

**BRIGHTON & HOVE CITY COUNCIL****PLANNING COMMITTEE****2.00pm 28 APRIL 2010****COUNCIL CHAMBER, HOVE TOWN HALL****MINUTES**

**Present:** Councillors Hyde (Chairman), Wells (Deputy Chairman), Carden (Opposition Spokesperson), Cobb, Davey, Fallon-Khan, Hamilton, Kennedy, McCaffery, Smart, Steedman and C Theobald

**Co-opted Members** Mr J Small (CAG Representative)

**Officers in attendance:** Jeanette Walsh (Head of Development Control); Claire Burnett (Area Planning Manager (East)); Nicola Hurley (Area Planning Manager (West)); Hilary Woodward (Senior Lawyer) and Penny Jennings (Democratic Services Officer)

**PART ONE****262. PROCEDURAL BUSINESS****262A. Declaration of Substitutes**

262.1 Councillor Fallon-Khan was present in substitution for Councillor Caulfield.

**262B. Declarations of Interest**

262.2 Councillor C Theobald referred to Application BH2003/751/FP, Chandlers Garage, Victoria Road, Portslade (Agenda Item 275) stating that she had become aware that the application site was her garage. The legal adviser to the Committee enquired whether she remained of a neutral mind and had not predetermined the application. Councillor Theobald confirmed that was the case and that she intended therefore to remain present during the debate and decision making process in respect of the application.

262.3 Councillor Fallon-Khan referred to Application BH2009/03156, Wellesbourne Centre, Whitehawk Road, Brighton. He stated that he had no direct interest in the application, although he was aware that that this scheme and other similar ones may have been referred to in reports he had received for information in his capacity as a Cabinet Member. He confirmed that he had never referred to the scheme directly either in opposition or support and that he had not predetermined the application and remained of a neutral mind. Notwithstanding that Councillor Fallon-Khan considered it would it

would not be inappropriate for him to remain present during the debate and decision making process he subsequently decided to leave the meeting during its consideration in order to avoid any perceived conflict of interest between his role as a Cabinet Member and as a Member of the Committee.

## **162C. Exclusion of Press and Public**

262.4 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.

262.5 **RESOLVED** - That the public be not excluded from the meeting during consideration of any item appearing on the agenda.

## **263. MINUTES OF THE PREVIOUS MEETING**

263.1 It was noted that there was an error in Item 271B, Page 17 of that days agenda in the “Appeal Decision” report, as Park House was located in Stanford Ward, (now Hove Park) not Goldsmid as indicated.

263.2 **RESOLVED** - That the Chairman be authorised to sign the minutes of the meeting held on 7 April 2010 as a correct record.

## **264. CHAIRMAN'S COMMUNICATIONS**

### **New & Returning Members of Staff**

264.1 The Chairman introduced Claire Burnett, the newly appointed Area Planning Manager (East) and Nicola Hurley, the Area Planning Manager (West) who had returned from maternity leave recently.

### **Vote of Thanks: Councillor Wells Deputy Chairman**

264.2 The Chairman placed on thanks her thanks and those of the Committee to the outgoing Deputy Chairman, Councillor Wells, congratulating him and wishing him every success during for his year in office as Mayor. This was supported unanimously by the Committee.

### **Vote of Thanks: John Small, CAG Representative**

264.3 The Chairman stated that she understood that day’s meeting was the last to be attended by John Small who had attended as a Co-opted representative on behalf of the Conservation Advisory Group (CAG) for a number of years.

264.4 The Chairman wished to formally place on record her thanks and those of the Committee for Mr Small’s valuable contribution over a considerable period of time. She paid tribute to his breadth and depth of knowledge in relation to complex planning

issues, his insightful comments and his unwavering good humour in face of the arduous schedule that was planning Committee. She concluded by saying that he would be missed and by sending her own and the Committee's best wishes for the future.

