

BRIGHTON & HOVE CITY COUNCIL**PLANNING COMMITTEE****2.00pm 13 JANUARY 2021****VIRTUAL****MINUTES**

Present: Councillors Littman (Chair), Osborne (Deputy Chair), Childs (Opposition Spokesperson), Miller (Group Spokesperson), Henry, Fishleigh, Janio, Shanks, C Theobald and Yates

Co-opted Members: Apologies were received from CAG

Officers in attendance: Jane Moseley (Planning Manager), Hilary Woodward (Senior Solicitor), Liz Arnold (Planning Team Leader), Tim Jefferies (Heritage Team Leader), Joanne Doyle (Senior Planning Officer), Russell Brown (Senior Planning Officer), Sonia Gilham (Senior Planning Officer), Michael Tucker (Planning Officer), Sam Bethwaite (Planning Officer) and Penny Jennings (Democratic Services Officer).

PART ONE**87 PROCEDURAL BUSINESS****87a Declarations of substitutes**

87.1 There were none.

87b Declarations of interests

87.2 Councillors Childs stated that he had been lobbied in respect of applications B, C and F and Councillor Fishleigh stated that she had been lobbied in respect of applications A, B, E and F confirming that they remained of a neutral mind and would therefore remain present during the debate and decision making process.

87.3 Councillor Shanks referred to application F, stating that she had discussed this with her husband but had not expressed an opinion in respect of it, remained of a neutral mind and would therefore remain present during the debate and decision making process.

- 87.4 Councillor Osborne declared a prejudicial interest in application A stating that he would withdraw from the meeting during consideration of it and would take no part in the debate or decision making process.
- 87.5 Councillor Henry declared a prejudicial interest in application E, stating that having spoken in his capacity as a Local Ward Councillor he would withdraw from the meeting and would take no part in the debate or decision making process.
- 87.6 Councillor Yates declared a prejudicial interest in applications J and K as he was speaking on both in his capacity as Local Ward Councillor following which he would withdraw from the meeting and would take no part in the debate or decision making process. He had also been lobbied in respect of applications B and F but remained of a neutral mind.
- 87.7 Councillor Littman declared that he had been lobbied and had, had a site visit on G but remained of an open mind.

87c Exclusion of the press and public

- 87.8 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.
- 87.9 **RESOLVED** - That the public are not excluded from any item of business on the agenda.

87d Use of mobile phones and tablets

- 87.10 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’.

88 MINUTES OF THE PREVIOUS MEETING

- 88.1 **RESOLVED** – That the Chair be authorised to sign the minutes of the meeting held on 2 December 2020 as a correct record.

89 CHAIR'S COMMUNICATIONS

- 89.1 There were none.

90 PUBLIC QUESTIONS

- 90.1 There were none.

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

- 91.1 The Chair, Councillor Littman, stated that all Members of the Committee had received an email from the Head of Planning, Liz Hobden, outlining that in view of the severity of the current situation the carrying out of site visits had been reviewed and that these should only be carried out in very exceptional circumstances. There were two applications on that day’s agenda which had been deferred from the last meeting in order to allow site visits to be undertaken – Item A (The Meeting House) and Item F 43 Clarendon Villas. The Head of Planning had pointed out in her email that these two applications did not meet the criteria for exceptional site visits and Members were invited to let Jane know should they require additional photographs and images, and were also invited to make individual site visits.
- 91.2 The Committee had a duty to determine applications, but Members must be satisfied that they had all of the information they needed in order to do so. The Chair explained therefore that he was going to ask Members, when it came to the debate on each item(after the presentation and questions) if they considered they have sufficient information to determine the two applications without the need for a site visit.
- 91.3 Subsequently, following discussion in respect of Application G – 39A Preston Park Avenue, the 9 Members present agreed by a vote of 5 to 4 to defer determination of the application, pending a site visit. Arrangements were to be put into place to enable a site visit to take place having regard to current government guidance and safety requirements.
- 91.4 **RESOLVED** – That the following site visits be undertaken by the Committee prior to determination of the application:

| Application: | Requested by: |
|---|----------------------|
| *G, BH2020/01969 - 39A Preston Park Avenue, Brighton | Councillor Fishleigh |
| *It was agreed that this application would be subject to a site visit following discussion when considering the application. It was noted that no further public speaking would be permitted. | |

92 TO CONSIDER AND DETERMINE PLANNING APPLICATIONS

- 92.1 The Democratic Services Officer read out all the agenda Items. It was noted that all Major applications and any Minor applications with speakers were automatically reserved for discussion.
- 92.2 It was noted that the following applications were not called for discussion and it was therefore deemed that the officer recommendation(s) were agreed including the proposed Conditions and Informatives and any additions / amendments set out in the Additional / Late Representations List:

