

### BRIGHTON & HOVE CITY COUNCIL

#### PLANNING COMMITTEE

2.00pm 13 MARCH 2013

#### COUNCIL CHAMBER, HOVE TOWN HALL

#### MINUTES

**Present:** Councillors Hawtree (Chair), Jones (Deputy Chair), Hyde (Opposition Spokesperson), Bowden, Cobb, Davey, Gilbey, Hamilton, Mac Cafferty, Robins, C Theobald and Wells

**Officers in attendance:** Paul Vidler (Deputy Development Control Manager), Zachary Ellwood (Area Planning Manager), Steven Lewis (Planning Officer), Senior Planning Officer (Anthony Foster), Liz Hobden (Local Development Team Manager), Stephen Shaw (Principal Transport Officer), Hilary Woodward (Senior Solicitor) and Ross Keatley (Democratic Services Officer).

#### PART ONE

#### 162. PROCEDURAL BUSINESS

##### 162a Declarations of substitutes

162.1 Councillor Bowden was present in substitution for Councillor Phillips; Councillor Robins was present in substitution for Councillor Carden.

##### 162b Declarations of interests

162.2 Councillor Davey declared a non-pecuniary interest in Item 167: Wellend Villas, Springfield Road, Brighton, Request for a variation of s106 dated 27 September 2002 signed in association with BH2002/00562 by virtue of his position as Chair of the Transport Committee that would make the final decision in relation to the proposed controlled parking zone. He withdrew from the meeting during the consideration and vote on the item. Councillor Davey also declared a non-pecuniary interest in Item 168E: BH2012/03988, 121-131 Conway Street, Hove as he knew the applicant personally. He withdrew from the meeting during the consideration and vote on the item.

162.3 Councillor Robins declared a non-pecuniary interest in Item 167: Wellend Villas, Springfield Road, Brighton, Request for a variation of s106 dated 27 September 2002 signed in association with BH2002/00562 by virtue of his position as a member of the Transport Committee; that would make the final decision in relation to the proposed controlled parking zone. He withdrew from the meeting during the consideration and vote on the item.

**162c Exclusion of the press and public**

162.4 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.

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

**163. MINUTES OF THE PREVIOUS MEETING**

163.1 **RESOLVED** – That the Chair be authorised to sign the minutes of the meeting held on 20 February 2013 as a correct record.

**164. CHAIR'S COMMUNICATIONS**

164.1 Application A: BH2012/02205 Anston House, 137-147 Preston Road, Brighton had been deferred for further consultation following submission of additional information by the applicant.

**165. PUBLIC QUESTIONS**

165.1 There were none.

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

166.1 There were none.

**167. WELLEND VILLAS, SPRINGFIELD ROAD, BRIGHTON, REQUEST FOR A VARIATION OF S106 27 SEPTEMBER 2002 SIGNED IN ASSOCIATION WITH BH2002/00562**

169.1 The Committee consideration a report of the Strategic Director, Place in relation to a request for a variation of a s106 agreement signed on 27 September 2002 in association with application BH2002/00562: Wellend Villas, Springfield Road, Brighton. The Area Planning Manager, Zachary Ellwood, introduced the item and noted some minor typographical errors at paragraph 3.1 and explained that the numbers of flats and affordable homes units should be 124 and 50 respectively. The scheme had been completed in two phases in 2004 and 2006, and the original s106 agreement required that residents would not be able to apply for resident's parking permits should a controlled parking zone (CPZ) be introduced. A CPZ was due to introduced into the area, and the application had been received to allow residents to apply for parking permits; advice had been sought from the Transport Section and the request to vary was considered acceptable. The recommendation in the report asked the Committee to agree to the variation of the s106 agreement.

169.2 In response to a query from Councillor Cobb it was explained that 20 of the 24 spaces at the development were reserved for disabled use; there was currently no CPZ in the area, and residents were able to park on the streets.

169.3 **RESOLVED** – That the Committee allow the completion of a variation to the s106 planning agreement dated 27 September 2002 relating to Wellend Villas, Springfield Road, Brighton to allow residents of the development to apply for residents' parking permits.

