

**BRIGHTON & HOVE CITY COUNCIL**

**PLANNING COMMITTEE**

**2.00pm 2 FEBRUARY 2022**

**COUNCIL CHAMBER, HOVE TOWN HALL**

**MINUTES**

**Present:** Councillors Shanks (Chair), Fishleigh, Hugh-Jones, Phillips, C Theobald and Yates

**Apologies:** Councillors Barnett, Ebel, Janio, Littman, Moonan,

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

**Officers in attendance:** Nicola Hurley (Planning Manager), Don Anyiam (Highway Agreements Officer), Russell Brown (Principal Planning Officer), Kate Cole (County Ecologist), Paul Davey (Arboriculturist), Robert Davidson (Principal Planning Officer), Sonia Gillam (Senior Planning Officer), Rebecca Smith (Planning Officer), Mike Sansom (Building Control Manager), Jack Summers (Planning Officer), Hilary Woodward (Senior Solicitor) and Shaun Hughes (Democratic Services Officer)

**PART ONE**

**71 PROCEDURAL BUSINESS**

**a) Declarations of substitutes**

71.1 Councillor Phillips substituted for Councillor Ebel and Councillor Hugh-Jones substituted for Councillor Littman.

**b) Declarations of interests**

71.2 Councillor Fishleigh declared they had objected to item D – BH2021/03117: 10 Roedean Crescent.

**c) Exclusion of the press and public**

71.3 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.

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

**72 MINUTES OF THE PREVIOUS MEETING**

- 72.1 **RESOLVED:** It was agreed that the minutes of the meeting held on 12 January 2022 were a correct record.

**73 CHAIR'S COMMUNICATIONS**

- 73.1 There were none for this meeting.

**74 PUBLIC QUESTIONS**

- 74.1 One public question has been received from Pippa Hodge of BADGE:

*“Our Accessible City Strategy has now commenced, but it is in the very early phase. In the meantime, can disabled people in the city trust our Council to enforce businesses’ compliance with policies SA6 & CP5 of the city plan, Building Regulations Part M (Access to Buildings) and the Equality Act 2010 by using the full weight of the Law, swiftly and decisively, on any businesses, regardless of stature, should they fail to comply with imposed planning conditions within the stated time limit?”*

Response:

“The Council, as local planning authority, has a legal duty to consider whether enforcement action should be taken where there is any breach of planning control. Although the actual taking of enforcement action is discretionary, in determining whether to take action the local planning authority must, and will, have regard to the public sector equality duty set out in the Equality Act.

Against this background, and as you are aware, where there is an alleged breach of planning control the Council will engage with the landowner and any others with an interest in the land concerned to establish whether there has been a breach and, if so, the circumstances surrounding it. Should the facts confirm that a breach has taken place the various enforcement options will be considered, ranging from no action if it is expedient not to do so, a negotiated solution, or the service of an enforcement or breach of condition notice.

However, whatever decision is taken as regards enforcement action you can be assured that the identity and stature of the person/body against whom the action may be taken is immaterial in coming to a decision as to whether or not such action should be taken.”

Supplementary question:

A previous Planning Committee stated that training in Part M of Building Regulations would be useful for the Committee. Has this happened yet?

Response:

The Planning Manager noted the comments and stated they would look into the status of training for committee Members.

**75 TO AGREE THOSE APPLICATIONS TO BE THE SUBJECT OF SITE VISITS**

75.1 None were requested.

**76 TO CONSIDER AND DETERMINE PLANNING APPLICATIONS**

**A BH2021/03511 - Court Farm, King George VI Avenue, Hove - Full Planning**

1. The application was withdrawn after the agenda was published.

**B BH2021/03011 - 186-187 Lewes Road, Brighton - Full Planning**

1. The Planning Manager introduced the application to the committee.

Speakers

2. Councillor Gibson's statement was read out by the Chair: 'I support this application which will achieve 100% affordable rents run by Southdown Housing Association'.