Item H: Application BH2020/02829 – Studio Cottage, Caburn Road, Hove;

Item I: Application BH2020/02482 – 7B Wentworth Street, Brighton;

Item J: Application BH2020/03006 – 166 Heath Hill Avenue, Brighton;

Item L: Application BH2020/01505 - 11 – 12 Rock Place, Brighton

A BH2020/01742 - The Meeting House, Park Close, Brighton - Full Planning

- (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 aerial views which showed the scheme in the context of neighbouring development.
- (2) It was noted that the main considerations in determining the application related to the principle of the development of the site and the impact of the proposed dwellings on the character and appearance of the street and the surrounding area, and on the setting of the adjacent South Downs National Park. The standard of accommodation, sustainability and impact on neighbouring amenity, transport, trees, ecology and biodiversity were also material considerations. Given the prevailing character of the streetscene it was considered that the scale and design of the proposed development would not appear out of context or character with the site and its surroundings nor would the proposed building have an unacceptably overbearing impact on its neighbours. It had been carefully designed to take account of overlooking and privacy issues. Subject to the proposed conditions it was considered that the development was appropriate in terms of design, scale and impact on amenity, highways, trees and biodiversity, the adjacent National Park and nature reserve, and would provide new dwellings of a good size and standard. Approval was therefore recommended, subject to the completion of a s106 planning legal agreement, and to the conditions within the report.
- (3) Councillor Theobald asked for clarification of the proposed building heights, and whether officers were satisfied that the previous reasons for refusal had been overcome. It was explained that the proposed scheme would be no higher than the existing building. This scheme was significantly different from that which had been refused previously and was considered acceptable. In answer to further questions by Councillor Theobald it was also confirmed that there were no concerns in relation to traffic generation or access/egress to/from the site.
- (4) Councillor Fishleigh asked about the process used in activating the review mechanism of viability in relation to affordable housing. It was explained that the applicant's Viability Assessment had been reviewed, confirming that affordable housing provision was not viable, and that a review mechanism would be secured requiring re-appraisal close to completion to confirm whether there was any change to this conclusion.
- (5) Following the presentation and with Members having had the opportunity to ask questions the Chair reminded the Committee that it had a duty to determine applications, but Members must be satisfied that they had sufficient information in order to do without the need for a site visit. They agreed that they had and it was noted that additional information and visuals had been provided in order to assist with the decision making process.

Debate and Decision Making Process

- (6) Councillor Theobald stated that she considered the “big” block proposed was out of keeping with the neighbouring streetscene which was lower rise and characterised by bungalows. This was the wrong place for such development, driven by developers seeking to maximise their profits.
- (7) Councillor Fishleigh concurred with that view, considering that layout, density and visual appearance of the scheme was unacceptable. Also, that there were highways issues.
- (8) Councillor Miller considered that the proposed scheme represented good use of the site.
- (9) Councillor Childs considered that it was regrettable that yet again, there was a lack of affordable housing units, considering that the council had a civic duty to address this going forward. The scheme would however provide housing units of an acceptable standard and on that basis he could support it. Councillor Henry considered that on balance the scheme was acceptable.
- (10) A vote was taken and the 9 Members of the Committee present voted on a vote of 7 to 2 that Minded to Grant planning permission be given.

92.1 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in the report and resolves to be **MINDED TO GRANT** planning permission subject to a106 agreement on the Heads of Terms set out in the Late List and to the Conditions and Informatives set out in the report. *SAVE THAT should the s106 Planning Obligation not be completed on or before the 7th April 2021 the Head of Planning is authorised to refuse planning permission for the reasons set out in paragraph 9.3 of the report:*

Note: Having declared a prejudicial interest in the above application Councillor Osborne left the meeting and took no part in the debate and decision making process.

B BH2020/01696 - 56-57 Lewes Road - Full Planning

- (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 aerial views which showed the scheme in the context of neighbouring development.
- (2) The main considerations in determining the application related to the principle of development, including the provision of the new retail /café unit and purpose built student accommodation, the design of the proposed building and the impact on the streetscene; the standard of accommodation proposed, impact on neighbouring amenity; sustainable transport; sustainability; landscaping and ecology/biodiversity. The application had evolved from the pre-application discussions, and it was considered that design concerns, with regard to appearance, quality of internal space, provision of communal amenity spaces landscaping and biodiversity were now acceptable. Provision of a flexible retail/café unit would be beneficial. It was recognised that this scheme would make a positive and efficient use of the site and approval was therefore

recommended subject to the completion of a s106 planning legal agreement, and to the conditions within the report.