**Note:** Councillors Davey and Robins were not present during the discussion and vote on this item.

## 168. TO CONSIDER AND DETERMINE PLANNING APPLICATIONS

### Major Applications

**A. BH2012/02205 - Anston House, 137 - 147 Preston Road, Brighton - Full Planning -** Demolition of existing building and erection of a new building ranging from 7no to 15no storeys providing 231 residential units, circa 2,019 sqm of commercial floorspace, 158 car parking spaces and 240 cycle spaces, landscaping and other associated works.

168.1 This application was deferred.

**B. BH2012/03446 - Court Farm House, Court Farm, Devils' Dyke Road, Hove - Full Planning -** Demolition of existing buildings and construction of 5no two storey detached dwelling houses and a 58 bed space, part two and part three storey nursing home with associated landscaping and access works and provision of 28 new car parking spaces and 15 cycle spaces.

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

(2) The Planning Officer, Steven Lewis, introduced the report and gave a presentation by reference to plans, photographs and elevational drawings. The application sought the demolition of the existing farmhouse and ancillary buildings, and the erection of a nursing home and five detached houses. The site was just under 1 hectare in size, and had formerly been used as an agricultural site; it was also highlighted there had been some unauthorised modular buildings on the site in 2012, but this activity had since ceased. The scheme proposed a 58 bedroom nursing home situated to the north of the site, and the five housing units to the south; the nursing home would achieve the BREEAM target of Outstanding and the housing would achieve code level 5. The design of both the nursing home and the houses would include a local agricultural and rural pallet of materials with green roofs and photovoltaic panels.

(3) In relation to reason 1 for refusal set out in the report it was explained that the site was outside of the built up boundary, and did not meet the exception to Local Plan policy. Reason 2 discussed the potential impact of the development on the wider Toad's Hole Valley site in light of the emerging City Plan; the status of the land had changed with the designation of the South Downs National Park and consequently the allocation of land within the emerging City Plan. The allocation in the emerging City Plan was for

mixed use of the wider Toad's Hole Valley site – which included Court Farm – with housing and a school, and the site was key for delivering housing targets in the city. These strategic allocations were fundamental to the overall delivery of the plan, and as such the allocation was contrary to policy in both the current Local Plan and the emerging City Plan. Officers considered that it was necessary to have a comprehensive approach to the whole Toad's Hole Valley site, and the proposed scheme was under the density level that was considered necessary for the best use of the land. There was currently no identified need for a nursing home at the site, and the proposals could undermine the wider use; as well as access. It was highlighted that the Local Plan remained the adopted policy; however, weight has also been given to the emerging policy in the reasons for refusal. It was also not yet possible to determine if a nursing home on the site would prejudice the wider aims of the policy, and the application had not demonstrated it would not prejudice a major strategic site in the emerging City Plan.

- (4) Reference was also made the items on the Late List, and it was explained that following the submission of further information reasons for refusal 3 & 5 had been deleted, and reason 4 had now been amended to read: *'The application, in the absence of detailed measures to promote and encourage sustainable transport and provide a legal obligation for highway improvements, fails to provide for the travel demand it creates. As such, the proposal is contrary to policies TR1 and QD28 of the Brighton & Hove Local Plan'*. The application was recommended for refusal for the reasons set out in the report with the amendments outlined above.

#### **Public Speakers & Questions**

- (5) Mr Bareham spoke in support of the application in his capacity as the agent for the applicant. He stated that the application was for a mixed use development of family housing and care home accommodation; which would meet high levels of sustainability. It was considered that much of the reasons for refusal had already been addressed, and the necessary agreements could be sought through condition. It was highlighted that the Council could not currently demonstrate a five year supply of housing sites – as a recent appeal had showed only a three year supply – and in these circumstances it was felt that the reference of policy in the reasons for refusal was not justified. There was a need for nursing home accommodation within the city which was currently at 637 citywide and would rise to 827 by 2022, and there was currently no provision within the City Plan to meet this. It was noted that the Court Farm site was under different ownership to Toad's Hole Valley, and access issues could be dealt with separately, and the sites developed independently. If granted the nursing home could be operational by 2015.
- (6) Councillor Mac Cafferty asked questions about the low density on the site, and in response Mr Bareham explained that it was hard to apply a mathematical approach to density on a mixed use scheme such as this.
- (7) Councillor Gilbey asked about the proposed employment numbers of the site, and the applicant explained that a 60 bed nursing home could employ up to 60 full time equivalent posts, but this would be based on the level of care.

