

# BRIGHTON & HOVE CITY COUNCIL

## PLANNING COMMITTEE

11.00am 7 AUGUST 2024

### COUNCIL CHAMBER, HOVE TOWN HALL

#### MINUTES

**Present:** Councillors: Allen (Deputy Chair), Cattell (Substitute), Earthey, Galvin, Nann, Shanks, Sheard (Substitute), Theobald and Thomson.

**Officers in attendance:** Jane Moseley (Planning Manager), Matthew Gest (Planning Manager), Alison Gatherer (Lawyer), Liz Arnold (Planning Team Leader), Paul Davey (Arboriculturist), Colin Bannon (Heritage Officer), Michael Tucker (Senior Planning Officer) and Shaun Hughes (Democratic Services Officer).

#### PART ONE

##### 1 PROCEDURAL BUSINESS

###### a) Declarations of substitutes

1.1 Councillor Cattell substituted for Councillor Robinson. Councillor Sheard substituted for Councillor Loughran.

###### b) Declarations of interests

1.2 Councillor Shanks declared they were on the board of trustees at The Brighton Pavilion and would therefore take no part in the discussions or decision-making process for items A: BH2023/02385 and B: BH2023/02386 – Pavilion Gardens. Councillor Earthey declared they had received lobbying emails from residents regarding items F: BH2024/01297 - 120 Holland Avenue, Hove and item I: BH2024/00984 - Land to Rear of 28 Medina Villas (fronting Albany Villas), Hove.

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

1.3 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.

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

###### d) Use of mobile phones and tablets

- 1.5 The Chair requested Members ensure that their mobile phones were switched off, and where Members were using tablets to access agenda papers electronically ensure that these were switched to 'aeroplane mode'.

**2 MINUTES OF THE PREVIOUS MEETING**

- 2.1 **RESOLVED** – The committee agreed the minutes of the meeting held on 5 June 2024.

**3 CHAIR'S COMMUNICATIONS**

- 3.1 Councillor Allen addressed the committee as the deputy chair in the absence of Councillor Loughran and they acknowledged the passing of Roger Amerena of Conservation Action Group (CAG) who had worked for the group for 25 years. The councillor explained the earlier start time of 11am due the cancellation of the July 2024 committee due to national elections and the consequent build-up of applications. It was noted that the new government had prioritised planning and housing. A national review of Planning was underway, and this could be accessed via the web.

**4 PUBLIC QUESTIONS**

- 4.1 There were none.

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

- 5.1 There were no site visit requests.

**6 TO CONSIDER AND DETERMINE PLANNING APPLICATIONS**

- 6.1 The Democratic Services officer called the agenda applications to the committee. The following items were *not* called for discussion and were therefore taken to be agreed in accordance with the officer's recommendation:

- Item G: BH2023/03393: 45 Norfolk Road, Brighton
- Item H: BH2024/00692: 7 Saxon Close, Saltdean
- Item J: BH2024/00872: 47 Eastbrook Road, Portslade
- Item K: BH2024/00443: 18-20 Calburn Road, Hove
- Item L: BH2024/00879: 3 Surrenden Park, Brighton
- Item N: BH2024/00734: Flat 2, 21 First Avenue, Hove
- Item O: BH2024/00941: 70A Clarendon Villas, Hove

All other applications were called for discussion, including major applications and those with speakers.

**A BH2023/02835 - Royal Pavilion Gardens, Pavilion Buildings, Brighton - Full Planning**

1. The Case Officer introduced the application to the committee.

Speakers

2. Peter Wingate-Saul addressed the committee on behalf of Noth Laine Community Association and stated that they considered the 7 ft high railings an issue. 1.5m railings would be considered more appropriate by the association and The Regency Society. It is important that the railings can be seen over. The committee were requested to defer and adjust the height of the railings. The association understands the need to close the gardens on occasion, however, this would be best achieved by adding a condition or S106 agreement.
3. John Tyler addressed the committee as an objecting resident and stated that they volunteer at the gardens and reported that there have been incidents at night in the gardens of plant vandalism and drug abuse. The public are vulnerable in the gardens at night. Please erect fences in line with Police recommendations.

