

BRIGHTON & HOVE CITY COUNCIL

PLANNING COMMITTEE

2.00pm 24 JUNE 2015

THE RONUK HALL, PORTSLADE TOWN HALL

MINUTES

Present: Councillors Gilbey (Chair), C Theobald (Group Spokesperson), Mac Cafferty (Group Spokesperson), Allen, Barradell, Bennett, Hamilton, Littman, Miller, Morris, Robins and Wares

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

Officers in attendance: Jeanette Walsh (Planning & Building Control Applications Manager); Nicola Hurley (Planning Manager – Applications); Steven Shaw (Principal Transport Officer); Hilary Woodward (Senior Solicitor) and Ross Keatley (Democratic Services Manager).

PART ONE

13 PROCEDURAL BUSINESS

(A) Declarations of substitutes

13.1 Councillor Allen was present in substitution for Councillor Inkpin-Leissner and Councillor Robins was present in substitution for Councillor Cattell.

(B) Declarations of interests

13.2 Councillor Morris declared an interest in respect of application A) BH2015/00513, Brighton Wheel, Upper Esplanade, Daltons Bastion, Madeira Drive, Brighton. He explained he had discussed the application with local residents prior to being elected in May 2015; however, he confirmed he remained of a neutral mind and would remain present during the consideration and vote on this application.

13.3 Councillor Morris also declared an interest in respect of application E) BH2015/00360, 38 Queen's Gardens, Brighton. He explained he lived in the area, but had not expressed a view in relation to the application. He confirmed he remained of a neutral mind and would remain present during the consideration and vote on this application.

13.4 Councillor Littman declared an interest in respect of application A) BH2015/00513, Brighton Wheel, Upper Esplanade, Daltons Bastion, Madeira Drive, Brighton. He explained he had been the Deputy Chair of the Policy & Resources Committee, holding the Finance Portfolio, at the time the loan was agreed for the nearby i360. He

confirmed he remained of a neutral mind and would remain present during the consideration and vote on this application.

(C) Exclusion of the press and public

13.5 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.

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

(D) Use of mobile phones and tablets

13.7 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 ‘airplane mode’.

14 MINUTES OF THE PREVIOUS MEETING

14.1 It was noted there were some formatting issues with the minutes and it was agreed these should be deferred to the next meeting to allow this to be rectified.

15 CHAIR'S COMMUNICATIONS

15.1 The Deputy Chair, acting as the Chair for the meeting, noted that application C) BH2014/03875 22 Carden Avenue, Brighton had been deferred following the receipt of late representations raising new material considerations. It was expected the application would be considered at the following meeting.

16 PUBLIC QUESTIONS

16.1 There were none.

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

17.1 There were no further requests for site visits in matters listed on the agenda.

18 TO CONSIDER AND DETERMINE PLANNING APPLICATIONS

A BH2015/00513, Brighton Wheel, Upper Esplanade, Daltons Bastion, Madeira Drive, Brighton- Removal or variation of condition - Application for variation of condition 3 of application BH2011/00764 (Erection of a 45 metre high observation wheel including extension of promenade over beach, new beach deck, ancillary plant, queuing areas, ticket booths and merchandise kiosk (for a temporary period of 5 years, except beach deck which is permanent)) to extend the temporary period for a further five years until 19 May 2021.