**Questions for Officers**

- (8) Councillor Hamilton asked about what information the Inspector would use to make a decision if a decision on the application were to be appealed; in response Officers explained that the Inspector would use the agreed policies and plans at the point the decision was made by the Council...
- (9) Councillor Hyde asked about comments in the report that the scheme did not provide employment floor space as the nursing home would provide jobs, and in response it was explained that the report acknowledged the nursing home would primarily provide housing. There was currently no specific designation on the site for a nursing home, and Officers had concerns that the application had not demonstrated it would not undermine the comprehensive development of the rest of the wider site. The Local Development Team Manager, Liz Hobden, explained that the Council did have a five year supply of housing sites, and Toad's Hole Valley was one of the main sites; a comprehensive approach would include commercial spaces and this did not necessarily exclude a residential care home forming part of a wider scheme. It was also noted that the actual designation of site allocations would be in Part 2 of the City Plan. It was also confirmed for Councillor Hyde that Court Farm adjoined Toad's Hole Valley, but was considered part of the wider site.
- (10) Councillor Gilbey asked about the pedestrian access to the site, and these were highlighted by the Principal Transport Officer, Steven Shaw.
- (11) Councillor Bowden asked for further clarification on the balance of weight that had been given to the emerging City Plan. The Local Development Team Manager confirmed that the adopted plan remained the Local Plan; however, the City Plan was currently at a very late stage of adoption and would gather weight as it came closer to adoption. Officers currently considered it to be material consideration. In this case - where the site was considered crucial to the delivery of City Plan - the emerging plan had been given significant weight. The Senior Solicitor, Hilary Woodward, also added that although the approval of the City Plan could not be guaranteed it was valid to give it more weight the closer it came to adoption. It was also clarified for Councillor Bowden that the City Plan gave a minimum figure of 700 residential units for the whole Toad's Hole Valley site.
- (12) Councillor Hyde asked how land that was not within the ownership of the Council could be allocated for housing through policy, and in response it was explained that these sites could be allocated as they were considered development ready as both land owners wished to develop them.
- (13) Councillor Gilbey asked how the Council would consider this site in terms of the overall percentage of housing in the City Plan, and asked if these proposals would be incorporated in a comprehensive approach to the whole site. In response Officers clarified that a nursing home would not be considered commercial floor space, and a comprehensive scheme would need to be put forward before it could be considered if this scheme was appropriate as part of wider proposals. The Local Development Manager also added the comprehensive approach was crucial in terms of ensuring the appropriate density and access from the Devils Dyke roundabout.

**Debate and Decision Making Process**

- (14) Councillor Cobb stated that there a need for nursing home accommodation in the city, and she felt that the merits of the application warranted approval of the scheme. Also as the two sites were under different ownership it was appropriate to consider this site separately; the density was appropriate, and for these reasons she would be voting against the Officer recommendation.
- (15) Councillor Hamilton stated that on balance he felt the application was premature as the wider Toad's Hole Valley site needed to be considered; he also highlighted the exposed location and the current lack of services. Although he could see some merits to the proposals Councillor Hamilton explained he would support the Officer recommendation.
- (16) Councillor Hyde explained that she agreed with the comments made by Councillor Cobb in relation to the need for a nursing home in the city; she stated it was important for Members to consider the application they had before them, and felt that there would be greater services in the wider area when the whole site was developed and the proposed number of units in this scheme was appropriate. For these reasons Councillor Hyde stated she would not support the Officer recommendation.
- (17) Councillor Robins noted his concerns in relation to the suitability of the site for a nursing home.
- (18) Councillor Davey highlighted the contrast between the surrounding natural beauty at the site, and the close proximity of the major junction on the outskirts of the city. He stated that as the site was strategic it was important a strategic approach be taken to the development of both sites, and there was a real opportunity to bring forward a high quality site comprehensively.
- (19) Councillor Bowden stated he could not understand why a nursing home in an exposed area was being objected to when the site was considered appropriate for housing in the future; he stated he minded to vote against the Officer recommendation.
- (20) Councillor Jones highlighted the necessity to consider the whole site and he felt the application was premature. For these reasons Councillor Jones stated he would support the Officer recommendation.
- (21) The Deputy Development Control Manager, Paul Vidler, highlighted that much had been made in the discussion in relation to the weight of the emerging City Plan, but it was important to note that reason 1 for refusal was based on policy from the current adopted Local Plan.
- (22) Councillor Cobb asked about the necessity to consider each application on its merits and how this applied with this application. In response the Senior Solicitor advised it was perfectly valid to consider an application to be premature against emerging policies and plans.
- (23) Councillor Gilbey stated her concern in relation to the transport issues at the site, and stated she would be voting in support of the Officer recommendation.

