

BRIGHTON & HOVE CITY COUNCIL

PLANNING COMMITTEE

2.00pm 5 APRIL 2023

COUNCIL CHAMBER, HOVE TOWN HALL

MINUTES

Present: Councillors Littman (Chair), Ebel (Deputy Chair), Hills, Moonan (Opposition Spokesperson), C Theobald, Appich (Substitute) and Hugh-Jones (Substitute)

Officers in attendance: Nicola Hurley (Planning Manager), Katie Kam (Lawyer), Mick Anson (Principal Planning Officer), Liz Arnold (Planning Team Leader), Tim Jeffries (Planning Team Leader), Andrew Renaut (Head of Transport Policy & Strategy), Steve Tremlett (Planning Team Leader), Katie Reilly (Urban Design Officer) and Shaun Hughes (Democratic Services Officer).

PART ONE

101 PROCEDURAL BUSINESS

a) Declarations of substitutes

101.1 Councillor Hugh-Jones substituted for Councillor Shanks. Councillor Appich substituted for Councillor Yates.

b) Declarations of interests

101.2 There were none.

c) Exclusion of the press and public

101.3 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.

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

102 MINUTES OF THE PREVIOUS MEETING

102.1 **RESOLVED:** The committee agreed the minutes of the meeting held on 8 March 2023.

103 CHAIR'S COMMUNICATIONS

103.1 The chair stated the following: This is the last meeting of Planning Committee for the current term. It is also possible that it will be my last meeting as Chair. We shall have to see how the Local Elections on May 4th go in order to find out.

I have to say, it was a bit of a shock to take over the Chairship mid-term; but in the Summer of 2020, at the height of the Covid crisis, that is exactly what happened.

I'd like to acknowledge the work of my predecessor, Former Councillor Tracey Hill. I've seen a number of Chairs of Planning over the years, and Tracey was a great example of what I consider to be the three most important attributes of a Chair of a quasi-judicial Committee: calmness, neutrality, and attention to detail. During my tenure, I have attempted to embody the same qualities.

I would like to take this opportunity to thank all the Members who've sat on this committee as permanent members or as substitutes. Also, I'd like to pay tribute to the planning officers who have worked so hard on so many applications and helped us as Members to come to the best decisions we can. In particular, Jane and Nicola who have been absolute stalwarts of the committee, and their boss, Liz Hobden, Head of Planning. We also can't underestimate the vital importance of our legal advisors, Katie and Alison and, of course, Hilary, who is, I hope, enjoying her well-deserved retirement. Thanks too to our ever-helpful Committee Clerk, Shaun, and his predecessor, Penny. Finally, I'd like to thank all those members of the public who have taken the time to contribute to our determinations.

It has been an honour to serve as Chair of this vital Committee; charged as we are with the future of the city's built environment. Many years ago, when I undertook my basic training, one thing which then Senior Planning Manager, Paul Vidler, said, has particularly stuck with me ever since. Paul said, "*The decisions you will be making will, on average, last for fifty years.*" That means that the results of most of what we decide today and at each and every meeting of this committee, will be here long after I, and many other Members, are gone. I love this city and hope that the decisions we've made and are about to make, make it a better place to live, work, and visit long into the future.

104 PUBLIC QUESTIONS

104.1 There were none.

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

105.1 There were none.

106 TO CONSIDER AND DETERMINE PLANNING APPLICATIONS

106.1 Following the Call Over process the committee agreed to discuss the following items: A, B, C, D, G and H. Items I and J were not called for discussion and the officer

recommendation was therefore taken as having been agreed unanimously. (Items E and F on the agenda were withdrawn after publication).

A BH2022/03892 - Moulsecoomb Place, Lewes Road, Brighton - Full Planning

1. The Case Officer introduced the application and informed the committee that two late consultations had been received from South Downs National Park Authority and Fire & Safety Executive. The Planning Manager informed the committee that the Highways team had additional terms for the Heads of Terms.