- (1) It was noted that this application had been the subject of a site visit prior to the meeting.
- (2) The Principal Planning Officer, Maria Seale, introduced the application and gave a presentation with reference to plans and photographs. The application had been deferred from the previous meeting following the receipt of a late representation referencing recent planning case law; during the deferral Officers had also received clarification from Historic England and the report had been updated. The applicant was seeking a further temporary permission for five years as the current permission expired in 2016. The original permission was granted as temporary for the following reasons: to safeguard the visual amenity of the area; to ensure the future strategic planning of the seafront and allow the operation of the wheel to be monitored. These considerations needed to be again assessed with the new permission; the application was deemed acceptable in terms of positive impact on the local economy and tourism. As stated in the report matters relating to the i360 were not material to the consideration of this application. The main policy changes relating to this application were the City Plan, which was at a late stage of formal adoption, and the NPPF. The City Plan policies were given significant weight, and it was noted that the Corporate Seafront Strategy was at a very early stage and limited weight was placed on it in terms of planning decisions.
- (3) It was considered that the 2011 application had been compliant with policy, and this was the case with the City Plan as the application added to the tourism offer in the city and served to help regenerate this area of the seafront. This area of the seafront was already identified for sports facilities and family attractions; and the NPPF was also given significant weight in terms of the application supporting economic growth. Whilst the Wheel had not been as successful as the applicant had originally envisaged it did contribute to regeneration and was considered a tourism asset to the city.
- (4) The site was located in the East Cliff Conservation Area and there were a number of listed buildings located near to the site. The main heritage considerations were set out in the report and the Council had been mindful of its statutory role to protect heritage sites and conservation areas. The NPPF gave weight to the preservation of heritage assets, and stated that where substantial harm would be caused an application would normally be refused unless there were substantial public benefits. There had been a number of concerns in relation to the visual impact of the Wheel; it was acknowledged that some harm was caused, but Officers were of the view this was not substantial and Historic England had also noted they did consider the harm to be *significant*. There had been no objection from either the CAG or the Regency Society, and the temporary nature of the scheme allowed any harm to be undone. It was also considered that the harm was outweighed by the economic and tourist benefits to the city. In conclusion it was noted that the relationship with the surrounding area was the same as when the original permission was granted and there had been no operational issues; the wheel was not considered to cause substantial harm and the application was recommended to be minded to grant for the reasons set out in the report.

Public Speaker(s) and Questions

- (5) Glynn Jones spoke in objection to the scheme; he confirmed he was representing local residents in the vicinity of the application site. He noted the Kingscliffe Society was the amenity group for the area and represented local residents that were of the view that the scheme had a harmful impact on their lives, and at no point had the homes of any residents been visited to assess the impact. The NPPF stated that the harm should be balanced against the public benefits of the scheme. The Wheel would 'tower' above the Volks Railway redevelopment scheme, and the claims in relation to the economic benefits were refuted as the Wheel did not bring any new tourists to the city, and it was noted that the Economic Partnership had queried the benefits. It requested that if permission were granted this should only be until the opening of the i360 following which the area should be turned into green space.
- (6) In response to Councillor Robins the speaker clarified he had made reference to a proposed Volks Railway/Aquarium redevelopment.
- (7) In response to Councillor Miller the speaker used a visual imagine to clarify that some residents had completely lost their sea views as a result of the scheme.
- (8) Ian Coomber spoke in support of the application in his capacity as the agent acting on behalf of the applicant. He reiterated points made in the Officer presentation that the temporary permission had been to assess harm and that consideration of matters in relation to the i360 were not material to the scheme. He commended the robust and comprehensive Officer report; he stated that the application adhered to policy and there were no planning reasons before the Committee to refuse the application. He made reference to the increased level of support for the retention of the Wheel, and noted there had been no objection from the CAG or Historic England. Visit Brighton also welcomed the scheme on the grounds that it added to the tourist offer in the city. Further temporary planning permission was appropriate, and the Committee were invited to support the application to maintain the tourist offer and the contribution towards regeneration.
- (9) In response to Councillor Barradell the speaker explained that a permanent permission had not been sought as the Wheel was movable and could operate from a different global location. In response to a further query from Councillor Morris the speaker explained that the five additional years would allow further assessment of the scheme to take place.
- (10) In response to Councillor Littman the speaker confirmed the Wheel had been in operation in Cape Town prior to its operation in Brighton.
- (11) In response to Councillor Miller the speaker confirmed that the Committee could add conditions in relation to maintenance of the structures at the base of the site if they were minded to grant consent.