(24) A vote was taken and planning permission was refused on a vote of 8 to 3 with 1 abstention.

168.2 **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 **REFUSE** planning permission for the reasons set out below:

- i. The site lies outside the present Built-up Area boundary defined by the Brighton & Hove Local Plan and the application fails to demonstrate that the development would justify a countryside location contrary to policies NC5 and NC6 of the Brighton & Hove Local Plan.
- ii. The application, due to its proposed uses, density, timing, access and relationship to the remainder of the Toad's Hole Valley allocated site fails to demonstrate that it would not prejudice an emerging strategic land designation for the comprehensive delivery of housing, employment and infrastructure vital to the sustainable growth of the city. This is contrary to Policy DA7 of the emerging Brighton & Hove City Plan – Part One.
- iii. The application, in the absence of detailed measures to promote and encourage sustainable transport and provide a legal obligation for highway improvements, fails to provide for the travel demand it creates. As such, the proposal is contrary to policies TR1 and QD28 of the Brighton & Hove Local Plan.

**C. BH2012/03813 - Units 1-5 Ground Floor & Unit 1 First Floor, Waterfront, Brighton Marina - Full Planning - Change of Use from retail (A1) on ground floor and drinking establishment (A4) on first floor to restaurant (A3).**

- (1) It was noted that this application had formed the subject of a site visit prior to the meeting.
- (2) The Senior Planning Officer, Anthony Foster, introduced the application and gave a presentation by reference to plans photographs and elevational drawings. The site was located in the Marina, and fell outside of the designated shopping area there. It comprised five retail units at ground floor level and a single unit at first floor level to the West of the main access roundabout at the Marina. Three of the units were currently occupied and the rest were vacant. The application did not propose any external alterations to the units, and it was noted these and neighbouring units had been vacant for some time – some since they had built. The application site was not benefited by natural passing trade and it was felt the proposed use was appropriate. A condition had been attached to only allow alcohol sales to take place with food sales only. The application was recommended for approval for the reasons set out in the report.

#### **Questions for Officers**

- (3) In response to Councillor Carol Theobald the units currently in use were highlighted.

**Debate and Decision Making Process**

- (4) Councillor Bowden stated he felt the units were an example of poor architecture and damaged the viability of the units, and this application would help bring them into use.
  - (5) Councillor Hyde noted her support of the comments made by Councillor Bowden, and stated she would support the Officer recommendation.
  - (6) A vote was taken and planning permission was unanimously granted.
- 168.3 **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 **GRANT** planning permission subject to the Conditions and Informatives in the report.

**Minor Applications**

- D. BH2012/03286 - Land rear of 140-146 Springfield Road, Brighton - Extension to Time Limit - Full Planning** - Application to extend time limit for implementation of previous application BH2008/03194 for the erection of a terrace of 4no three bedroom houses.
- (1) The Senior Planning Officer, Kathryn Boggiano, introduced the report and gave a presentation by reference to photographs, plans and elevational drawings. The site was located to the north of the railway line and London Road Railway Station, and formed part of a wider piece of land to the west. Planning permission had been refused by the Planning Authority in 2006 for 8 flats on the site, and the decision was upheld at appeal. In 2008 the original application was refused by the Planning Authority, but an appeal was allowed by the Inspector, and the application sought an extension to the time limit of the previous approval by the Inspector. There had been 16 objections received – none from statutory consultees; a further two were on the Late List, and an additional one from Councillor Kennedy.
  - (2) Government guidance stated that when dealing with such applications the principle of development of the site had been judged to be acceptable, and it was necessary to consider any material changes to policy or site characteristics. The NPPF also advised Planning Authorities to encourage sustainable development where it was not considered there were any policies which would outweigh the decision of the Inspector. Since the approval by the Inspector an updated Open Space Study had been produced which was a background document but not in itself adopted policy, and this open space with categorised as E, when A is the highest rating and G is the lowest. The emerging City Plan did have some weight on the application, but there were no development area policies in the City Plan which related to this site. It was not considered that the updated 2011 Open Space Study outweighed the decision of the Inspector as the principle of development on the site had been established. Since the approval a CPZ had been approved in principle for the area and it would now be necessary to condition for a car free development; however, the contribution towards sustainable transport would no longer be required under the recession measures taken by the Council. The application was recommended to be minded to grant for the reasons set out in the report.