Answers to Committee Member Questions

3. Councillor Yates was informed that there were 12 units with one bedrooms and could accommodate up to 17 people as 5 were of a size that could accommodate 2 people. The intention was for the units to be single occupancy.
4. Councillor Hugh-Jones was informed that the internal layout had changed in terms of the layout of flats.

Debate

5. Councillor Theobald stated they would have preferred a mix of unit sizes but was happy that it was for supported housing and considered the development to fit well and was a good scheme.
6. Councillor Hugh-Jones considered the affordable housing, heat pump and sedum roof to be good and an improvement on the existing.
7. Councillor Shanks stated they were in support of Councillor Gibson's comments and considered 100% affordable housing to be good.
8. Councillor Yates considered the development to be a good use of the site on the busy transport corridor The councillor considered the development to fit well in the area.

Vote

9. A vote was taken, and the committee agreed unanimously to grant planning permission.

10. **RESOVLED:** 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 a s106 agreement on the Heads of Terms set out in the report and the Conditions and Informatives as set out in the report, **SAVE THAT** should the s106 Planning Obligation not be completed on or before 26 April 2022 the Head of Planning is hereby authorised to refuse planning permission for the reasons set out in section 11 of the report.

**C BH2021/03525 - Land to the East of Coldean Lane, North of Varley Halls, South of A27 - Removal or Variation of Condition**

1. The Planning Manager introduced the application to the committee.

Answers to Committee Member Questions

2. Councillor Phillips was informed by the Arboriculturist that there has been significant tree loss on the site from Elm disease and Ash dieback. 40 Elms were removed last summer. It is likely that all Elms and Ash will be lost and replacing them is a priority. A robust maintenance scheme is imperative. Some substantial trees will need to grow for 5 to 10 years before the screening is returned.
3. Councillor Hugh-Jones was informed that no Ash trees would be planted, the onsite Elms were not disease resistant, and the Sycamore trees were to be retained.
4. Councillor Yates was informed by the case officer that there was a total of 19 trees to be removed. The applicant's agent stated that 5 diseased trees were to be removed, 3 were to allow construction access, 4 were to allow drainage works, and 7 to be removed for ground works, giving a total of 19.
5. Councillor Shanks was informed that the site entrance changes would allow a left turn into the site only and there was no central reservation. The Highway Agreements Officer noted that exiting the site downhill was considered to be acceptable. If vehicles wanted to turn right when exiting they would need to wait for a gap in traffic. The changes were intended to stop conflict on the highway.
6. Councillor Yates was informed that there was no central reservation however there was a central pedestrian island. The councillor was informed that extending the island to prevent right turns out of the site could be looked into. It was noted that changes can be made later if the residents or Police make requests.
7. Councillor Shanks was informed that there was no pavement on the development side of the highway.
8. Councillor Theobald was informed that the Biodiversity statement had been submitted as part of a separate application which includes a method statement regarding badger setts on site.
9. The County Ecologist noted that the Biodiversity method statement had been revised and approved. There was no report due on 13 February 2022. It was noted that badgers are mobile and use different setts at different times. The Planning Manager noted that the site management were looking at the site and this was ongoing, and they may be

reporting on 13 Feb, which is part of their ongoing duties for the site and not a requirement of this application.

10. Councillor Fishleigh was informed by the County Ecologist that there was one clan of badgers on the site and the main sett would be protected. 5 outlying setts will be closed, one has been proved to be inactive and 5 setts would be retained with buffer zones.
11. Councillor Hugh-Jones was informed that condition 10 related to landscaping and this could be adapted to include screening on Coldean Lane. Councillor Hugh-Jones proposed this amendment to condition 10.
12. Councillor Phillips was informed by the applicant's agent that 14 trees would be removed because of construction works. It was noted that the construction plans were submitted after planning permission was granted and these plans highlighted the need to remove certain trees.
13. Councillor Fishleigh was informed that if the committee refused the application the applicant could appeal the decision. The development would not be stopped.

