

**BRIGHTON & HOVE CITY COUNCIL****PLANNING COMMITTEE****2.00pm 3 APRIL 2013****COUNCIL CHAMBER, HOVE TOWN HALL****MINUTES**

**Present:** Councillors Hawtree (Chair), Jones (Deputy Chair), Hyde (Opposition Spokesperson), Carden (Opposition Spokesperson), Cobb, Gilbey, Hamilton, Mac Cafferty, Phillips, Shanks, C Theobald and Wells

**Co-opted Members:** James Breckell (Conservation Advisory Group)

**Officers in attendance:** Jeanette Walsh (Head of Development Control), Zachary Ellwood (Area Planning Manager), Jon Puplett (Planning Officer), Pete Tolson (Principle Transport Officer), Hilary Woodward (Senior Solicitor) and Ross Keatley (Democratic Services Officer).

**PART ONE****175. PROCEDURAL BUSINESS****175a Declarations of substitutes**

175.1 Councillor Shanks was present in substitution for Councillor Davey.

**175b Declarations of interests**

175.2 There were none.

**175c Exclusion of the press and public**

175.3 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.

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

**176. MINUTES OF THE PREVIOUS MEETING**

- 176.1 In relation to item 168 (B) Court Farm House, Court Farm, Devils' Dyke Road, Hove Councillor Mac Cafferty asked that his comments in relation to the provision of care within the City Plan we recorded.
- 176.2 **RESOLVED** – That, with the above changes, the Chair be authorised to sign the minutes of the meeting held on 13 March 2013 as a correct record.

**177. CHAIR'S COMMUNICATIONS**

- 177.1 The Chair drew attention to the number of applications that were determined by Officers through delegated powers, and noted that this information was reported to each Committee in the agenda.

**178. PUBLIC QUESTIONS**

- 178.1 There were none.

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

- 179.1 There were none.

**180. TO CONSIDER AND DETERMINE PLANNING APPLICATIONS****Major Applications**

- A. BH2012/03707 - 27-33 Ditchling Road, Brighton - Full Planning - Demolition of existing building and construction of new 4no storey building providing retail (A1), offices (B1), financial and professional services (A2) and restaurant/café (A3) uses at ground floor level and student accommodation (sui generis) (total of 86 rooms) at ground, first, second and third floor levels with associated works.**
- (1) The Planning Officer, Jon Puplett, introduced this application and gave a presentation by reference to photographs, plans and elevational drawings. It was explained that the premises had previously been used as a furniture store; the application sought the demolition of the existing building and replacement with commercial space and two studios for students on the ground floor, and student rooms with communal living spaces on the other floors. There was a previous permission on the site for residential accommodation, and this application varied the external appearance with zinc cladding on the projecting bays. Each floor – above the ground floor – would have 28 student rooms, and communal kitchens and living spaces. It was considered that the application would compromise the necessity to meet the city's housing targets as this site already had an approval for housing, and would be contrary to both the National Planning Policy Framework (NPPF) and the emerging City Plan, and it was essential that this site be retained to meet the housing need in the city. The design was also not considered to be of sufficiently high standard, and no noise assessment had been provided with the application to demonstrate that there would not be an additional

impact on neighbouring properties. The application was recommended for refusal for the reasons set in the report.

### **Public Speakers and Questions**

- (2) Mr Dalton spoke in support of the application in his capacity as the applicant. He stated that the current building was an 'eyesore' and the general area suffered with social problems. The current approved scheme was not considered viable, the applicant had spent 18 months in pre-application discussions with the Planning Authority; during this time there had been no mention that there was any objection to the principle of student accommodation at the site. The applicant had been told that the then draft City Plan had little weight and there was no objection in principle. Since the application had been submitted there had been a 'rapid change in policy' that was not consistent with the advice at the pre-application stage. Mr Dalton questioned the position of the Planning Authority to attach weight to a policy that did not have formal approval; he went on to add that the developer was committed to the regeneration of this part of the city and had bought a building across the road to further this; he asked that the Committee approve the application.