Speakers

2. Ward Councillor Fowler stated they had concerns with the application as 15 storeys was too high, resulting in overshadowing and impact on neighbours. A flint wall will be destroyed during the construction process at what is considered a perfect setting at the moment. The councillor did not consider tall tower blocks to be good and residents have objected to these proposals. The committee were requested to refuse the application.
3. Richard Upton addressed the committee as the agent and stated they had worked in the city for seventeen years, had worked with the authority and won awards. They considered the application was to deliver something special. The neighbours have been listened too, as well as residents and councillors. The proposals will increase the housing stock and give students more sustainable living. The applicant has redesigned the tower blocks to lessen the impact. The proposed park, pub, restaurant will be good for the community and bring in jobs. The development will be sustainable and viable and contribute to housing.

Answers to Committee Member Questions

4. Councillor Theobald was informed by the case officer that the Health & Safety Executive cover fire service responses to consultations and they were fully satisfied. A vehicle drop-off will be located on Moulsecoomb Lane along with service bays. The existing lift will be clad externally. The daylight/sunlight assessment concluded there would be no impact on the neighbouring properties or the historic buildings. The Historic Buildings Officer stated the existing barns were tiled with slate and clay separately.
5. Councillor Moonan was informed by the case officer that the land is private and semi-private ownership at the moment. The proposals will allow public access across the site to buses, trains and the South Downs. The proposed community centre, cafe, pub and restaurant will be open to the public. The existing social club will remain private. A permissible path agreement will form part of the S106 agreement. The walled garden will be for the use of the pub and restaurant customers with parking along access road, including eight disabled spaces. The agent stated that the intention was to get as much of the site open to the public as possible, with the intention of allowing community access to the listed buildings. The councillor was informed that a lighting strategy would be supplied with a need to have a balance between safety and ecology.
6. Councillor Appich was informed by the case officer that there are currently 168 rooms, and the proposals will supply 207 cluster rooms, with eight accessible rooms, some 116 will be half way between usual rooms and cluster rooms with shared kitchens and some

cookers in rooms. There will be a visiting practice for student's health and a new surgery at Preston Barracks. A traffic management plan will be supplied by condition to the authority.

7. Councillor Hills was informed by the case officer that the development will deliver a 12% biodiversity net gain and the county ecologist is satisfied. There is existing and proposed open water on the site. It is considered the existing badgers and foxes will not be harmed by the development on a brownfield site. Ben Kimpton of East Sussex informed the councillor that bat licences will be required for the protected bats in the tithe barns and the roosts are to be retained. The councillor was informed that a new surgery formed part of the Preston Barracks development and it was not known of this was sufficient provision. The taller buildings were designed to be set back from the listed buildings. The Senior Design Officer considered the heritage assets were to be protected with a chamfered design and light coloured materials at the top. The Heritage Officer stated that only the southern end of the existing flint wall will be lost.
8. Councillor Hugh-Jones was informed by the case officer that motion sensor lighting will be included by condition. Emergency lighting will stay on 24/7 and there were no line of sight views of the proposed tall buildings.

Debate

9. Councillor Moonan considered the site to be high density, although good accessible student housing was needed. The loss of the flint wall is regrettable. It was good to restore the listed buildings and make the green space accessible. The councillor supported the application.
10. Councillor Theobald considered the inclusion of the pub and restaurant to be good, however the 15 storey block at the top of the hill was too high. The councillor did not support the application.
11. Councillor Hugh-Jones noted the high density and the massing in one area to protect the heritage buildings on this brownfield site. The councillor considered the application to be sensitive with the opening up of the site to public access, community centre, pub, restaurant and café. The loss of the flint wall was regrettable. The councillor supported the application.
12. Councillor Ebel considered the development would take students away from Homes of Multiple Occupancy (HMOs) and this would reduce the pressure on the housing market. The opening of the manor house was good. There are others nearby to the proposed 15 storey building. The councillor supported the application.
13. Councillor Appich considered the proposals were good for the heritage buildings. The loss of the flint wall was regrettable. The public access was a gain, and the development would be good for 400 students. The councillor supported the application on balance.
14. Councillor Hills considered the development was an improvement on the existing situation and considered the 15 storey building needed to go somewhere. The better access was good. The councillor supported the application.