Debate

14. Councillor Yates stated they were understanding of local residents' issues and noted that ecology matters were discussed when the original application came before the committee. The Elm and Ash would have been lost whether there was development or not. The councillor supported the application.
15. Councillor Theobald considered that the residents needed reassuring that screening would be protected. The councillor asked that no more trees be removed and stated they were against the application.
16. Councillor Hugh-Jones requested the reinstatement of the screening with the original density.
17. Councillor Fishleigh stated that it was a shame the local councillors were not at the meeting as she would like to have heard there comments.
18. Councillor Hugh-Jones, seconded by Councillor Yates, proposed that condition 10 relating to landscaping should be adapted to include screening on Coldean Lane.

Vote

19. A vote was taken, and the adaption of condition 10 was agreed unanimously.

Vote

20. A vote was taken, and by 4 to 3 the committee agreed to approve the application. (The Chair employed a casting vote).
21. **RESOLVED:** That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in the report and resolves to **APPROVE** planning permission subject to the Conditions and Informatives as set out in the report.

**D BH2021/03117 - 10 Roedean Crescent, Brighton - Full Planning**

1. The Planning Manager introduced the application to the committee.

## Answers to Committee Member Questions

2. Councillor Hugh-Jones was informed by the case officer that a site waste management plan could be added as a condition. The councillor proposed the condition.
3. Councillor Theobald was informed that 2 metres of obscure glazing was proposed for the balcony, and it was considered that it was unlikely that the proposals would have a harmful effect on the neighbouring property at no.12.
4. Councillor Hugh-Jones was informed that it may be possible to park 5 vehicles in the front driveway and there was no electric charging point proposed. The Senior Solicitor advised that it would be unreasonable to condition an electric charging point for this application.

## Debate

5. Councillor Theobald considered the existing property to be more in keeping with the area and it was a shame to lose the existing dwelling.
6. Councillor Hugh-Jones noted there had been a lot of development in the crescent and they had no reason to refuse the application. The councillor supported the application.
7. Councillor Yates agreed that losing the existing house was a shame. The councillor was minded to support the application following the improvements to the development.
8. Councillor Hugh-Jones proposed, seconded by Councillor Yates, a condition for a site waste management plan.

## Vote

9. A vote was taken, and the committee agreed the proposed condition by 4 to 1. (Councillor Fishleigh took no part in the decision making process or the vote)

## Vote

10. A vote was taken, and by 3 for 2 abstentions, the committee agreed to grant planning permission. (Councillor Fishleigh took no part in the decision making process or the vote)
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 to the Conditions and Informatives in the report.

**E BH2021/01841 - 45 and 46 Trafalgar Street, Brighton - Full Planning**

1. The Planning Manager introduced the application to the committee.

## Speakers

2. Ward Councillor Deane submitted a statement to be read out at committee: "I am writing in my capacity of ward councillor in support of the NLCA and local residents, particularly those in nearby and adjoining properties, who have deep concerns about this proposal.

Residents feel that this is an over development on such a small site and fear the impact of more people coming into an already densely populated area. Concerns include greater pressure on local amenities, particularly relating to traffic, parking, waste/rubbish and increased noise.

Whilst I note there are letters of support for this proposal, the North Laine is a conservation area and as such it is important that any new build should be in keeping with and reflect local character.

If granted, it will inevitably be challenging for nearby residents during the construction period, and I would urge the Committee to ensure measures are in place to mitigate disruption as far as possible."