- 264.5 The Chairman's comments were supported wholeheartedly and unanimously by the Committee and it was subsequently agreed that the Committee's vote of thanks would be sent to Mr Small in a suitable form accompanied by an extract from these minutes and a covering letter on behalf of the Chairman and Members of the Committee.'

## **265. PETITIONS**

- 265.1 There were none.

## **266. PUBLIC QUESTIONS**

- 266.1 There were none.

## **267. DEPUTATIONS**

- 267.1 There were none.

## **268. WRITTEN QUESTIONS FROM COUNCILLORS**

- 268.1 There were none.

## **269. LETTERS FROM COUNCILLORS**

- 269.1 There were none.

## **270. NOTICES OF MOTION REFERRED FROM COUNCIL**

- 270.1 There were none.

## **271. APPEAL DECISIONS**

- 271.1 It was noted that report B, Applications BH2008/03640 and BH2009/01464, Park House, Old Shoreham Road, Hove was located in Stanford Ward,(now Hove Park) not Goldsmid as referred to in the report.

- 271.2 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 report

## **272. LIST OF NEW APPEALS LODGED WITH THE PLANNING INSPECTORATE**

- 272.1 The Committee noted the planning appeals which had been lodged as set out in the agenda.

**273. INFORMATION ON INFORMAL HEARINGS/PUBLIC INQUIRIES**

273.1 The Committee noted the information set out in the agenda relating to Informal Hearings and Public Inquiries.

**274. TO AGREE THOSE APPLICATIONS TO BE THE SUBJECT OF SITE VISITS**

274.1 **RESOLVED** - that the following site visits be undertaken by the Committee prior to determination of the application:

| <b>Application:</b>  | <b>Site Visit Requested by:</b> |
|--|---------------------------------|
| BH2010/00097, Mill House, Overhill Drive, Patcham                      | Councillor C Theobald           |
| BH2010/00206, Former Legal & General Building, 2 Montefiore Road, Hove | Head of Development Control     |
| BH2010/00498, Former Esso Petrol Station, Hollingdean Road, Brighton   | Head of Development Control     |
| BH2010/00559, Dolphin House, Manchester Street, Brighton               | Head of Development Control     |

**275. REQUEST FOR A VARIATION OF S106 DATED 21 JULY 2004 SIGNED IN ASSOCIATION WITH BH2003/00751/FP**

275.1 The Committee considered a report seeking a variation to the Section 106 Agreement dated 21 July 2004 signed in relation to Application BH2003/00751/FP, Chandlers, car showroom and service centre, Victoria Road, Portslade.

275.2 The Area Planning Manager (West), Mrs Hurley gave a presentation referring to site plans and photographs indicating the area of the site to which the proposed variation related. The applicant had requested that that the requirement to provide B1 office space be removed. It was recommended that an exception be made to policies EM1 and EM3 in this instance as the applicant had made a strong case for an exception being made in this instance.

**Questions/Matters on Which Clarification was Sought**

275.3 Councillor Hamilton enquired as to the height of the office building.

275.4 Councillor Smart enquired whether it was anticipated that a noise nuisance would arise from the use of equipment associated with the site. It was explained that element of the

scheme had been determined as part of the original application and did not form part of the current request to vary a condition of the Section 106 Agreement.

275.5 Councillor Steedman enquired whether that condition had been applied in order to secure and protect the employment use. Councillor Smart sought clarification as to whether the proposed variation would result in a change in the number of jobs to be provided. It was explained that this would not be the case and that a variety of employment was provided on site. In addition to sales and office jobs, there would be a number of posts associated with the workshops and MOT test centre.

275.6 A vote was taken and Members voted unanimously that officers be authorised to complete a variation to the Section 106 Agreement.

275.7 **RESOLVED** - That the Committee resolves to authorise officers to complete a variation to the Section 106 Planning Agreement dated 21 July 2004 relating to land at Chandlers, Victoria Road, Portslade in the terms set out in Section 6 of the report.