15. Councillor Littman considered the development would be good for the heritage assets. The loss of the flint wall was not great but acceptable. The 15 storey building was high; however, this was away from the heritage assets. The existing buildings are not good for students. The proposed open access would be good, as were the pub and restaurant. The councillor supported the application.

Vote

16. A vote was taken, and by 6 to 1 the committee agreed to grant planning permission.

17. **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 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 the **26 July 2023** the Head of Planning is hereby authorised to refuse planning permission for the reasons set out in section 14.1 of the report.

B BH2022/03893 - Moulsecomb Place, Lewes Road, Brighton - Listed Building Consent

1. The listed building consent was discussed at the same time as the full planning application. For minutes, please see BH2022/03982 – item A.

Vote

2. A vote was taken, and the committee agreed unanimously to grant listed building consent.
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 **GRANT** Listed Building Consent subject to the Conditions and Informatives as set out in the report.

C BH2022/02821 - 65 Orchard Gardens Hove - Full Planning

1. The Planning Manager introduced the application and informed the committee that two additional representations had been received and all issues raised have been covered in the report. An additional Head of Term for monitoring fees was also received.

Answers to Committee Member Questions

2. Councillor Theobald was informed by Huw James, agent acting on behalf of the applicant that the previous application number of units of 23 has been enlarged to 36 by a more efficient floor layout. The mix of units has been deemed acceptable with more amenity space with the north and south elements forming a T shaped building. All the units meet space standards and the previous scheme included affordable housing; however, the scheme was unviable.
3. Councillor Hills was informed that conditions 31 and 32 required the management and layout of the parking to be agreed by the local planning authority. The Head of Transport

Policy & Strategy stated that the cycle parking would provide 58 spaces for residents and 8 more in the basement for visitors. The level of parking is set out in standards and the scheme is in line with standards. The allocation of parking spaces will by condition need to be agreed by the local planning authority.

4. Councillor Appich was informed that the dimensions of the parking spaces were not yet known. The estimated square meterage of the communal garden was 176sqm.
5. Councillor Hugh-Jones was informed that M4(3) and M4(2) were building control standards, M4(3) being adaptable space and M4(2) being already adapted. Huw James stated an accessible ramp will be included at the entrance to the scheme. It was noted that a late stage review would not usually come back to committee.
6. Councillor Littman was informed that three feature trees were to be planted and the Neville Road frontage to be landscaped by condition.
7. Councillor Moonan was informed that the previous scheme has lapsed, policy was still the same and the principle agreed.

Debate

8. Councillor Theobald considered there should be a choice of car parking and they were concerned at the lack of affordable housing.
9. Councillor Ebel was concerned at the lack of affordable housing, however, to refuse would only delay the scheme, which was policy complaint. The councillor supported the application.
10. Councillor Hugh-Jones considered that building costs have increased considerably and was concerned at the lack of affordable housing across the city. However, as there was no reason to refuse, the councillor supported the application.
11. Councillor Moonan noted the high density of the scheme, and it was policy compliant. Homes were needed in the city. The councillor supported the application and noted that the number of parking spaces may not be needed.
12. Councillor Hills was concerned at the lack of affordable housing. The councillor supported the application as it was policy compliant.
13. Councillor Appich considered there was no choice, and the existing site was unacceptable. Fewer cars would be better. The councillor supported the application.
14. Councillor Littman wanted affordable housing; however, the development was profit driven in line with the law. The development would be an improvement on the existing situation and would help with housing and employment.

Vote

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

16. **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 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 the **26 July 2023** the Head of Planning is hereby authorised to refuse planning permission for the reasons set out in section 14.1 of the report.