## Answers to Committee Member Questions

3. Councillor Theobald was informed that the property was not listed and was in the North Laine Conservation Area. It was noted that this is a single dwelling not a house of multiple occupancy (HMO).
4. Councillor Fishleigh was informed that it would be against planning tests to condition the property against being an HMO.
5. Councillor Shanks noted that whether the property was an eyesore or in a poor state was not a planning matter.
6. Councillor Hugh-Jones was informed that the small sites don't have method of construction statements. It was noted that the government has asked planning authorities to be flexible until September 2022 on construction times.
7. Councillor Shanks was informed that external cycle parking was not possible at the property, only internal.
8. Councillor Phillips was informed that nearby cycle parking could not be increased by a condition on this property as the Planning Committee can only deal within the red line boundary of the property.

## Debate

9. Councillor Shanks considered the infill to be good.
10. Councillor Yates considered the existing space to be a bit odd.

## Vote

11. A vote was taken, and the committee agreed unanimously to grant planning permission.
12. **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 in the report.

## **F BH2021/03900 - Rockwater, Kingsway, Hove - Full Planning**

1. The Planning Manager introduced the application to the committee.

### Speakers

2. Ward Councillor Henry sent a statement to be read to the committee: "I'm writing on behalf of myself and Carmen Appich, as the Ward councillors for Westbourne Ward and Peter Kyle MP, as the MP for Hove. We would like the feedback we have received from the local community regarding the Rockwater shacks to be considered when considering the application to extend their life.

Although the shacks were created as a response to Covid and the lockdowns and provided an invaluable service for hot drinks which was greatly appreciated by the community at the time, it is undeniable that they have now evolved into a 'feature' of the Hove seafront and – crucially – remain loved and well used by walkers, joggers, dog walkers and visitors alike.

The three of us in our community roles have spent the last few months talking to users of the shacks, local residents and visitors alike and the feedback is overwhelmingly positive. The shacks now facilitate a range of health & wellbeing activities on this stretch of Hove. People meditating, doing yoga, walking their dog, jogging or walking hugely appreciate the ability to obtain a refreshment.

Comments have ranged from "they are a convenient pit stop" to "they look great and improve the look of the promenade" to "I use them as a reason to get out the house and walk".

Whilst there were problems with queues at their initial opening, we now observe a well-run queuing system that no longer creates a bottle-neck and is calm and friendly.

We would therefore appreciate the Committee taking into account our feedback and the views of the residents on Hove when considering the application to extend their fixture on the front and hope you can agree with the report and approve this application."

### Answers to Committee Member Questions

3. Councillor Theobald was informed that although the service counter was high, wheelchair users would be assisted.
4. The Conservation Advisory Group representative was informed by the case officer that the temporary permission for 3 years was acceptable. The applicant had requested a 3 year permission, and this was considered acceptable by the Heritage Team.

5. Councillor Shanks was informed by the Senior Solicitor that the application history would be looked at to see what has gone before and the submitted application should be looked at in light of the relevant circumstances when the application comes before the committee.

Debate

6. Councillor Fishleigh proposed that the service hatch be lowered to wheelchair users by condition. Councillor Yates seconded the proposal.
7. Councillor Theobald considered the shacks had been great through lockdown and had no objections. The councillor agreed it would be good to lower the service hatch.
8. Councillor Yates noted this was a valued part of Hove seafront and the proposals were not significantly detrimental and was a good redevelopment.
9. Councillor Hugh-Jones supported the application.
10. Councillor Fishleigh did not support the application. The councillor asked that Rockwater talk to disability groups.
11. Councillor Shanks considered there was no reason to refuse the application.

Vote

12. A vote was taken on the condition to lower the service hatch. Proposed by Councillor Fishleigh and seconded by Councillor Yates. The condition was agreed unanimously.

Vote

13. A vote was taken, and by 5 to 1 the committee agreed to grant planning permission.
14. **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 in the report.

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

- 77.1 There were none.

**78 LIST OF NEW APPEALS LODGED WITH THE PLANNING INSPECTORATE**

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

**79 INFORMATION ON INFORMAL HEARINGS/PUBLIC INQUIRIES**

- 79.1 There were none for this agenda.

**80 APPEAL DECISIONS**

80.1 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 4.02pm

Signed

Chair

Dated this

day of