#### Answers to Committee Member Questions

4. Councillor Thomson was informed that the number of trees to be removed was 17. Previously it was 18, however one additional tree will now be retained. Conditions 6 and 7 relate to the retention of trees and condition 8 requires landscaping to be approved. The Arboricultural Officer was happy with the plans. It was noted that condition 14 dealt with railings and gates. The height of the railings, between 1.8m and 2.1m depended on the ground levels. It was noted by the Planning Manager that the Police were aware of ongoing issues in gardens. The Planning Team Leader stated the railings were to be restored where possible and replaced if not. The hooped railings are mid-20<sup>th</sup> century and not specific to the pavilion a grade I listed building.
5. Councillor Theobald was informed by the Arboricultural Officer that no Elm trees were to be removed. The case officer noted that existing pedestrian access points were to be retained, details were to be provided by condition of the proposed gates either side of India Gate, the grass around the existing café was to be increased, the existing circular railings are to be removed and the existing roof light over the toilets is to be retained. The Planning Team Leader stated they understood both sides of the need for closure of the gardens and being open 24/7. The points on top the railings are an historic feature.
6. Councillor Earthey was informed that a security report was undertaken which suggested higher railings, but it is considered that a lower height of between 1.8m and 2.1m would be more appropriate and this would allow views and reduce impact.
7. Councillor Nann was informed that the gardens will be open 24/7. The closure of the gardens will require separate agreement from the Council as the gates previously proposed have been removed from this application.
8. Councillor Galvin was informed that a heritage crime risk assessment to consider security had been undertaken and that following review of the technical security across the site would include continued use of CCTV.
9. Councillor Allen was informed that the toilets were being renovated, not rebuilt and they were under 200sqm, therefore did not require a BREEAM (sustainability) assessment.

#### Debate

10. Councillor Theobald considered there were a lot of trees to be lost, that most London parks close at night, and the railings were no good if the gardens stayed open 24/7. The councillor considered that those voting in favour of this application would need to take the blame for any incidents that occurred.
11. Councillor Nann considered that the gardens being open 24/7 did not cause crime.
12. Councillor Earthey considered that it was a pity about the loss of trees.
13. Councillor Thomson stated they were upset by the loss of trees, however, the arboriculturist had allayed their fears.
14. Councillor Cattell considered that every tree had been considered individually and noted there was 'die off' and disease. The heritage site needs to be protected. The councillor supported the application.
15. Councillor Sheard considered it a shame to lose the trees, however, they understood the reasons. The committee need to get the decision right for this symbol of the city. It was a shame the fencing needs to be so tall. The criminals were responsible for crime not the opening of the gardens.
16. Councillor Allen noted the prominent location in the city and considered the proposals to enhance the site, which needs to be accessible. They understood why the gates were removed as is the people's Pavilion; however, the Police have noted the high levels of crime in the location, and it needs to be as safe as possible.

#### Vote

17. A vote was taken, and by 7 to 1 the committee agreed with the officer recommendation. (Councillor Shanks did not take part in the discussions or the decision-making process).
18. **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.

#### **B BH2023/02836 - Royal Pavilion Gardens, Pavilion Buildings, Brighton - Listed Building Consent**

1. The Case Officer introduced the Listed Building Consent application to the committee.
2. The speakers spoke on both items A and B. See minutes for item A.
3. The committee Members were given answers to questions for both items A and B at the same time. See minutes for item A.

#### Vote

4. A vote was taken, and by 7 to 1 the committee agreed with the officer recommendations. (councillor Shanks took no part in the discussions or decision-making process).

5. **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.

**C BH2023/02790 - Windlesham House, 123 Windlesham Close, Portslade - Full Planning**

1. The Case Officer introduced the application to the committee.

Answers to Committee Member Questions

2. Councillor Earthey was informed that the proposals had good sustainability credentials in that solar panels and ground source heat pumps were included.
3. Councillor Theobald was informed by the case officer that western block did not have a lift, however, the ground floor was accessible. The applicant (Estate Regeneration Project Manager) stated that the occupiers would be from the housing register, and they had had to balance the provision of more flats and more light per flat in the western block against the removal of the proposed lift. The councillor was informed there was a bus route nearby.
4. Councillor Cattell was informed by the Estate Regeneration Project Manager that there would be no gas supply to the flats which would be all electric; the solar panels would serve the flats, and the ground source heat pumps would be the main source of heating.
5. Councillor Shanks was informed by the case officer that the 'blue' roof would retain water to prevent flooding. There was not room for private gardens in the proposals and the food growing areas had been removed from the scheme as they were next to adjacent flats. There was cycle parking in the communal cycle parking area. The western block had storage on the ground floor for buggies etc. There was one disabled parking space.
6. The Estate Regeneration Project Manager stated the biodiversity net gain would be lost if the food planting areas were retained and that they were in discussion with the allotments next door. The existing residents stated they did not want seating or food growing areas.
7. Councillor Allen was informed by the Estate Regeneration Project Manager that they had worked with the Arboricultural team in relation to securing biodiversity net gain through tree planting and the East Brighton Park has the best soil and most need for new trees.