D BH2022/03840 - 72 Crescent Drive South, Brighton - Removal or Variation of Condition

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

Answers to Committee Member Questions

2. Councillor Theobald was informed by the case officer that the front door accessible ramp impinges on vehicle access slightly, and a few more movements are needed to leave the site in forward gear. The ramp was required by Building Regulations.
3. Councillor Littman was informed there was a sustainable transport objection.
4. Councillor Moonan was informed that the solar panel was located on the lower flat roof element and was not higher than the approved roof.
5. Councillor Hugh-Jones was informed that vehicles could leave the site forwards after a number of manoeuvres. The case officer informed the councillor that the garage stayed in the scheme after transport requests.

Debate

6. Councillor Littman considered the design better than before and the occupiers could reverse out of the drive if needed.

Vote

7. A vote was taken, and the committee agreed unanimously to grant planning permission.
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 to the Conditions and Informatives in the report.

E BH2023/00026 - Studio, 49 Elm Drive, Hove - Full Planning

1. This item was withdrawn after the publication of the agenda and before the committee meeting.

F BH2022/03842 - 2 Bishops Walk, Crown Street, Brighton - Householder Planning Consent

2. This item was withdrawn after the publication of the agenda and before the committee meeting.

G BH2023/00127 - 8 The Upper Drive, Hove - Householder Planning Consent

1. The Planning Manager introduced the application to the committee. The case officer informed the committee that a late representation had been received from the agent.

Speakers

2. Ward Councillor Allcock addressed the committee and stated that DM20 of the City Plan Part Two covered the impact on neighbours and considered that the design guide covered the same issues. Neighbours have the right to enjoy amenities and should not be overlooked or have an overbearing development next door. The application property has an existing ground floor side extension. The proposed first floor extension will create a loss of light and privacy. Flats to the rear will be overlooked. The scheme does not comply to policy. The committee were requested to refuse the application.
3. Shallen Meata addressed the committee as an objecting resident and stated that the scheme was materially the same as before and the Ward Councillors objections still stand. The extension adds mass and height to the dwelling, removing the sense of openness. The proposals will lead to overlooking and a loss of privacy due to the higher elevation of the property. The development will harm multiple properties, as the applicant has not consulted the neighbours.
4. Colm McKee addressed the committee as the agent acting on behalf of the applicant stated that the application was set back from the boundary and was not materially the same as the previous scheme. The proposals would be the lowest on the street. The applicant did not need to consult the neighbours as the council planning team were responsible for consultations. The neighbour will be 18m away from the side elevation window on the first floor. Due to the angle of the scheme, overshadowing will not be possible. The 45⁰ test concluded there was no impact. The scheme is fully compliant with policy.
5. The Planning Manager noted that the reasons for the development were not relevant, there was a presumption in favour of sustainable development and the SPD was a design guide, not policy and therefore did not need to be strictly followed.

Answers to Committee Member Questions

6. Councillor Moonan was informed there no existing side elevation windows and the three proposed windows were high level to serve stairs and two toilets.
7. Councillor Appich was informed by the case officer that the first floor extension will be set back from the boundary by 0.8m. The fenestration will be 1.7m above ground level and there is no condition to retain the new windows as opaque and non-opening. The roof height will be 7.2m with an eaves height of 6m.

Debate

8. Councillor Theobald noted that most of the properties in the road have been extended. The councillor supported the application.
9. Councillor Moonan considered the extension to be in proportion and in keeping with the street. The councillor supported the application.
10. Councillor Hugh-Jones noted this was not the only extension in the street. The councillor supported the application.
11. Councillor Appich proposed a condition to have the proposed windows as none opening and opaque. Councillor Littman seconded the proposal.
12. A vote was taken on the proposed additional condition and the committee agreed to the proposal unanimously.