Questions for Officers

- (12) In response to Councillor Robins the Case Officer confirmed that some weight had been attached to the letters of support from outside of the city as the application site related to a tourist attraction.
- (13) In response to Councillor C. Theobald the Planning & Building Control Applications Manager, Jeanette Walsh, confirmed that a 10 year temporary consent had been given for a climbing wall, and this was on the basis of the case made by the applicant.
- (14) In response to Councillor Barradell the Senior Solicitor, Hilary Woodward, confirmed that issues relating to competition between businesses were not a material consideration; in relation to representations received it was explained that the content gave them weight, not simply the number received.
- (15) It was confirmed for Councillor Morris that both the application before the Committee and the 2011 application had been subject to the same consultation with local residents.
- (16) In response to Councillor Wares the Senior Solicitor confirmed that the original permission was granted as temporary for 5 years; this differed from a trial period for the scheme.
- (17) In response to Mr Gowans the Case Officer confirmed that the setting of a listed building, the view to it and around it would be considered rather than the view from a listed building.
- (18) In response to Councillor Miller the Case Officer explained that Historic England had sent the Local Planning Authority a standard non-intervention letter; this indicated they were of the view the matter should be determined at local level with input from local specialists. The response also indicated that Historic England were not of the view the scheme would cause substantial harm.
- (19) The Senior Solicitor confirmed that any revenue raised from rents at the site was not a material consideration.
- (20) In response to the Chair the Senior Solicitor clarified that the Council would be acting in different capacities in relation to the application: as Local Planning Authority; as highway authority and as land owner. It was important the Committee understand they should only consider the matter in their capacity as the Local Planning Authority; any other matters in relation to the lease and highway licence were separate to the considerations before the Committee.
- (21) The Case Officer also confirmed for the Chair that the Seafront Strategy had been given very limited weight.
- (22) In response to Councillor Mac Cafferty the Planning & Building Control Applications Manager explained that the issue of temporary consent and the length of time for which this was suitable was a matter of judgment. In this instance Officers were recommending that it was acceptable to extend the consent for a further five years;

however, it was in the gift of the Committee to amend this length if they felt a shorter consent was acceptable on balance.

- (23) In response to Councillor Morris the Senior Solicitor explained that for the consent to go ahead the Council as landlord would have to enter into a new or extended lease with the operator.
- (24) In response to questions from Councillor Barradell Officers explained the following: the Committee could take a view on the length of consent if they were minded to grant permission – a further temporary consent was also considered acceptable on balance as both the City Plan and Seafront Strategy were not both fully adopted yet. The nearest residential property was 95 metres from the site, and Officers in Environmental Protection had visited nearby properties when the 2011 consent was considered to look at light issues. It was clarified there had been no highways or noise complaints; no breach of planning conditions and the overall there was no harm to amenity.
- (25) In response to Councillor Mac Cafferty it was confirmed that the Committee could be minded to attach a condition for full details of all the structures at the base of the development.
- (26) In response to Councillor Morris it was confirmed that Officers were not aware of any bids in relation to the Volks Railway and Officers were of the view that this was not a material consideration.
- (27) In response to Councillor Miller the Senior Solicitor confirmed there was nothing to prevent the Local Planning Authority granting a further temporary consent; in each case the authority had to consider the law and current policy to come to a decision. In relation to the difference between harm and substantial the Case Officer clarified this was a matter of judgement.
- (28) The Senior Solicitor confirmed that it would not be possible to prevent the applicant coming back for a further temporary consent in the future as in doing so the Council would be seen to fetter its discretion, and the authority had a statutory duty to determine planning applications as the Local Planning Authority.

Debate and Decision Making Process

- (29) Councillor Mac Cafferty stated he was willing to support the application, but felt the Committee should consider a reduction in the length of the consent to one or two years; he also felt an additional condition in relation to the base structures was necessary.
- (30) Councillor Hamilton noted his role as the Deputy Chair of the Policy & Resources Committee, with the portfolio for finance; he stated for these reasons he would take no further part in the debate and abstain from the vote.
- (31) Mr Gowans noted that the CAG had no objection on conservation grounds; the structure was felt to be light and breezy and it was not considered harmful.