Debate

8. Councillor Shanks considered there was a need for social housing and considered a food growing space to be required by policy. The councillor supported the application.
9. Councillor Theobald considered they would have preferred a lift in the western block, more parking spaces and a better appearance. The councillor was pleased to see affordable housing included. The councillor supported the application.

10. Councillor Cattell considered the design to be simple, good and clean. The councillor considered the railings on the roof to be ugly and requested collapsable ones. The councillor was pleased to see 100% affordable housing.
11. Councillor Allen considered the affordable housing to be good, the design sleek and the density good. The scheme overall was good.

Vote

12. A vote was taken, and the committee agreed the officer recommendations unanimously.
13. **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 and the Conditions and Informatives in the report SAVE THAT should the s106 Planning Obligation not be completed on or before the 7<sup>th</sup> November 2024 the Head of Planning is hereby authorised to refuse planning permission for the reasons set out in the final section of the report.

**D BH2024/00904 - Sussex County Cricket Ground, Eaton Road, Hove - Reserved Matters**

1. The Planning Team Leader introduced the application to the committee.
2. There were no questions from the committee Members.

Debate

3. Councillor Earthey considered the existing cricket ground to be good and this scheme would only make it better. It was noted there was no traffic increase.
4. Councillor Theobald considered the disabled access to be good as were the hospitality arrangements. The ground was an asset to the city.
5. Councillor Cattell noted there had been lots of work at the ground and hoped this was the last phase. The councillor considered the development to be great and noted that neighbouring residents had free entry to the club. The ground was a good asset to the city. The councillor supported the application.
6. Councillor Shanks noted there would be more seating and less standing. The councillor supported the application.
7. Councillor Galvin stated that it was great to see the improvements.
8. Councillor Sheard considered that The Albion football club could overshadow the cricket club at times, and hoped this would improve the cricket clubs standing. The councillor supported the application.
9. Councillor Allen welcomed the improvements. The councillor considered it a great development and supported the application.

Vote

10. A vote was taken, and the committee agreed the officer recommendations unanimously.
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 BH2023/03361 - Southern Projects Ltd, Southern House, Lewes Road, Falmer, Brighton - Full Planning**

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

Answers to Committee Members Questions

2. Councillor Theobald was informed that the parking would be retained.
3. Councillor Shanks was informed that the aquifer under the site was protected.
4. Councillor Galvin was informed that following bore hole testing the water was found to be high in nitrates, and the proposals would achieve a new treatment of the water.
5. Councillor Earthey was informed that the treatment chemicals would be stored on site and the proposed plant would remove the nitrate from the water.

Debate

6. Councillor Sheard considered there were no major points of contention and they trusted Southern Water. The nearest housing was 150m away and therefore the scheme posed no impact on neighbouring properties.

Vote

7. A vote was taken, and the committee agreed the officer recommendations unanimously.
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.

**F BH2024/01297 - 120 Holland Avenue, Hove - Full Planning**

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

Speakers

2. Lisa Heathfield, an objecting neighbour, submitted a speech which was read out by the Democratic Services officer: We've been supportive, kind and understanding for over 18 years. We were stunned when they built higher than granted and devastated when they told us that they'd do nothing about the resulting shadow. In November we spoke to our neighbours about the fact that they'd built too high. But they chose to ignore our pleas and keep building. In January, planning enforcement said that

their extension was 'clearly' higher than it should be. Legal advice was sought, which concluded that they were indeed in breach of planning. The drawings are littered with inaccuracies – which surely follows that permission can't be granted. They haven't shown that the difference between the leading edge of their extension and ours is now 800mm. A simple bit of math's also shows that the calculations are incorrect. 2.9, plus decking of 35 comes to 3.25, not 3.2. Add to this the fact that the extension is 296 high, then the overall height becomes 331. At over 10% above permitted development rights, it's this extra height that has caused such a huge shadow over the main living area of our home for the majority of the year. We built our extension 20 years ago with fixed windows in the roof, specifically so that sunshine could flood in. Lack of sunshine increases depression and anxiety. The harm to our lives is enormous. There's no question that this extension has not been carried out in accordance with the approved drawings. As such, planning simply cannot be granted.