### **Questions for Officers**

- (3) Clarification was provided for Councillor Hyde on the height of the proposals and the materials that would be used.
- (4) Councillor Shanks expressed concern about the pre-application advice given to the applicant. The Head of Development Control, Jeanette Walsh, explained that at the time of the advice the emerging City Plan had had no weight since the approval by Council in January 2013 the policy started to gather weight. The currently saved Brighton & Hove Local Plan was silent on the subject of student accommodation, and as such Officers considered that policies within the emerging City Plan on student accommodation should be given weight.
- (5) Councillor Carol Theobald asked what type of students the accommodation would be let to, and it was explained that it had not currently been attached to a specific provider; however, the applicant did have a letter of interest from a language school.

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

- (6) Councillor Hyde stated that the position for the applicant was unfortunate, but she understood that Officers had to work within the constraints of policy. She went on to comment that the zinc cladding was inappropriate, and she agreed with concerns in relation to the roof form. For these reasons she would be voting in support of the Officer recommendation.
- (7) Mr Breckell, of the Conservation Advisory Group (CAG), said that CAG had felt positively about this application and its contribution to the area. He also added that the roofs along the Ditchling Road varied.
- (8) Councillor Hamilton expressed concern about the advice at the pre-application discussion as significant sums of money could potentially be put in by applicants at this

stage, and then planning policy could change. The Senior Solicitor, Hilary Woodward, explained that the point at which the relevant policy must be taken into account was the point at which the application would be determined not during the pre-application discussions.

- (9) Councillor Carol Theobald stated that it did not seem as if the applicant had been properly warned; she felt that the area was 'scruffy' in appearance, but this was not an inappropriate location for student accommodation. She concluded by suggesting that the scheme could have been lower in height, and that she was currently of two-minds.
- (10) Councillor Mac Cafferty asked if there was any mechanism that could be employed to make applicants aware of potential policy changes during such periods of policy transition. In response the Head of Development Control explained that there was no mechanism for the Planning Authority to stop determination, and the applicant in this case was also making comments on the policies in the emerging City Plan. The Senior Solicitor also added that the draft policy had been agreed for consultation, but the policy gathered weight through the process to the point of formal adoption.
- (11) Councillor Shanks added that student accommodation here would free up housing in other parts of the city.
- (12) Councillor Phillips stated that her concerns were in relation to the sustainability of the proposals and the lack of noise assessments; she did not agree with the other reasons for refusal.
- (13) Councillor Gilbey expressed concern about the lack of noise assessments as the proposals were for student accommodation. There was also no proposed management of the site and therefore no explanation of how behaviour would be managed to prevent it impacting on neighbours.
- (14) Councillor Jones noted he was of two minds, but felt the site was suitable for student accommodation.
- (15) A vote was taken and the Officer recommendation to refuse was not carried on a vote of 4 in favour to 6 against with 2 abstentions. Councillor Phillips proposed reasons for approval and these were seconded by Councillor Shanks; a short adjournment was then held to allow Councillor Hawtree, Councillor Phillips, Councillor Shanks, the Head of Development Control, the Senior Solicitor, the Area Planning Manager, Zachary Ellwood and the Planning Officer to draft the reasons for approval in full. A recorded vote was then taken with the proposed reasons for approval and Councillors Cobb, Mac Cafferty, Phillips, Shanks, Carol Theobald and Wells voted that the application be granted; Councillors Hawtree, Hyde, Carden and Gilbey voted that it be refused and Councillors Jones and Hamilton abstained from the vote.
- 180.1 **RESOLVED** – That the Committee has taken the Officer recommendation to refuse into consideration, but resolves to be **MINDED TO GRANT** planning permission for the reasons set out below and subject to the Head of Development Control agreeing s106 heads of terms and conditions:
- i. The design of the proposed development is acceptable.

- ii. The development will improve and regenerate the area and will free up accommodation currently used by students elsewhere.