- (3) Councillor Fishleigh asked whether any discussions had taken place regarding retention of the Co-op store at ground floor level. It was noted that the Co-op was likely to be relocated, but that this did not form part of the present application.
- (4) Councillor Shanks asked for confirmation whether the existing loading bay was to be retained and it was explained that it would.
- (5) Councillor Miller asked if the hours during which the roof terrace could be used could be imposed and it was stated that it had not been considered necessary to limit these.
- (6) Councillor Theobald referred to traffic/transport issues during periods when students moved in/out which had been identified previously. It was explained that discussions had taken place with the highways team and that a student moving in and moving out scheme would be secured through the legal agreement.

Debate and Decision Making Process

- (7) Councillor Childs stated that he supported the recommendations, there was a high demand for suitable student accommodation and such provision eased pressure on accommodation across the city. Councillor Childs referred to the fact that 15 local residents had lost their lives during a Second World War bombing raid in 1943, considering that it would be appropriate for a plaque to be erected to commemorate that. Representatives of the applicant were present at the meeting and indicated their willingness to do so and liaise further with Councillor Childs and officers thereon.
- (8) Councillor Janio concurred with Councillor Childs, considering that it would be beneficial for members to be informed of the number of family homes or HMOs which were freed-up by implementation of such schemes, and whether student housing was considered to contribute towards housing needs.
- (9) Councillor Miller considered that the scheme was acceptable but proposed that in view of the proximity of other dwellings in this residential street that a “curfew” be imposed to limit the times during which the outside terraces could be used in the evening. He considered that a 9.00pm cut off time would be appropriate. The Legal Adviser to the Committee considered that for such a time constraint to be applied it would need to be demonstrated it would be proportionate. The Planning Manager stated that in environmental health terms, night time noise hours were between 11pm and 7am. Councillor Miller proposed that these hours be applied as a condition, it was seconded by Councillor Osborne and Members were in agreement that be applied to any permission granted. A vote was taken on the proposed condition and the vote was carried 8 to 2.
- (10) A vote was then taken on the substantive recommendation and the Committee voted unanimously that Minded to Grant planning permission be given..

92.2 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in the report and resolves to **Minded to**

GRANT planning permission subject to a s106 Agreement on the Heads of Terms set out in the Late List and the Conditions and Informatives set out in the report, to the additional condition set out in the Late, Additional Representations List. and to a condition that the roof terraces not be used between the hours of 11.00pm-7.00am daily. An informative be added requesting a plaque on site to 'remember the lives lost to a bomb that hit the site in 1943'. *SAVETHAT should the s106 Planning Obligation not be completed on or before the 7th April 2021 the Head of Planning is authorised to refuse planning permission for the reasons set out in paragraph 9.44a of the report:*

C BH2020/00550 - Greater Brighton Metropolitan College, Pelham Street, Brighton - Reserved Matters

- (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 which showed the scheme in the context of neighbouring development.
- (2) It was explained that this application was for approval in respect of the remaining outstanding reserved matters in respect of outline permission BH2020/00326 relating to 135 new residential units at Site B which related to appearance, internal layout and landscaping. Following receipt of consultation comments amendments had been submitted including improved vehicular access which would enable the communal amenity space to be increased, biodiversity improvements including a biosolar roof, enhanced drainage strategy, changes to cladding colour, the introduction of brick panels and the inclusion of inset balconies within the improved Block A as a southern bookend. The principle of the development had already been approved within the outline permission including external layout, access and scale. The provision of 135 residential units was in accordance with the outline consent and the proposals would provide a significant contribution to housing supply and a good mix of housing. It was considered that they had been sensitively designed to protect amenity levels of existing residents, there would be balconies and gardens for private amenity space, shared internal amenity space and public open space. Constraints of daylight and sunlight loss from tall neighbouring buildings had also been considered. Approval of the reserved matters was therefore recommended subject to the completion of a Deed of Variation to the existing s106 planning legal agreement, and to the conditions within the report.
- (3) Councillor Shanks enquired whether any affordable housing was to be provided. It was confirmed that none would be provided and that this had been approved as part of the outline permission. It was not therefore a consideration for this application.. Councillor Shanks expressed concern that it appeared to have been driven by the profit margins required by the developer in developing their own site when balanced against those of the college, querying whether in this instance those thresholds had been higher than might otherwise be the case. It was explained that financial considerations had included an assessment of the redevelopment of the college site overall, with the housing development helping to fund the college redevelopment. The Legal Adviser to the Committee explained that as the issue of affordable housing had been considered and agreed at the outline stage it could not be revisited. The Committee could only determine the reserved matters referred to.