3. Ward Councillor O'Quinn addressed the committee and stated that they had become involved in this planning application when they were contacted by Lisa Heathfield, and a site visit was arranged to their property. The applicant has also contacted the councillor to put forward their point of view. On visiting no 122, the councillor could see what the issue was as there was a noticeable difference between the height of the infill extension at no 120 and the one at 122 Holland Road. The difference in height was causing considerable distress to the Heathfield family as it affected their main living and working area. It is acknowledged that there is an impact on the amount of light especially in the wintertime. However, it was put forward that the loss of light wasn't a major issue by the applicants and also in the planning report. It is noted that the loss of light is not enough to turn down a planning application, but loss of light does affect people quite seriously and this is not always given the weight that it deserves. The councillor noted that in their objection, the applicants obviously realise the importance of light because they have included a light well in their roof. The councillor recognised that there was an issue between the two neighbours because of the discrepancy in heights between the two in-fills.
4. Ian Coomber addressed the committee as the agent acting on behalf of the applicant stated that the development has been constructed in line with the city plan policy. Overshadowing can be an issue however, the report states that the impact on the neighbour was very little. A site visit has been carried out and it was considered there was little to no harm. The agent considered this was a neighbour dispute and there was no harm to the surrounding area. It was understood that the neighbour considered there was some overshadowing to the glazed roof, however, this was not significant.
5. The case officer clarified that the applicant had sent revised sunlight/daylight report to the case officer with minor alterations to the plans. At the site visit it was found that the measurements of the build were the same as the plans.

#### Answers to Committee Member Questions

6. Councillor Thomson was informed that it was acceptable to submit a retrospective planning application. The deterrent would be that planning permission may be refused. It is preferable that planning permission should be gained before the



development is started. The councillor was also informed that the photos submitted by the neighbour were believed to be taken in June 2024.

7. Councillor Shanks was informed that it was not a requisite requirement that the neighbouring extensions should be the same level. It was noted that there were two previous applications and the second could not be built. The committee were informed that they should only consider the application before them, not the previous applications. It was noted that the extension was 300mm over permitted development sizes.
8. Councillor Cattell was informed that it was seen on the site visit that the neighbouring extension's roof was corrugated glazing and there was some overshadowing. The rear doors to the neighbour's extension were fully glazed.
9. Councillor Sheard was informed that a cold roof was not insulated, and the warm roof was insulated.
10. Councillor Theobald was informed that the overshadowing lessened as the day progressed due to orientation of the house. The Planning Manager noted that only two panels of the extension's roof were shown to be affected.

#### Debate

11. Councillor Cattell considered that light entered the neighbour's extension from both the vertical and horizontal planes. The councillor expressed sympathy for the neighbour, however no law was being broken. The councillor supported the application.
12. Councillor Shanks stated that the committee were not able to resolve neighbour disputes. The councillor considered the applicant should have applied for planning permission before building. The councillor was against the application. The attending legal officer noted that a retrospective planning application was acceptable and was not a reason for refusal.
13. Councillor Nann noted the development was above permitted development height and if they voted against the application, it would be challenging to remove and disproportionate. The councillor supported the application.
14. Councillor Sheard considered the application a neighbour dispute which the committee could not resolve. There seems to be some shadows on the roof glazing panels and they understood the distress caused. The councillor supported the application.
15. Councillor Theobald considered the applicant to be taking a chance submitting a retrospective planning application. The councillor considered the loss of sunlight to be stressful and development should be lowered.
16. Councillor Galvin considered the correct plans should have been submitted and then the neighbour could have objected. The situation was now difficult as the extension had been built. The Planning Manager stated that the applicant cannot always survey the neighbour's property to produce plans.

## Vote

17. A vote was taken, and by 5 to 2, with 2 abstentions, the committee agreed the officer recommendations.

18. **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.

**G BH2023/03393 - 45 Norfolk Road, Brighton - Householder Planning Consent**

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

**H BH2024/00692 - 7 Saxon Close, Saltdean, Brighton - Removal or Variation of Condition**

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

**I BH2024/00984 - Land to Rear of 28 Medina Villas (fronting Albany Villas), Hove - Householder Planning Consent**

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

## Speakers

2. Guy Dixon addressed the committee as the agent on behalf of the applicant and stated that the site was unusual having previously been occupied by a dilapidated garage block. This is a retrospective application. The gates and pillars help to enclose the parking area. Designed to reflect the street scene and is considered an enhancement. The gates allow enclosure of the space and is supported by neighbours.