### **Minor Applications**

**B. BH2012/04041 - Hove Lagoon, Kingsway, Hove - Full Planning** - Installation of 1no additional cable wakeboarding system. Erection of single storey side extensions and associated alterations to store buildings.

- (1) The Area Planning Manager introduced the application and gave a presentation by reference to plans, photographs and elevational drawings. The current location of the pylons was highlighted and it was explained that they had been approved for recreational facilities on the seafront. The proposals sought to realign the existing pylons to accommodate the installation of a third. It was also noted that the application sought the demolition of an existing store building and the replacement with a more substantial timber building. In relation to seafront policies it was explained that these sought to encourage recreation; the main objection to the scheme was from users of the lagoon on Sundays for recreational use in association with model boats. A condition had been included to restrict use of use wakeboarding on Sundays; however, further legal advice had been given to suggest that such a condition would not be proportionate, and these issues could be better controlled by the Council through the lease as the landlord. The proposed additions would not be unduly prominent, and the application was recommendation for approval for the reasons set out in the report, subject to the removal of proposed Condition 3.

### **Questions for Officers**

- (2) In response to a series of questions from Councillor Cobb it was explained that: a condition could not be added in relation to the protection of swans as this was not a wildlife site. Issues in relation to safety of users and the treatment of the new storage shed did not form part of the planning considerations.
- (3) Officers were not able to confirm to current uses of the small adjoining lagoon in response to a query from Councillor Hyde.

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

- (4) Councillor Shanks stated that she could not see that there would be a problem as there was existing activity in the area. She was happy to support the Officer recommendation.
- (5) Councillor Carden noted he had no particular objection to the proposals, but was mindful of the potential impact on other users of the lagoon.
- (6) Councillor Jones noted that the proposed wooden sheds would be an improvement, and stated that it was important to ensure the lagoon remainder open for different recreational activities; he shared some of the concerns in relation to swans. The Area Planning Manager added that there were sufficient controls through the existing lease,

and that it had not been considered necessary to take expert advice in relation to swan activity in the area.

- (7) Councillor Hyde added that the site provided important facilities for residents; she shared some concerns in relation to swans, but noted that there were no reported problems with the two lines currently in situ.
- (8) Councillor Wells stated his view that there would be no problems in relation to swan activity due to the seasonal nature of the sport and the swans' migration patterns.
- (9) A vote was taken and planning permission was granted on a vote of 10 to 2.

180.2 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation, and the policies and guidance set out in the report and resolves to **GRANT** planning permission subject to the Conditions and Informatives in the report; with the removal of Condition 3.

**C. BH2012/03367 - 24 St. James's Street, Brighton - Full Planning - Creation of fourth floor to form two bedroom flat.**

- (1) The Area Planning Manager introduced the application and gave a presentation by reference to photographs, plans and elevational drawings. The current configuration was a 4 storey building with commercial space on the ground floor and 6 self-contained flats across the other 3 storeys. It was noted from the photographs that there had been some unauthorised activity on the roof of the building and this was currently subject to enforcement. The application sought permission for an additional floor to create a two bedroom flat. There had been a previous refusal for a similar scheme last year, but the proposal was not recessed. The design would be for a flat roof with traditional features, and Officers considered that the traditional approach would clash with the contemporary design of the existing building and create a poor visual relationship. For the reasons set out in the report the application was recommended for refusal.

### **Public Speakers**

- (2) Mr Burgess spoke in support of the application as the agent for the applicant. He stated that this scheme was recessed and sought to overcome the previous reasons for refusal. It would compliment the existing building. It was also a smaller scheme in proportion to other schemes that were potentially going to come forward in the area. It was highlighted that the materials would match the contemporary finish of the existing building, and considered that the recommendation for refusal was a negative approach to this scheme.
- (3) A vote was taken and planning permission was refused on a vote of 9 to 2 with 1 abstention.