- (4) Councillor Childs expressed concern in respect of access/egress arrangements in the event of fire, seeking confirmation that they were sufficiently robust. It was explained that all fire safety requirements would need to be satisfied through building control regulations, but that was a separate regime and did not form part of the planning considerations. Councillor Childs also referred to the location of balconies within the development and configuration of the amenity space seeking confirmation regarding the materials to be used.

Debate and Decision Making Process

- (5) Councillor Childs stated that he considered the scheme was architecturally vulgar and nasty, considering that it amounted to a neglect of civic duty. The site had been provided to the college in 1992, having been previously owned and paid for by the city. The city had been received nothing in return and the lack of affordable housing was outrageous in his view.
- (6) Councillor Miller stated that he considered the scheme to be acceptable, although he understood the concerns expressed. As the principle of the development and constraints had been considered and approved at the outline stage it would be inappropriate for the Committee to revisit them now. He also sought clarification of the balcony treatments proposed. He considered that the social and economic benefits and positive regeneration of the site far outweighed any impact.
- (7) Councillor Fishleigh noted that it was important for the Committee to consider the materials and treatments proposed in the context of the site overall. The basis on which the earlier decisions had been taken. It was re-iterated that the Committee had made their decision in respect of the application and it was only the reserved matters which it fell to the Committee to determine.
- (8) Councillor Theobald stated that she had preferred the original earlier scheme and her preference would also have been for more parking spaces to be provided, but overall she did consider the scheme to be a good one.
- (9) Councillor Janio stated that the developer had tried to address a number of requirements and constraints in respect of the site the overarching principles had been considered and agreed already. To withhold consent at this stage would be churlish.
- (10) Councillor Osborne stated that the he supported the officer recommendation and was in agreement that the developer had done all they could in terms of delivering a complex scheme. The measures proposed to limit emissions and to support sustainability were also welcomed.
- (11) A vote was taken and on a vote of 8 with 1 to 1 abstention minded to grant planning permission was given in respect of this reserved matters application. It was agreed that balcony treatments would be agreed by the Planning Manager in consultation with the Chair, Opposition Spokesperson and Group Spokesperson.

- 92.3 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in the report and resolves to be **MINDED TO GRANT** the Reserved Matters subject to Conditions and Informatives also set out in

the report and a Deed of Variation to the existing s106 Agreement dated 27 March 2019 as set out in the report SAVE THAT should the Deed of Variation not be completed on or before 5 May 2021 the Head of Planning is authorised to refuse planning permission for the reasons set out in Section 10.2 of the report.

D BH2017/01083 - City College, 87 Preston Road, Brighton - Deed of Variation

- (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 which showed the scheme in the context of neighbouring development. A request had been received to vary the Heads of Terms of the Section 106 Agreement signed in connection with planning application BH2017/01083, in order to amend the affordable housing requirements so that a commuted sum could be paid in lieu of the provision of ten on-site affordable housing units.
- (2) It was considered that the developer had provided sufficient justification and evidence that the affordable housing units could not be provided on site, and therefore an exception to this requirement within Policy CP20 could be accepted in this case and remained policy compliant as it remained the most practical outcome for the site and would allow for the delivery of affordable housing in the city. The developer had agreed to offer an in-lieu commuted sum of £1, 357,500 which would be payable within 12 months of occupation. It was important to note that any subsequent sales of residential units after 12 months where payment of the commuted sum had not been made would be prevented by the Council. The clauses which would need to be added to the Deed of Variation were set out in the report and subject to their inclusion approval was recommended.
- (3) Ms Thompson was in attendance on behalf of the owners of the site and explained the process that had been undertaken in seeking to provide on-site affordable housing and how having been unsuccessful in doing so a commuted sum was now proposed as an alternative.
- (4) Councillor Shanks expressed concern that it had not been possible to provide affordable units on site. Whilst it was understood that other social providers had been unwilling to take on the units, she also wanted assurance that the Council itself had looked at the possibility of taking on units on site. A policy decision had been made to pursue that option in relation to such developments but as yet that did not appear to be occurring. The Empty Property Officer, explained that that where appropriate the Council did so, but with high spec developments the cost of taking on such units could be too high.
- (5) Councillor Shanks also sought clarification of the situation should permission be refused. The Senior Planning Officer explained that would create uncertainty as no providers on the council's preferred Registered Provider list had been willing to take on affordable units and under those circumstances the s106 would need to be re-visited.
- (6) The Chair noted the concerns expressed noting that this issue needed to be pursued via the Housing Committee.