- (32) Councillor Barradell stated she was finding the decision difficult as she was of the view that residents had believed the Wheel would only be in operation for five years; she felt one or two years would be more appropriate, but would not support a five year consent.
- (33) Councillor Morris stated he would support a two year consent.
- (34) In response to Councillor Robins the Senior Solicitor explained it was matter for him if he felt his position on the Economic Development & Culture Committee would preclude him taking part in the decision before the Committee.
- (35) Councillor Littman stated that at the time of the original five year consent it was believed it would be unlikely the operators would stay for the full five years. He noted that both the Seafront Team and the Economic Development objected to the application; he also felt there was sufficient policy within the NPPF to refuse the application. For this reasons he felt unable to support the Officer recommendation.
- (36) Councillor Wares felt that granting a one or two year consent would simply mean that the application would be back before the Committee in a short period of time; he highlighted that the report stated the development was not suitable to be permanent, and felt there was little additional monitoring that was necessary beyond what had already taken place.
- (37) Councillor Miller stated he did not believe that the Wheel offered a great deal as a tourist attraction; he disagreed with the position of CAG in relation to the harm. He was of the view that it detracted from the area, and a two year consent would be too long.
- (38) Councillor C. Theobald stated that she liked the appearance of the Wheel, but was disappointed that it was underused; she noted her concern with the objection from the Economic Partnership and Tourist Alliance and noted that many of the supporters did not live near the wheel itself. The nearby residents found it intrusive especially during the night when it was lit up; on balance she felt she would not be able to support the Officer recommendation.
- (39) The Chair noted she understood the position of residents, but she was of the view that it was not substantially harmful.
- (40) Councillor Mac Cafferty proposed that the recommendation be amended to propose consent for two years instead of five.
- (41) The Committee moved to the vote and firstly took a vote on whether to grant a new permission at all; pending the outcome of that vote they could then seek a further vote on the number of years for the consent.
- (42) A vote was taken and the Committee agreed to not grant a new permission on a vote of 4 in support, 6 against and 2 abstentions. Reasons were then proposed to refuse the application by Councillor Littman and these were seconded by Councillor Barradell. A short recess was then held to allow the Chair, Councillor Littman, Councillor Barradell, the Planning & Building Control Applications Manager and the Senior Solicitor and the Case Officer to draft the reasons in full. These reasons were then

read to the Committee and it was agreed that they properly reflected those that had been put forward by Councillor Littman. A recorded vote was then taken and Councillors: Robins, C. Theobald, Barradell, Bennett, Littman and Miller voted that permission be refused; Councillors: Gilbey, Mac Cafferty, Morris and Wares voted that permission not be refused and Councillor Hamilton and Allen abstained from the vote.

18.1 **RESOLVED** – That the Committee has taken into account the Officer recommendation but resolves to **REFUSE** planning permission for the reasons set out below:

- i) The proposed development would have a detrimental impact on the amenity of residents in the vicinity of the Wheel contrary to policy QD27 of the Brighton and Hove Local Plan 2005. In addition, the Local Planning Authority is not convinced that granting a temporary consent supports the strategic objectives of the regeneration of the seafront set out in policies CP5, SA1 and SO17 of the Brighton & Hove City Plan Part One (Submission Document).
- ii) The Wheel, by virtue of its siting, height, scale and design would be overly dominant and would fail to preserve the setting of the nearby listed buildings and the East Cliff Conservation Area, causing harm that would not be outweighed by the economic benefits of the proposal, contrary to policies HE3 and HE6 of the Brighton & Hove Local Plan 2005 and policy CP15 of the Brighton & Hove City Plan Part One (Submission Document) and the National Planning Policy Framework.

B BH2015/00481, 77 Grand Parade, Brighton - Full Planning - Change of use from offices (B1) to holiday lets (Sui Generis). (Retrospective)

- (1) The Planning Applications Manager, Nicola Hurley, introduced the application with reference to photographs, plans and elevational drawings. The application site was located on the eastern side of Grand Parade on the junction with Edward Street. The premises were currently in use as an unauthorised holiday let, and the application sought permission for a change of use from offices to a holiday let (sui generis). The main considerations related to the principle of the use, impact on the conservation area, impact of neighbouring amenity, highways matters, parking and sustainability. Policy resisted the loss of office sites within the city unless they were redundant, and new hotels were favoured in the core hotel area of the city. This application followed a previous approval for a change of use to a guest house; however, not all the conditions had been discharged and the permission was therefore not implemented.
- (2) The current use had been operating for three years, and in this context the loss of the office use was considered acceptable. It was noted that the site was located outside of the core hotel area, and just outside of the central Brighton area. The principle of the tourist accommodation had been established, and the use accorded with policy. There were no external changes required and as such no impact on the conservation area. The amenity impact had already been assessed as acceptable as part of the guest house application; however, it was acknowledged that this type of holiday let had the potential to cause greater impact on amenity, but the Environmental Protection Team had not raised any objections. There was a condition attached in relation to the use of the outdoor rear yard to restrict use for emergencies only, and the application required

the submission of a full management plan. For the reasons outlined in the report the application was recommended for approval.