180.3 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation, and the policies and guidance set out in the report and resolves to **REFUSE** planning permission for the reasons set out below:

- i. The proposed additional storey would result in a building of an excessive scale which would have an awkward and overbearing relationship with the adjoining terrace to the west and the adjoining building to the north (Dorset House, no. 30 Dorset Gardens). The proposed enlarged building would dominate views down Dorset Gardens from the north, from the east when viewed in comparison to the building in situ at nos. 25-28 St. James's Street, and from the south when viewed from Madeira Place. The proposed additional storey is of a faux traditional design; the large flat roofed bulk would appear as an incongruous addition to the roofscape, and the faux traditional form and detailing of the proposal would clash with the contemporary appearance of the existing building resulting in an inappropriate appearance. The proposed additional storey would harm the appearance of the recently constructed building, and would cause significant harm to the street scene, the setting of the listed buildings to the south of the site, and the character of the East Cliff Conservation Area. The proposal is therefore contrary to policies QD1, QD14, HE3 and HE6 of the Brighton & Hove Local Plan, and the key objective of securing good design which is set out in the NPPF.
- D. BH2013/00287 - The Priory, London Road, Brighton - Extension to Time Limit Full Planning** - Application to extend time limit for implementation of previous approval BH2009/00058 for roof extension to blocks C and D to provide 4x3 bedroom flats, each with own roof garden, and a cycle store.
- (1) The Area Planning Manager introduced the application and gave a presentation by reference to plans, photographs and elevational drawings. The application was for an extension to limit for a previous application approved by the inspector following refusal by the Council. The original application sought an additional storey on blocks C & D, and it was noted there would be amenity spaces for all the new flats. The newly proposed floor would be inset at the front and rear. It was important any material changes since the previous approval be considered, and the only change was in relation to ecology and bats in the area, and as such the application would need an updated bat survey. The application was recommended for approval for the reasons set out in the report.

### **Questions for Officers**

- (2) Following a query from Councillor Carol Theobald it was confirmed that the configuration was the same in the previously approved scheme.

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

- (3) Councillor Carol Theobald noted that there had been 17 letters of objection; she felt the scheme would be too high, and this was unfair on residents who opposed the scheme. The Senior Solicitor confirmed that as the decision had been made at appeal by the Inspector, and a decision contrary to this would be difficult to argue if appealed. The Area Planning Manager also confirmed that the Inspector had considered the issues in relation to the existing occupants and the transport and highways matters.
- (4) Following a query from Councillor Gilbey it was confirmed that there would be lift access to the new storey.

(5) A vote was taken and planning permission was granted on a vote of 9 to 2 with 1 abstention.

180.4 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation, and the policies and guidance set out in the report and resolves to **GRANT** planning permission subject to the Conditions and Informatives in the report.

**E. BH2012/03673 - Blocks A&B, Kingsmere, Brighton - Full Planning** - Erection of additional storey to Blocks A and B to create 8no flats with private roof gardens, with associated additional car parking and cycle storage.

(1) This application was deferred.

**F. BH2013/00264 - West View, The Drive, Hove - Full Planning** - Creation of additional floor above existing to provide 4no new flats with additional car parking at ground floor level.

(1) The Area Planning Manager introduced the application and gave a presentation by reference plans photographs and elevational drawings. There was a previous approval for two flats, and this application sought a new scheme with more set backs and better visual relationship between the existing building. There were balconies on the western side where Officers felt it would be appropriate to provide screening to protect visual amenity. As the principle of the design and form had been approved the recommendation for approval was considered appropriate; subject to the additional conditions.

#### **Questions for Officers**

(2) Councillor Carol Theobald asked for more information in relation to the period of time that the lifts would need to be out of order, and Officers explained this was not a planning matter and be part of the management of the site.

(3) It was confirmed for Councillor Hyde that the flats had been configured such that the roof gardens would be above the living rooms of the flats below them, rather than the bedrooms. Councillor Hyde went on to ask about adequate soundproofing, and it was explained that there was currently no such condition; however, if the Committee were minded to grant the application then this could be attached.

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

(4) Councillor Carol Theobald stated that she thought the proposals constituted overdevelopment of the site, and there would be additional noise from the roof gardens.