- (7) In answer to questions by Councillor Janio it was explained that as the proposed affordable units had been secured as shared ownership units they were not an option for the Council to buy as shared ownership units are not developed by the Council at present. The commuted sum would provide a significant sum towards housing. Councillor Shanks stated that in her view it had not been made clear to members previously.

Debate and Decision Making Process

- (8) Councillor Miller stated that he did not support the proposed variation as he considered there should be an on-site provision.
- (9) Councillor Theobald stated that she supported the proposal, the applicants had provided a good sum towards off site provision which represented a better contribution than on many other sites.
- (10) Councillor Childs concurred stating that in this instance the developer had taken their duties seriously and had tried to meet their s106 responsibilities and as that had not proved possible had provided an acceptable sum in lieu. They should be commended for that. Councillors Janio, Yates and Osborne concurred in that view. Councillor Yates stated that the housing and planning regimes appeared to be out of kilter with each other and that needed to be addressed. In this instance, however, the developer had exhausted all avenues available to them.
- (11) A vote was taken and on a vote of 8 to 1 with 1 abstention Members agreed grant the requested Deed of Variation.

- 92.4 **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** the Deed of Variation to the s106 Agreement so that the developer is obligated to pay a commuted sum of £1, 357, 500, twelve (12) months after first occupation, in lieu of providing the affordable housing in the form of ten shared ownership units on site.

E BH2020/02211 - Rockwater, Kingsway, Hove - Full Planning

- (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 showed the scheme in the context of neighbouring development and the seafront.
- (2) It was noted that the principle of regenerating the property and improving the overall range of attractions on the seafront was supported, as were the benefits the proposed works could bring to the wider area. However, the property was in a sensitive location in the Sackville Gardens Conservation Area, and the increase in height was considered harmful without public benefits to outweigh that harm. It was not considered that sufficiently robust reasons to outweigh that harm had been given and refusal was therefore recommended.

Public Speakers

- (3) Councillors Appich and Henry spoke in their capacity as Local Ward Councillors stating that in their view the proposed external alterations and extensions would improve the appearance of the existing structure, help to regenerate and enhance the appearance of a neglected part of the seafront, would have improved disabled access, had local support and would also generate employment opportunities. The building was located at a significant distance from the nearest neighbouring dwellings and it was not considered that there would be a detrimental impact on the conservation area. They considered that planning permission should be granted.
- (4) Mr Coomber spoke on behalf of the Walsingham Road Residents' Association, setting out their objections to the proposed scheme. Use of the premises had given rise to noise nuisance in the past and any intensification would exacerbate that. The current works had proceeded and would have a detrimental impact for residents and on the setting of the conservation area and existing neighbouring development and access to the site would impact on existing transport issues, particularly in relation to additional taxi movements associated with dropping off and picking up from the site.
- (5) Messrs Carter and Wilson spoke on behalf of the applicants in support of their scheme. They referred to the appearance of the existing building which in their view was not itself sympathetic to its location. Alterations to the roofscape would improve its appearance and would not add significant height to the building or increase any existing harm. It was intended that the improvements would encourage greater community use and would help to improve and regenerate that part of the seafront.
- (6) Councillor Yates sought clarification in respect of access to the site and it was confirmed that the capacity of the building would not be increased so it was not envisaged that taxi or other vehicular movements would increase.
- (7) Councillors Miller, Theobald and Fishleigh enquired regarding the hours of operation of the premises and it was confirmed that whilst the ability to open until 3.00am (as existing) would be retained generally the premises would close at 1.00am.
- (8) Councillor Yates also enquired regarding existing conditions and it was confirmed that Environmental Health Officers had not raised any objections to the application.
- (9) In answer to questions of Councillor Theobald, the rationale for placing the lift at the east of the building was explained, also the location of the disabled toilet facilities. It was confirmed that use of the outside decked area would not be permitted after 11.00pm.
- (10) Councillor Miller referred to conditions applied in relation to hours of operation of various areas of the building. The Legal Adviser to the Committee stated that any conditions applied needed to be proportionate re-iterating that no objections had been made by environmental health and that final conditions could be agreed in consultation with the Chair and any other specified members.

Debate and Decision Making Process

- (11) Councillors Childs and Yates considered that the proposals would affect improvements to a neglected part of the seafront and that the proposed increase in the height was in their view acceptable in this instance and an exception could be made.
- (12) Councillor Miller referred to the fact that there appeared to be a lot of public support and that the proposals would provide a lot of social benefit. Although the roof height would be slightly higher than the existing in this instance it was acceptable subject to suitable conditions being applied to any permission granted. Councillor Theobald also concurred in that view.
- (13) Councillor Shanks considered that the application if approved could set an unfortunate precedent and she was therefore unable to support it.
- (14) A vote was taken and the 9 Members present voted by 8 to 1 not to accept the officer recommendation. Councillor Miller proposed that planning permission be granted on the grounds that the additional height of the building would not be overly prominent or contrary to the identified character of the Western Esplanade, nor would it fail to preserve and enhance the setting of the conservation area. This was seconded by Councillor Yates. A recorded vote was then taken. Councillors Childs, Fishleigh, Janio, Littman, the Chair, Miller, Osborne, Theobald and Yates voted that planning permission be granted. Councillor Shanks voted that planning permission be refused. Therefore on a vote of 8 to 1 planning permission was granted.