## **276. TO CONSIDER AND DETERMINE PLANNING APPLICATIONS ON THE PLANS LIST**

### **(i) SUBSTANTIAL OR CONTROVERSIAL APPLICATIONS OR APPLICATIONS DEPARTING FROM POLICY**

**A. Application BH2009/03156, Wellesbourne Centre, Whitehawk Road, Brighton -** Erection of part single storey part two storey building to accommodate library, café, offices and ancillary accommodation. Change of use of part of school from D1 to office B1. Creation of new disabled car park and diversion of existing public footpath and creation of new cycle/footway connecting to Whitehawk Way.

(1) It was noted that this application had formed the subject of a site visit prior to the meeting.

(2) The Area Planning Manager (East), Ms Burnett gave a presentation detailing the scheme by reference to elevational drawings and photographs showing the existing and proposed elevations and indicating their appearance within their immediate setting and in longer views. Ms Burnett also referred to two further letters of objection which had been received stating that in their view the level of on site parking proposed was inadequate.

### **Questions/Matters on Which Clarification was Sought**

(4) Councillor C Theobald referred to the TPO trees which were to be removed to enable the scheme to progress. She enquired whether any of them were Elm trees or good specimens, it was confirmed that they were not.

(5) Councillor Kennedy enquired regarding the biodiversity measures proposed.

(6) Councillor Cobb sought clarification whether the cycle route/ footpath would be separate or would be a shared space. It was confirmed that the space would be combined.

- (7) Councillor Smart sought clarification regarding the materials to be used in construction of the library. It was confirmed that these would compliment those of the school.

### **Debate and Decision Making Process**

- (8) Councillor Cobb expressed concern that a shared cycle/footpath could result in an increased risk of accidents. During the course of the site visit the previous afternoon a cyclist had been observed gathering momentum going downhill, in the event of a collision with a pedestrian serious injuries could result. Councillor McCaffery echoed those concerns. Whilst supporting the scheme overall she had misgivings in respect of this shared element of the scheme. It was explained that this proposal was comparable with solutions used elsewhere across the city.
- (9) Councillor Cobb enquired whether it would be possible to add a condition requiring that the cycle/ footway were separated. The Head of Development Control stated that it would not be appropriate to add a condition, as this would not be enforceable, but that an informative could be added to any permission granted requesting the applicant to ensure that the most appropriate means of providing a safe walking /cycle route be explored. Councillor McCaffery stated that she still had concerns regarding the safety of that element of the scheme.
- (10) Councillor Davey stated that he considered that the available space was probably too narrow to provide segregated spaces. However, he supported the proposed informative. Councillor Smart concurred in that view given that there was a steep incline to one side of the site.
- (11) Councillor C Theobald stated that she supported the scheme which she considered represented a good design solution.
- (12) Councillor Kennedy stated that she considered the development had been well designed, although it was disappointing that the opportunity had not been taken to include more elements which supported biodiversity.
- (13) A vote was taken and the 11 Members present when the vote was taken voted by 10 with 1 abstention that planning permission be granted.

**276.1 RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in paragraph 9 of the report and resolves to grant planning permission subject to the conditions and informatives set out in the report and to the additional informatives set out below:

6. The applicant is advised that a formal Stopping up Order for the current footpath crossing the site must be secured prior to any works affecting the footpath being carried out.

7. The applicant is advised of the need to seek to ensure that all possible measures are taken and advice sought to ensure that the appropriate safety measures are provided in relation to the shared cycle/walking route.

**Note:** Having declared an interest in the application Councillor Fallon-Khan withdrew during its consideration and took no part in the debate and decision making thereon. Councillor McCaffery abstained.

(ii) **MINOR APPLICATIONS**

**B. Application BH2010/00097, Mill House, Overhill Drive, Patcham** – Erection of 3 detached 2 storey dwellings and a single storey detached bungalow.

(1) Members agreed that it would be beneficial to carry out a site visit prior to determining the application.

276.2 **RESOLVED** – That consideration of the above application be deferred pending a site visit.