Questions for Officers

- (3) In response to Councillor Barradell the Planning Applications Manager explained that the Authority did not currently have details of refuse storage; whilst the Transport Team were recommending cycle storage in the rear yard Officers were of the view that this was not appropriate due to amenity concerns.
- (4) In response to Councillor Mac Cafferty the details of the split decision (BH2014/01790) in the relevant history section of the report were outlined.
- (5) The location of the dining room on the ground floor was confirmed for Councillor C. Theobald.
- (6) In response to Councillor Wares it was explained that the Local Planning Authority would follow up to make sure that all conditions were adhered to, and there would be a time limit in the consent for submission. It was also added that the Committee could add an additional recommendation that the application be referred to the Planning Enforcement Team for monitoring.
- (7) In response to Councillor Mac Cafferty it was explained that the previous permission in relation to the change of use to a guest house had submitted extensive marketing information to show the site was no longer viable for office use. As the site had been in operation for three years and the marketing information had already been submitted it was considered unnecessary to seek any further information. In response to a further query it was explained that a retrospective application was entirely lawful, but this was at the owners' risk.
- (8) In response to Councillor Mac Cafferty it was clarified that there were conditions which could be attached in relation to noise concerns; there had been some noise complaints at the premises, but these had been closed without any statutory notices being issued.
- (9) In response to Councillor Robins Officers noted that they did not believe the site had ever been in use as a guest house as the permission was never fully implemented. Councillor Robins also raised the matter of a Brighton holiday rental association which had been a recommendation from a recent scrutiny panel; Officers noted that were not aware of any association, but did not believe this would be material to the application.
- (10) In response to Councillor Barradell it was confirmed that there was no formal mechanism to recharge enforcement costs as this work was met as part of the overall cost of the service; recharges could only be considered where the matter was being brought before a court; however, the costs of monitoring were not significant from a service perspective. In response to a further query it was clarified that the occupancy rate was between 1-34 people, and the applicant had submitted information that the average occupancy was 20 people.
- (11) In response to Councillor Barradell it was acknowledged that preventing access to the rear garden would displace noise issues from smokers to the front of the premises;

however, this was further from residential properties and the traffic noise would lessen the impact.

- (12) In response to Councillor Hamilton it was explained that the occupancy rates and periods could be enforced by requesting booking records.
- (13) It was confirmed for Councillor Wares that if the Committee were minded to refuse the application the guest house permission could not be used as the permission had lapsed without being fully implemented. The use could revert back to offices, but the applicant would also have the right of appeal.
- (14) In response to Councillor Allen it was clarified that the management plan would contain information in relation to: length of occupancy; use of facilities; contact details; check in procedures and guest behaviour expectations – these were all considered fairly typical and appropriate for a management plans. Where nearby residents had concerns and complaints these could be referred to Environmental Protection.
- (15) In response to Councillor Littman it was explained that the Local Planning Authority often relied on residents to report breaches of conditions for monitoring. Officers would then have the power to serve a breach of condition notice; this could lead to enforcement or even a prosecution.
- (16) In response to Councillor Robins it was confirmed that fire safety was a building control matter and not a material consideration in relation to the application. It was also clarified that it was not illegal to operate without planning permission, but this was at the owners' risk.
- (17) In response to concerns raised by Councillor Morris it was explained that the Committee needed to consider whether they were of the view the management plan was robust and could be used to enforce conditions; Officers would not recommend the application for approval if they were of the view this was not enforceable. The Planning & Building Control Applications Manager also added that the Committee could recommend that the application be minded to grant subject to the submission of a more robust management plan.
- (18) It was confirmed for the Chair that the premises was not suitable for permanent living accommodation due to the existing configuration. It was also confirmed that bookings could be on an individual or group basis.
- (19) It response to Councillor Barradell it was confirmed that there was no planning policy in relation to this type of holiday accommodation. The application would not set a precedent for other similar types of accommodation to operate for some time without the appropriate permission. Officers did not have information relating the number of enforcement investigations at this premises; however, it was confirmed that the application had come forward due to an enforcement investigation. It was also confirmed for Councillor Bennett that Officers did not have information relating to the involvement of community support officers.