92.5 **RESOLVED** – That the Committee has taken into consideration the recommendations set out in the report but agrees to **GRANT** planning permission for the reasons set out above. Planning conditions to be imposed are to be agreed by the Planning Manager in consultation with the Chair and Opposition Spokespersons.

Note: Having declared a prejudicial interest in the above application Councillor Henry spoke in his capacity as a Local Ward Councillor, then withdrew from the meeting and took no part in the debate or decision making process.

F BH2020/02654 - 43 Clarendon Villas, Hove - Full Planning

- (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 and elevational drawings which showed the scheme in the context of neighbouring development. The site abutted the gardens of residential dwellings to the north on Goldstone Road and residential properties converted into flats to the south on Clarendon Villas. The greatest impact would be on the flats directly to the south at 43 and 45 Clarendon Villas. Whilst the proposed office use, as well as use of the amenity spaces, car parking and driveway would intensify use of the site in an enclosed plot surrounded by neighbouring properties and gardens, given the relatively low occupancy and also use of the proposed forecourts and amenity areas for short periods, it was not considered that would cause significant noise disturbance or other harm. It was highlighted that there was an identical, extant permission on the site. It was proposed that the office use be secured by condition in order to prevent the development being converted into other Class E uses in future which could have an increased impact on neighbours. On balance it was not considered that the impact of the proposed office was such to warrant refusal of the application. It was therefore

recommended that planning permission be approved, subject to the conditions within the report.

Public Speakers

- (2) Councillor Wilkinson spoke in his capacity as a Local Ward Councillor setting out his objections to the scheme. He considered that it represented overdevelopment of a constrained site. The access arrangements were too narrow with problematic access onto the adjacent highway, the increased height of the building would have a detrimental impact on the rear windows of flats in Clarendon Villas and the two parking spaces would be located in very close proximity to neighbouring flats.
- (3) Mr Pollard spoke as a neighbouring objector. The garages were currently little used, mainly for storage and consequently there was little access to/from the site, the accessway was narrow with restricted sight lines, vehicles leaving the site needed to do so by driving across the pavement. The proposed use would intensify use of the site and result in increased overlooking. Of particular concern was the very close proximity of the proposed parking spaces to the rear windows of his basement flat, this would have a serious negative impact on his living space and amenity.
- (4) Councillor Yates sought clarification regarding close proximity of parking to neighbouring bedroom windows and regarding current on site vehicular activity as did Councillor Shanks. Councillor Childs enquired regarding the state of repair of the existing access way and sought clarification from officers regarding any proposed future treatment of that surface.

Questions of Officers

- (5) In answer to questions it was confirmed that whilst not fully utilised currently, the garages could be used at any time of the day or night and would also generate traffic movements using the existing access/egress arrangements. The noise and disturbance generated could be more significant than that of the proposed development which would incorporate only 2 parking spaces. It should be noted that no traffic transport issues had been identified by officers
- (6) Councillors, Osborne and Childs sought clarification regarding existing on-street parking capacity nearby and in relation to the extant permission. In answer to further questions, the Legal Adviser to the Committee confirmed that considerable weight needed to be given to the extant permission in determining the application and it was confirmed that no new material planning considerations had arisen since the date of that permission..
- (7) Councillor Osborne sought confirmation regarding bin storage and arrangements for removal of refuse from the site and it was explained that this would be from kerbside with bins being taken to the kerbside prior to collection.
- (8) Following the presentation and with Members having had the opportunity to ask questions the Chair reminded the Committee that it had a duty to determine applications, but Members must be satisfied that they had sufficient information in order to do without the need for a site visit. It was noted that additional information and

visuals had been provided in order to assist with the decision making process. Members concurred that they had sufficient information to determine the application..