**C. Application BH2010/00394, 7 Brunswick Street West, Hove** – Change of use of ground floor store into 1 self contained studio flat.

(1) The Area Planning Manager (West), Mrs Hurley gave a presentation detailing the proposed scheme. The application before the Committee that day as a re-submission of refused application BH2009/02388. The revised proposal now incorporated a studio flat instead of a one bedroom flat within the ground floor store, with the main open-plan studio room to the front. The bathroom would be located at the rear and would be served by the window granted planning consent and installed under BH2007/04452.

(2) Reference was made to the observations received from the CAG and set out in the “Late Representations List “expressing their concern that external alterations to the windows had not been detailed. In consequence they had deferred making a comment. It was explained that Listed building consent was not required for the internal works proposed and that no external works to the building were proposed.

(3) Mr Chavasse spoke on behalf of neighbouring objectors stating that they considered the scheme to be acceptable. Concerns remained however regarding the rear bathroom window, which if it was clear glazed would overlook a rear shared court yard area. It was often a condition of grant of planning permission that such windows were obscure glazed and top opening only. Local residents were of the view that this would be appropriate in this instance too.

**Questions/ Matters on Which Clarification was Sought**

(4) Councillor Davey stated that he had no objections to the scheme in principle but queried why obscure glazing to the bathroom window had not been sought in this instance. It was explained that the rear windows of a number of neighbouring dwellings and flats over looked this area a condition had been added, this could however be done if Members considered it appropriate.

(5) Councillor Smart stated that he considered it would be appropriate to require the rear bathroom to be obscure glazed and for it to be top opening only, this would provide the necessary levels of light and ventilation without directly overlooking the courtyard area. That was the general consensus among other Members of the Committee.

(6) A vote was taken and on a vote of 8 to 2 with 2 abstentions it was agreed that an additional condition be added to ensure that the bathroom window overlooking the rear courtyard was obscure glazed and hung so that it was top opening only. A further vote was taken and on a vote of 10 with 2 abstentions planning permission was granted.

276.3 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in paragraph 8 of the report and resolves to grant planning permission subject to the conditions and informatives set out in the report and to the addition of a further condition requiring the rear (bathroom) window to be obscure glazed and top opening only.

Note: Councillors Cobb and Fallon-Khan abstained from voting in respect of the above application.

**277. TO CONSIDER AND NOTE THE CONTENT OF THE REPORT DETAILING DECISIONS DETERMINED BY OFFICERS UNDER DELEGATED AUTHORITY**

277.1 **RESOLVED** – That those details of applications determined by the Director of Environment under delegated powers be noted.

**Note 1:** All decisions recorded in this list are subject to certain conditions and reasons recorded in the planning register maintained by the Director of Environment. The register complies with legislative requirements.

**Note 2:** A list of representations received by the Council after the Plans List reports had been submitted for printing was circulated by Members on the Friday preceding the meeting. Where representations are received after that time they should be reported to the Chairman and Deputy Chairman and it would be at their discretion whether they should in exceptional circumstances be reported to the Committee. This is in accordance with Resolution 147.2 of the then Sub Committee on 23 February 2006.



**278. TO CONSIDER ANY FURTHER APPLICATIONS IT HAS BEEN DECIDED SHOULD BE THE SUBJECT OF SITE VISITS FOLLOWING CONSIDERATION AND DISCUSSION OF ITEMS ON THE PLANS LIST**

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

| <b>Application:</b>  | <b>Site Visit Requested by :</b> |
|--|----------------------------------|
| BH2010/00097, Mill House, Overhill Drive, Patcham                            | Councillor C Theobald            |
| BH2010/00206, Former Legal & General Building, 2 Montefiore Road, Hove       | Head of Development Control      |
| BH2010/00498, Former Esso Petrol Filling Station, Hollingdean Road, Brighton | Head of Development Control      |
| BH2010/00559, Dolphin House, Manchester Street, Brighton                     | Head of Development Control      |

The meeting concluded at 3.10pm

Signed

Chairman

Dated this

day of