Debate and Decision Making Process

- (20) Councillor Morris stated that holiday lets were a real problem in this area and he felt that the fire regulations could not be properly monitored; he asked that the Committee refuse the application.
- (21) Councillor Mac Cafferty noted the concerns raised by the Ward Councillors in relation to loss of amenity. He was not assured that the proposed use did not contradict the protection of amenity. He felt that proper policy was needed in relation to this type of holiday let. Councillor Mac Cafferty stated that he would not support the Officer recommendation.
- (22) Councillor Morris stated he agreed with Councillor Mac Cafferty as local residents and business were affected by this type of scheme.
- (23) Councillor Barradell stated her view that there was information missing from the report, and noted she would have liked additional information on complaints. She was of the view that 34 people staying in this property would not be safe, and she found the decision difficult to take without fire safety information. She felt the scheme would set a precedent and she could not support the Officer recommendation.
- (24) Councillor Wares noted his concerns given the close proximity to residential properties. He felt the location was wholly inappropriate and was not confident that the applicant would comply with the permission.
- (25) Councillor C. Theobald noted her concerns in relation to the fire regulations; she noted the current operation was unsupervised and there was no contact number for nearby residents.
- (26) Councillor Allen stated his view that the enforcement of problems would be difficult due to the short-term stays of those letting the property.
- (27) Before the Committee moved to the vote the Planning & Building Control Applicants Manager confirmed that matters relating to fire regulations were not material to the application.
- (28) A vote was taken by the 12 Members present and the Officer recommendation that the Committee grant permission was not carried by a unanimous vote against. Councillor Mac Cafferty proposed reasons to refuse the application and these were seconded by Councillor Morris. A short recess was then held to allow the Chair, Councillor Mac Cafferty, Councillor Morris, the Planning & Building Control Applications Manager; the Planning Applications Manager and the Senior Solicitor to draft the reasons for refusal in full. These reasons were then read to the Committee and it was agreed that they accurately reflected those put forward by Councillor Mac Cafferty. A recorded vote was then taken and Councillors; Gilbey, C. Theobald, Mac Cafferty, Barradell, Hamilton, Morris, Allen, Littman, Miller, and Wares voted that planning permission be refused.
- 18.2 **RESOLVED** – That the Committee has taken into account the Officer recommendation but resolves to **REFUSE** planning permission for the reasons set out below:

- i) The development by reason of its intensity of use and scale of development in terms of numbers of guests would have a significant detrimental impact on the amenities of neighbouring occupiers contrary to policy QD27 of the Brighton & Hove Local Plan 2005.
- ii) The proposed development is likely to result in a significant adverse impact on the residential amenity of neighbouring occupiers due to the prevailing number of existing holiday lets and guest houses within the vicinity of the site, contrary to policies QD27 and SU10 of the Brighton & Hove Local Plan 2005.

Note: Councillor Robins and Councillor Bennett left the meeting between the initial vote on the application and the recorded vote that followed.

C BH2014/03875, 22 Carden Avenue, Brighton - Full Planning - Demolition of existing day care centre (D1) and erection of two storey care home (C2).

18.3 The application was deferred.

D BH2014/02767, Land rear of Kingsway, Hove - Full Planning - Redevelopment of site to provide replacement retail showroom on ground floor and 8 no flats on the upper floors with associated bike and bin storage and conversion of part of rear garden at 377 Kingsway into a communal garden for both 377 and 379 Kingsway.

- (1) It was noted that the Application had been the subject of a site visit prior the meeting.
- (2) The Planning Applications Manager introduced the report by reference to photographs, plans and elevational drawings. The existing site contained a two-storey building which was currently vacant. Permission was sought for demolition and redevelopment of a four-storey building with a ground floor retail unit and eight residential units. Amendments had been received during the life of the application with changes to the fenestration, and the configuration of the residential units was outlined to the Committee. Whilst there would be a loss of commercial space at the site this was balanced against the modern and better facilities that would be provided. It was considered that the site could carry the size and scale of the proposed development as this was in line with neighbouring properties and the scheme reduced in height along Errol Road to reflect the change in building heights. The residential units would be a mix of one and two-bedroom and there would be a communal garden to the rear of the development. The proposed management plan would serve to reduce noise and disturbance, and the application was recommended to be minded to grant, subject to a s106 agreement, for the reasons outlined in the report.

Questions for Officers

- (3) In response to Councillor Mac Cafferty it was agreed it would be appropriate to propose that the materials condition be agreed by the Planning & Building Control Applications Manager in consultation with the Chair, Deputy Chair and two Group Spokespersons.
- (4) In response to Councillor Littman the access to the residential accommodation was confirmed using the plans.