Debate and Decision Making Process

- (9) The Chair, Councillor Littman, confirmed that being the case that it fell to the Committee to determine the application, giving due weight to the extant permission.
- (10) Councillor Fishleigh considered that it would be appropriate to carry out a site visit but that was rejected.
- (11) Councillor Yates made proposed amendments in respect of on-site parking arrangements but subsequently withdrew them. Overall, however, he considered that the scheme was acceptable and that account needed to be taken of the fact that the garage use could generate considerable movements to from the site.
- (12) Councillor Janio confirmed that he considered the proposal was acceptable.
- (12) Councillor Miller considered that the scheme was acceptable overall and that as the provision and location of parking on site seemed to be the main focus of objections that parking be removed from the site. Councillor Shanks concurred in that view.
- (13) A vote taken on the proposal that parking within the site be removed from within the area delineated by a red line. That was agreed on a vote of 6 to 4. A further vote was then taken on the substantive recommendation to include that condition. That was agreed on a vote of 8 to 1 to 1

92.5 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendations set out in the report and resolves to **GRANT** planning permission subject to the Conditions and Informatives also set out in the report and the additional condition referred to in paragraph (13) above

G BH2020/01969 - 39A Preston Park Avenue, Brighton - Full Planning

- (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 aerial photographs which showed the scheme in the context of neighbouring development.
- (2) It was explained that that the main considerations in determining the application related to whether the proposed change of use and subdivision to form two dwelling houses was acceptable, the impacts of the proposed alterations and extensions to the existing building on design and appearance, including the impact on the wider conservation area, the impacts on neighbouring amenity and transport and ecology matters. The proposal was part retrospective in nature as some of the external alterations had already taken place. Amendments to the scheme had been sought during the consultation process and subject to the conditions proposed approval was recommended.

Speakers

- (3) Councillor Hugh-Jones spoke in her capacity as a Local Ward Councillor in objection to the scheme. The accuracy of the proposed access from Preston Drive was disputed, the submitted plans indicated that the entire area from Preston Drive was owned by the applicants and this was strongly refuted by residents of the Mews via which access to one of the units would be required. Unit 2 which would have 2 car parking spaces would require regular vehicular access via the courtyard of 76 Preston Drive. Residents of the Mews regularly crossed that access to use the communal garden and play area and that gave rise to safety concerns.
- (4) Ms Cole spoke on behalf of residents of the Mews which the plans indicated would share an access from Preston Drive and explained that the plans were misleading in that the applicants did not have right of access to that part of the site which would be occupied by Unit 2. It was not in their ownership and access would be required via the gated security access to their properties from Preston Drive. There were also concerns that access to that dwelling via the same access way were inadequate in the event that was required by a fire tender or other emergency vehicle.
- (4) Mr Coomber spoke in his capacity as the applicant's agents. He explained that the points raised by objectors in respect of rights of access and ownership from Preston Drive were strongly contested by the applicants and were the subject of a separate dispute which would be settled independently. It fell outside planning legislation as did concerns raised in respect of access by emergency services. When the site had operated as a Nunnery access to that site had been established and access arrangements from Preston Park Avenue were not disputed. These disputed matters would need to be resolved in order for the development to proceed and the proposed scheme would provide two family homes on an established site. In answer to questions, Mr Coomber sought to explain the access arrangements and configuration of the site.

Questions of Officers

- (5) Councillors, Fishleigh and Janio stated that they found the access arrangements as described confusing and sought further clarification in respect of them; also in respect of the queries raised in relation to ownership/rights of access and to access in the event of an emergency. It was explained that officers were aware that objectors contended that site access from Preston Drive was via a privately owned courtyard to which there were limited access rights but that did not constitute a material planning consideration. That was a civil matter which needed to be resolved separately outside of the planning process, the same applied in respect of emergency access arrangements.
- (6) Councillors Fishleigh and Janio stated that they considered that notwithstanding the current pandemic a site visit (possibly virtual) would be beneficial in order to assist in determining the application and to be clear regarding access arrangements. The Chair, Councillor Littman, stated that he was familiar with the site and asked whether Members considered that they had sufficient information in order to determine the application at this stage inviting them to ask further questions of officers in order to

receive clarification. Whilst some Members considered that they had sufficient information others indicated that they did not consider that they did and therefore a vote was taken regarding whether or not to hold a site visit.

- (7) A vote was taken and on a vote of 5 to 4 by the 9 Members who were present when the vote was taken it was agreed that determination of the application be deferred pending a site visit.

92.6 **RESOLVED** – That further consideration and determination of the above application be deferred pending arrangement of a Covid safe (virtual) site visit.

Note: It was explained to all present that as the decision to hold a site visit had been taken after all parties had spoken in line with the agreed committee protocol no further public speaking would be permitted in respect of this application.

H BH2020/02829 - Studio Cottage, Caburn Road, Hove - Householder Planning Consent

- (1) This application was not called for discussion and the officer recommendation was therefore taken as having been agreed unanimously.