(5) A vote was taken and, with the additional conditions in relation the screening of the balconies and the sound proofing, planning permission was granted on a vote of 10 to 2.



180.6 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation, and the policies and guidance set out in the report and resolves to **GRANT** planning permission subject to the Conditions and Informatives in the report, and the additional conditions set out below.

- i. No development shall take place until a scheme for providing suitable soundproofing between the existing top floor of the building and the proposed additional storey hereby permitted has been submitted to and approved in writing by the Local Planning Authority. The soundproofing measures shall be implemented in strict accordance with the approved details prior to the occupation of the development and shall thereafter be retained as such.

**Reason:** To safeguard the amenities of the occupiers of adjoining units and future occupiers of the development hereby permitted and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.

- ii. Notwithstanding the details shown on the approved drawings, the residential unit labelled as 'Flat 20' (as detailed on drawing no. A2212/02 Rev.B) of the development hereby permitted shall not be occupied until an obscure glazed privacy screen at a suitable height to preclude overlooking of neighbouring properties has been provided along the entire western edge of the roof terrace serving this unit in accordance with details that shall first have been submitted to and approved in writing by the Local Planning Authority. The approved privacy screen shall thereafter be retained in situ.

**Reason:** To safeguard the amenities of the occupiers of nearby residential properties and to comply with policy QD27 of the Brighton & Hove Local Plan.

**G. BH2012/03477 - 109-111 Kings Road Arches, Brighton - Full Planning - Demolition of timber building and erection of a single storey boathouse.**

- (1) The Area Planning Manager introduced the application and gave a presentation by reference to photographs, plans and drawings, the application sought the replacement of the current boathouse with a similar timber structure which would be extended to accommodate two boats instead of one. The proposals would also improve the practical use of the building by having the doors facing towards the coastline. It was also noted that although the application was in a conservation area it did not need a separate application as it could be dealt with under delegated powers. The proposals were considered acceptable, and would help support recreational use, and the application was recommended for approval for the reasons set out in the report.

**Questions for Officers and Decision Making Process**

- (2) In response to Councillor Hamilton it was explained that the application was to be determined by the Committee at the request of the CAG.
- (3) In response to Councillor Cobb it was explained that the new boat house would be block work with timber cladding.
- (4) A vote was taken and it was unanimously agreed that planning permission be granted.

- 180.7 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation, and the policies and guidance set out in the report and resolves to **GRANT** planning permission subject to the Conditions and Informatives in the report.
- 181. TO CONSIDER ANY FURTHER APPLICATIONS IT HAS BEEN DECIDED SHOULD BE THE SUBJECT OF SITE VISITS FOLLOWING CONSIDERATION AND DISCUSSION OF PLANNING APPLICATIONS**
- 181.1 There were none.
- 182. APPEAL DECISIONS**
- 182.1 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.
- 183. LIST OF NEW APPEALS LODGED WITH THE PLANNING INSPECTORATE**
- 183.1 The Committee noted the new appeals that had been lodged as set out in the planning agenda.
- 184. INFORMATION ON INFORMAL HEARINGS/PUBLIC INQUIRIES**
- 184.1 The Committee noted the information regarding informal hearings and public inquiries as set out in the planning agenda.
- 185. INFORMATION ON PRE APPLICATION PRESENTATIONS AND REQUESTS**
- 185.1 The Committee noted the position regarding pre application presentations and requests as set out in the agenda.
- 186. LIST OF APPLICATIONS DETERMINED UNDER DELEGATED POWERS OR IN IMPLEMENTATION OF A PREVIOUS COMMITTEE DECISION (INC. TREES MATTERS)**
- 186.1 That the Committee notes the details of applications determined by the Strategic Director of Place under delegated powers.

[Note 1: All decisions recorded in this list are subject to certain conditions and reasons recorded in the planning register maintained by the Strategic Director of Place. 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 to 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.]

The meeting concluded at 16.02

Signed

Chair

Dated this

day of