- (5) It was confirmed for Councillor Barradell that the red line on the site plan related to the edge of the application site whilst the blue line was the land in ownership of the applicant.
- (6) Councillor Miller noted the comments in report that the applicant provide six-month season tickets to residents as there was no parking on the site.
- (7) In response to Councillor C. Theobald the location of the lift and the refuse storage was clarified.

Debate and Decision Making Process

- (8) Councillor Mac Cafferty highlighted his view that the scheme should use marine grade steel.
- (9) Councillor C. Theobald stated that the proposals would improve the site, but she was disappointed there was no off-street parking given the location.
- (10) Councillor Miller noted his support for the provision of the bus tickets for six-months as suggested in the report.
- (11) Councillor Mac Cafferty noted his support for the scheme – subject to the informative in relation to the materials.
- (12) A vote was taken by the ten Members present and the Officer recommendation that permission was granted was carried on a vote of 9 in support with 1 against.

18.4 **RESOLVED** – That the Committee has taken into consideration the Officer recommendation and agrees with the reasons for the recommendation set in the report and resolves to be **MINDED TO GRANT** planning permission subject to the conditions in the report and the additional conditions in relation to bus permits and materials.

Note: Councillors Bennett and Robins were not present during the consideration and vote on this application.

E BH2015/00360, 38 Queens Gardens, Brighton- Full Planning

Change of use from three bedroom single dwelling (C3) to three bedroom small house in multiple occupation (C4). (Retrospective).

- (1) The Planning Applications Manager introduced the application by reference to photographs, plans and elevational drawings. The application site related to a two-storey property located in the North Laine Conservation Area, and the application sought permission to change to change to C4 use as a small house in multiple-occupancy. The main considerations related to the principle of the change of use; the impact on the conservation area; the standard of the accommodation; transport and sustainability. The property had a shared kitchen and bathroom between the three bedrooms. Policy CP21 specifically addressed such applications and stated that they should be refused if more than 10% of surrounding properties were in use as HMOs.

This mapping exercise had been undertaken and only 3.8% of nearby properties were in use as HMOs – 4 units out of 105. In terms of amenity the application was considered acceptable, and was recommended for approval for the reasons set out in the report.

Questions for Officers

- (1) Councillor Miller noted that any unlawful HMOs would not be taken into account in policy terms as a material consideration.

Debate and Decision Making Process

- (2) Councillor Morris stated that he was in receipt of information that the actual number of HMOs in the street was higher. In response Officers explained that information on HMOs was gathered from licensed HMOs through the Housing Department; planning records and Council Tax records.
- (3) Councillor Miller noted that any illegal HMOs would not be a material consideration.
- (4) Councillor Morris noted that residents were concerned about these types of HMOs.
- (5) Before the vote was taken the Planning & Building Control Applications Manager confirmed the retrospective nature of the application should have no bearing on the Committee's decision.
- (6) A vote was taken by the 10 Members present and the Officer recommendation that permission be granted was carried on a vote of 9 in support with 1 abstention.

18.5 **RESOLVED** – That the Committee has taken into consideration the Officer recommendation and agrees with the reasons for the recommendation set in the report and resolves to **GRANT** planning permission subject to the conditions in the report.

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

- 19.1 There were no further requests for site visits in matters listed on the agenda.

20 INFORMATION ON PRE APPLICATION PRESENTATIONS AND REQUESTS

- 20.1 The Committee noted the position regarding pre application presentations and requests as set out in the agenda.

21 LIST OF APPLICATIONS DETERMINED UNDER DELEGATED POWERS OR IN IMPLEMENTATION OF A PREVIOUS COMMITTEE DECISION (INC. TREES MATTERS)

- 21.1 That the Committee notes the details of applications determined by the Executive Director Environment, Development & Housing 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 Executive Director Environment, Development & Housing. 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.]

22 LIST OF NEW APPEALS LODGED WITH THE PLANNING INSPECTORATE

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

23 INFORMATION ON INFORMAL HEARINGS/PUBLIC INQUIRIES

23.1 The Committee noted the information regarding informal hearings and public inquiries as set out in the planning agenda.

24 APPEAL DECISIONS

24.1 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 5.51pm

Signed

Chair

Dated this

day of