92.8 **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 the Conditions and Informatives also set out in the report.

I BH2020/02482 - 7B Wentworth Street, Brighton - Full Planning

- (1) This application was not called for discussion and the officer recommendation was therefore taken as having been agreed unanimously.

92.9 **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 the Conditions and Informatives also set out in the report.

J BH2020/03006 - 166 Heath Hill Avenue, Brighton - Full Planning

- (1) This application was not called for discussion and the officer recommendation was therefore taken as having been agreed unanimously.

92.10 **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 the Conditions and Informatives also set out in the report.

K BH2020/03070 - 95 Heath Hill Avenue, Brighton - Full Planning

- (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 and elevational drawings which showed the scheme in the context of neighbouring development. It was noted that the application previously

refused by the Committee and the planning inspector's decision thereon were relevant to consideration of this application.

- (2) The current application had reduced the number of occupiers sought from 9 to 8 when compared with the previous, refused application. This would increase the occupancy from the six which could currently lawfully reside. The rear extension would accommodate the communal space for future occupiers but did not physically adjoin the neighbouring property at no 93, and acoustic fencing was proposed along that boundary. The Planning Inspector had ruled that the sound proofing measures proposed would be inadequate to protect to protect the amenity of neighbouring amenity. However, as the likely increase in noise output was likely to be less significant than that associated with the dismissed appeal scheme the application was considered to be acceptable and approval was recommended.
- (3) As Councillor Yates had submitted objections in his capacity as a Local Ward Councillor he withdrew from the meeting and took no part in the debate and decision making process. Before doing so he referred to the Inspector's decision, subsequent applications and properties identified as breaching the regulations he believed that they exceeded the number permitted within a 50m radius.
- (4) Councillor Childs sought clarification of this point. Councillor Janio queried whether as the property was already in use as an HMO an increase in the number of residents would not give rise to an additional HMO as it was already in use as one. It was explained that the overall percentage of HMOs had been assessed, that it was 5.9% within a 50m radius and therefore fell within the 10% limit specified within policy CP21.(5) Councillor Childs stated that he considered the proposed scheme remained unneighbourly, represented overdevelopment and would have an unacceptable impact on neighbouring amenity. Councillors Miller and Osborne concurred. Both were of the view that the previous reasons for refusal had not been overcome.
- (6) Councillor Fishleigh suggested that the application could be refused on traffic generation grounds but the Chair advised that as the situation had not changed and this had not formed part of the previous reasons for refusal it would not be appropriate to introduce them now.
- (7) A vote was taken and on a vote of 7 with 1 abstention the 8 Members present when the vote was taken voted that the application be refused. It was then proposed by Councillor Miller and seconded by Councillor Childs--- that the previous reasons for refusal had not been overcome and that the proposed use would have a significant direct and cumulative impact on the amenity of immediately neighbouring properties due to increased activity including noise disturbance, additional comings and goings from the property and increased refuse and recycling contrary to policies QD27 and SU10 of the Brighton and Hove Local Plan. A recorded vote was then taken. Councillors Littman (The Chair), Osborne (Deputy Chair), Childs, Fishleigh, Henry, Miller and Shanks voted that planning permission be refused. Councillor Janio abstained.

92.11 **RESOLVED** – That the Committee has taken into consideration the reasons for the recommendation set out in report but resolves to **REFUSE** planning permission for the

reasons set out in paragraph (7) above. The final wording of the reason for refusal is to be agreed by the Planning Manager in consultation with the proposer and seconder.

Note (1): Having declared a prejudicial interest in the above application and spoken in his capacity as a Local Ward Councillor Yates withdrew from the meeting and took no part in the debate and decision making process.

Note (2): Due to technical difficulties Councillor Theobald was not present during consideration of the above application and therefore took no part in the debate or decision making process.

L BH2020/01505 - 11 - 12 Rock Place, Brighton - Full Planning

(1) This application was not called for discussion and the officer recommendation was therefore taken as having been agreed unanimously.

92.11 **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 the Conditions and Informatives also set out in the report.

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

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

| Application: | Requested by: |
|---|----------------------|
| *G, BH2020/01969 - 39A Preston Park Avenue, Brighton | Councillor Fishleigh |
| *It was agreed that this application would be subject to a site visit following discussion when considering the application. It was noted that no further public speaking would be permitted. | |

94 LIST OF NEW APPEALS LODGED WITH THE PLANNING INSPECTORATE

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

95 INFORMATION ON INFORMAL HEARINGS/PUBLIC INQUIRIES

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

96 APPEAL DECISIONS

- 96.1 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 7.57pm

Signed

Chair

Dated this

day of