## Answers to Committee Members Questions

3. Councillor Thomson was informed that the application was to be refused as the proportions were not considered acceptable, nor were the materials, which give an industrial feel in a conservation area.
4. Councillor Earthey was informed that if they liked the look, then the application could be considered to cause no harm and to assimilate into the area.
5. Councillor Shanks was informed that the enforcement team invited the applicant to submit a planning application.
6. Councillor Nann was informed that the pre-application advice had been given regarding materials. The agent noted that anti-social behaviour had driven the applicant to erect the gates, pillars and boundary walls before permission was granted.

7. Councillor Cattell was informed by the agent that the application served the dwellings to the rear, not the sides and the automatic gates were erected for security reasons.

Debate

8. Councillor Theobald stated that they were not keen on retrospective applications, however, the site looked good, and the councillor had no problem with the application.
9. Councillor Sheard considered the development to be in character, not industrial in appearance, and a good design that enhances the heritage area.
10. Councillor Thomson considered the application not to be terrible. The councillor was against the case officer recommendation to refuse.
11. Councillor Shanks considered the application to be a matter of judgement and on balance considered the application to be acceptable.
12. Councillor Earthey considered the application to be proportionate and they disagreed with the officer recommendation to refuse.
13. Councillor Cattell noted there no other gates on the road, the gates were wide and not in keeping with the area. The councillor agreed with the officer recommendation to refuse.
14. Councillor Nann stated that they agreed with officer recommendation to refuse.
15. Councillor Allen stated that they had looked at the street scene and the area and they were against the officer recommendation to refuse.

Vote

16. A vote was taken, and by 2 to 7, the committee voted against the officer recommendation to refuse the application.
17. Councillor Allen proposed a motion to grant planning permission. Councillor Sheard seconded the motion.
18. A recorded vote was taken, and the following Councillors voted to grant planning permission: Earthey, Galvin, Shanks, Theobald, Thomson, Sheard and Allen. Councillors Nann and Cattell voted against the motion to approve.
19. **RESOLVED:** That the Committee has taken into consideration and does not agree with the reasons for the recommendation set out in the report and resolves to **GRANT** planning permission for the following reasons: The development is acceptable in terms of planning policy regarding conservation areas and urban design and in terms of the impact on the street scene.

**J BH2024/00872 - 47 Eastbrook Road, Portslade - Householder Planning Consent**

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

**K BH2024/00443 - 18-20 Caburn Road, Hove - Full Planning**

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

**L BH2024/00879 - 3 Surrenden Park, Brighton - Householder Planning Consent**

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

**M BH2024/00825 - Patcham Nursing Home, Eastwick Close, Brighton - Full Planning**

1. The Planning Team Leader introduced the application to the committee.

## Answers to Committee Member Questions

2. Councillor Cattell was informed that there was no ventilation to several of the new rooms through opening windows, the application had been assessed by the transport team, condition 3 related to parking layout, condition 4 related to a parking strategy and management plan, therefore there was no reason to delay the decision. The number of beds would be increased by 4 to 34. Informative 5 requires details of cycle parking within the carparking plan. It was noted that the development did not extend the building and therefore there was no need for a construction and environmental management plan.
3. Councillor Theobald was informed that the refuse store was being moved to the car park and the kitchen/small office would be removed as part of the proposed development.

## Debate

4. Councillor Theobald expressed concerns that the road was a small close, the building already has extensions, and four more units would be a squeeze, therefore the accommodation will be poor. Deliveries and ambulance access will be an issue, as will parking in general and security lighting. The councillor was against the application.
5. Councillor Cattell considered there would be little additional refuse and there was a large demand for accommodation for an ageing population. Ventilation was an issue. The councillor proposed an additional condition to require details to ensure the new doors to bedrooms 1, 3 and 4 had top-opening windows. Councillor Earthey seconded the motion.

## Vote

6. A Vote was taken on the proposed additional condition to cover ventilation, and by 8 to 1 the committee voted for the additional condition.
7. A vote was taken, by unanimous vote the committee agreed with the officer recommendation to approve the application.

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.

**N BH2024/00734 - Flat 2, 21 First Avenue, Hove - Full Planning**

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

**O BH2024/00941 - 70A Clarendon Villas, Hove - Full Planning**

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

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

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

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

- 8.1 None for this meeting.

**9 APPEAL DECISIONS**

- 9.1 The Committee noted the content of the decisions received from the Planning Inspectorate regarding planning appeals which had been lodged as set out in the agenda.

The meeting concluded at 3.07pm

Signed

Chair

Dated this

day of