Vote

13. A vote was taken, and the committee agreed unanimously 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.

H BH2023/00136 - 10 County Oak Avenue, Brighton - Householder Planning Consent

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

Speakers

2. Ward Councillor McNair sent a speech which was read out by the Democratic Services officer: The three reasons for objecting are: erected without planning permission; overdevelopment of site; overlooking of neighbours. This is not a small extension, and it is disappointing that no description for the use of this extension has been given. Immediate neighbours were inconvenienced and encroached upon by scaffolding, severe noise pollution, and loss of privacy. The extension is substantially larger than surrounding properties, and out of character. There is not enough parking. County Oak Avenue and Denton Drive do not have adequate parking for existing residents on a narrow and busy road, opposite a Primary School. The property encroaches on the privacy of neighbouring properties and lead to loss of natural light. A new window directly overlooks the bedroom of 112 Denton Drive. We are concerned about the build quality, and whether the foundations can support a new floor built on an existing extension. If approved a precedent will be set with residents feeling they can also build developments without due process and consultation.
3. Alana Gladwell addressed the committee as an objecting resident and stated that the development appears to be completed. The neighbour can now look straight into the neighbour's bedrooms. The garden is overlooked leading to a loss of privacy. The right to light in the neighbour's study has been affected. Warnings have been ignored and human rights violated. The committee were requested to refuse the application. It was

also noted by the speaker that the drawings did not show the chimneys on the application property.

4. The Planning Manager noted that the reasons for the development were not relevant, and the application can be started without planning permission out the owner's risk. To convert to a House of Multiple Occupancy (HMO) or flats would require planning permission. Right to light is a private matter and not a material planning consideration.

Answers to Committee Member Questions

5. Councillor Ebel was informed by the case officer that the development exceeds the criteria for permitted development.
6. Councillor Hugh-Jones was informed by the case officer that the loss of light to the neighbour was referred to in the report. There was some overshadowing however, this was acceptable as it was not all day.
7. Councillor Theobald was informed that the applicant was advised to stop works, but they don't have to adhere, and they can continue at own risk.
8. Councillor Hills was informed that a right to light can be established over a long period of time, possible 20 years. This is a legal matter not a planning issue. The private right to light to the neighbour is not sufficient to refuse the application.

Debate

9. Councillor Theobald considered the scheme more finished than not following a site visit. The scheme is out of character and very close to the neighbour. The gardens are small. The developer should have stopped with three windows overlooking.
10. Councillor Hills considered the development was insensitive to the neighbours and was concerned that the applicant had ignored advice to stop.
11. Councillor Moonan noted the development had been built at owners' risk and the local authority consult the neighbours. On balance the councillor supported the application, which was considered borderline.
12. Councillor Ebel stated they were always disappointed with retrospective planning applications. They considered that if the impact on light was substantial it was an issue. The councillor was against the application.
13. Councillor Hugh-Jones noted the applicant did not need to consult neighbours. The loss of light was deemed acceptable. Frosted glass would help with privacy issues. The councillor supported the application.
14. Councillor Littman considered the application to be borderline. They noted only one window can conditioned to be obscure glazed and a retrospective planning application must be assessed as if it were proposed. On balance the councillor supported the application.

Vote

15. A vote was taken, and by 4 to 2, with 1 abstention, the committee agreed to grant planning permission.
16. **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 the receipt of no further representations raising additional material considerations within the re-consultation period ending 03.04.2023 and the Conditions and Informatives in the report.

I BH2023/00097 - Brighton Dome, Church Street, Brighton - Full Planning

1. This application was not called for discussion and the officer recommendation was therefore taken as having been agreed unanimously.
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 **GRANT** planning permission subject to the Conditions and Informatives in the report.

J BH2023/00098 - Brighton Dome, Church Street, Brighton - Listed Building Consent

3. This application was not called for discussion and the officer recommendation was therefore taken as having been agreed unanimously.
4. **RESOLVED:** That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in the report and resolves to **GRANT** Listed Building Consent subject to the Conditions and Informatives in the report.

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

107.1 There were none from this meeting.

108 LIST OF NEW APPEALS LODGED WITH THE PLANNING INSPECTORATE

108.1 None for this agenda.

109 INFORMATION ON INFORMAL HEARINGS/PUBLIC INQUIRIES

109.1 None for this agenda.

110 APPEAL DECISIONS

110.1 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 5.40pm.

Signed

Chair

Dated this

day of