use of the basement and ground floors from retail (Use Class A1) to a mixed use of retail and drinking establishment (Use Classes A1 and A4). This would involve the installation of a new shopfront incorporating a separate entrance to the existing upper floor maisonette, the installation of external stairs and seating to the rear, revised fenestration to the rear, new ramped access to front and the reinstatement of a front lightwell. The main consideration in the determination of this application related to the principle of development, the design of the alterations, the impact on the conservation area, on neighbouring amenity and on the highways network.
- (4) It was considered that the proposal, by reason of the retention of the A1 element, would continue to contribute to the Regional Centre's viability and attractiveness, whilst also providing a complementary evening/night-time economy use, encouraging combined trips and attracting pedestrian activity through the provision of the A4 component. Subject to conditions, it was not considered that use would not have a significant impact on neighbouring amenity and that the proposed shopfront and other alterations would enhance the appearance of the conservation area; approval was therefore recommended.

Public Speakers

- (5) A statement was read out by the read out by the Democratic Services Officer on behalf of Councillor Lizzie Deane in her capacity as a Local Ward Councillor and on behalf of local residents and the North Laine Community Association setting out their objections to the scheme Local residents did not wish to see this premises become a drinking establishment, there were already many outlets for the sale of alcohol on Trafalgar Street. There was currently a licence for off-sales but if the outside was used it would generate noise and disturbance in close proximity to neighbouring dwellings in a densely populated area. The sale of alcohol without the provision of food would effectively render the new use a dinking establishment/a pub, which was contrary to the council's Statement of Licensing Policy. The pavement adjacent to the premises was narrow and those coming into and leaving the premises in order to smoke could lead to congestion of a narrow thoroughfare which could be a risk to public safety.
- (6) Mr Carter of Lewis and Co spoke on behalf of the applicants in support of their application. He stated that the application was intended to enable the existing off-licence to add a small area for the tasting and drinking of specialist whiskies. The applicant was a long established and well-respected whisky supplier who lived in the area and provided whisky to top restaurants and hotels throughout the UK. He did not intend to provide cheap alcohol and cigarettes and his offer would be solely specialist whisky. The number of units currently selling alcohol was considerably fewer now than during the Victorian era when the street had been built. Use of the small outside area for a couple of tables and chairs was limited by condition to cease at 6pm and it was

not considered it would have a negative impact on the few neighbouring residents. The Police had raised no objections to the application.

- (7) Councillor Shanks asked regarding the rationale for use of the outside area and the need to place tables and chairs there. It was explained that this area would have limited use (not after 6.00pm) and would be used only as a tasting area in conjunction with the whisky tasting.
- (8) Councillor Theobald referred to the proposed condition which would limit use of the outside area to 6pm and asked whether it was proposed to amend the hours during which licensable activity could be carried out in respect of the remainder of the premises and it was confirmed it was not.

Questions of Officers

- (9) In response to the agent's statement to questions, the Head of Planning, Liz Hobden, clarified that the application under consideration was not personal to the applicant and that the use proposed should be considered on the basis of any future applicants.
- (10) Councillor Yates sought further clarification in respect of the proposed use of the premises seeking confirmation regarding the mix of retail which was required to be retained. The number of tables and chairs proposed outside both outside and in the basement indicated to him that business would operate primarily as a bar.
- (11) Councillor Miller also asked regarding the proposed mix of uses within the premises and regarding its internal layout, the number of individuals who would be permitted standing and location of the bar area. Councillor Miller also referred to the width of the footway adjacent to the premises and whether it was intended to provide an outside smoking area.
- (12) Councillor Janio sought confirmation as to whether the proportion of each use was stipulated by legislation and it was confirmed that it was not.
- (13) The Planning Officer, Russell Brown, stated that the proposed use was considered to be acceptable as a reasonable element of the existing retail use would be retained. It was the additional element of A4 use for which planning permission was being sought.

Debate and Decision Making Process

- (14) Councillor Theobald stated that she considered the proposed use to be acceptable, particularly as conditions would be imposed limiting the hours of use of the outside space.
- (15) Councillor Janio concerned in that view.
- (16) Councillor Mac Cafferty stated that he did not consider that the application was acceptable. The mix within the premises and number of tables and chairs to be provided did not suggest to him that a suitable level of mixed use would be retained. The use would not be personal to this applicant and in his view ran totally contrary to policy as it would result in a pub by stealth. Neighbouring amenity would be

significantly detrimentally impacted by the number of individuals who could be present drinking on the premises at any one time. Use of the whole premises, including the basement areas by up to 40 people by his calculation was unacceptable. There would be further detriment to neighbouring amenity as a result of use of the outside area to the rear and by individuals gathering outside the front of the building on the pavement in order to smoke. Neighbouring residences were in close proximity to the premises, there were also dwelling units above. He considered that all would be negatively impacted by the proposed scheme. Councillor Littman was in agreement.

- (17) Councillor Shanks also agreed stating that she was particularly concerned that use of the outside area given the close proximity to neighbouring dwellings would be detrimental.
- (18) A vote was taken and on a vote of 6 to 4 planning permission was refused. A brief adjournment then took place in order to go into closed session to discuss the reasons for refusal. Councillor Mac Cafferty proposed that planning permission be refused on the grounds that the proposed would have a negative impact on neighbouring amenity due to noise and nuisance and was contrary to policy QD27. That a clear division between the A1/A4 uses had not been demonstrated and there was a loss of retail use. Councillor Shanks seconded the proposal that planning permission be refused. The final wording of the reasons for refusal to be agreed by the Planning Manager in consultation with the proposer and seconder. A recorded vote was then taken. Councillors Hill, (the Chair), Fishleigh, Littman, Mac Cafferty, Shanks and Yates voted that the application be refused. Councillors Childs, Janio, Miller and Theobald voted that planning permission be granted. Therefore, on a vote of 6 to 4 planning permission was refused.
- 129.5 **RESOLVED** – That planning permission be refused on the grounds set out above. The final wording of the decision to be agreed by the Planning Manager in consultation with the proposer and the seconder.
- 130 TO CONSIDER ANY FURTHER APPLICATIONS IT HAS BEEN DECIDED SHOULD BE THE SUBJECT OF SITE VISITS FOLLOWING CONSIDERATION AND DISCUSSION OF PLANNING APPLICATIONS**
- 130.1 There were none.
- 131 INFORMATION ON INFORMAL HEARINGS/PUBLIC INQUIRIES**
- 131.1 The Committee noted the information regarding informal hearings and public inquiries as set out in the planning agenda.
- 132 LIST OF NEW APPEALS LODGED WITH THE PLANNING INSPECTORATE**
- 132.1 The Committee noted the new appeals that had been lodged as set out in the planning agenda.
- 133 APPEAL DECISIONS**

- 133.1 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 4.10pm

Signed

Chair

Dated this

day of