**Public Speakers and Questions**

- (3) Councillor Littman spoke in his capacity as the Local Ward Councillor. He stated that his fellow Ward Councillor Amy Kennedy had also objected to the application, and that Officers decision to recommend the application for approval was due to the previous decision of the Inspector, and the potential financial implication of an appeal decision. The Committee was asked to refuse the application based on policies in the Local Plan; the NPPF and to some extent the emerging City Plan. The site was part of a green corridor of land between the railway lines and the rear gardens of the properties on Springfield Road, and it was important to protect such land. The proposals also failed to meet the standards for new development.
- (4) Mr Pickup spoke in support of the application in his capacity as the agent for the applicant. He stated that the proposal was the same as the one granted by the Inspector at appeal and the site had not come forward partly due to the recession and partly due to personal circumstances for the applicant, but this did not mean it would not be implemented in future if approved. It was highlighted that the site layout and area would be the same in this application, and the report highlighted that the Case Officer was satisfied there were no significant policy changes to warrant refusal of the scheme. The conditions were the same with one additional one in relation to the car-free development. The Committee were asked to grant the application.

**Questions for Officers**

- (5) Councillor Jones asked about the relationship of the pub garden and smoking area to the proposed site. In response Officers explained that there had been debate at the public inquiry in relation to the pub, and the pub had also objected to the scheme; to address this the Inspector had requested the removal of a window on the flank elevation.
- (6) Councillor Jones went on to ask why the loss of the greenway had been given so little consideration by the Inspector. In response it was explained that the Inspector had not refused the scheme based on the loss of the greenway. Nothing had changed to allow Officers to disregard the view of the Inspector, and this could not be revisited as part of the application.
- (7) Councillor Bowden asked for more information in relation to the position of the emerging City Plan in relation to this application. In response the Local Development Manager explained that the emerging City Plan was considered material, and although the City Plan took a harder line in terms of open spaces this was not significant enough to warrant refusal. There was policy in the City Plan in relation to sustainable development; however, this needed to be tested at examination, and at this stage it could not be given full weight. The NPPF also gave a strong emphasis on allowing development. The Senior Planning Officer also highlighted that the Inspector had not simply disregarded policy, but made an assessment that that the application complied with it.
- (8) Councillor Carol Theobald asked about the access to the site, and in response it was explained that the access was pedestrian only. In response to a further question it was

explained the Inspector had been satisfied that difficulties in relation to building could be dealt with by condition.

- (9) Councillor Robins queried some of the language used in relation to the proposed CPZ as the final decision was still due to be made by the Transport Committee. The Principal Transport Officer confirmed that the CPZ had been approved in principle, and it was acceptable to apply a condition in relation to car free development if there was the likelihood of an approval. The Senior Solicitor clarified that the condition was appropriate, but noted that Councillor Robins had queried the language used in the report. Officers noted that the language could be misleading and clarified that the CPZ had been agreed in principle on 15 January 2013, subject to detailed design and consultation. Councillor Robins reiterated he was not satisfied with some of the language used.
- (10) Councillor Davey expressed concern about issues in relation to Environmental Protection and asked how these would be properly addressed. In response Officers explained that these would be dealt with under other appropriate non-planning legislation.
- (11) Councillor Gilbey asked if an approval on this site could set a precedent for similar sites in the city. In response it was explained that this was a unique site with a complex planning history; furthermore other open space sites in the city did not already have planning permissions.

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

- (12) Councillor Hyde noted the opposition to the application, but highlighted that the principle of development on the site had been determined by the decision of the Inspector; this view had to be given a significant weight. The previous decision by the Inspector had had financial implications for the Council, and Councillor Hyde stated she saw little alternative but to support the application.
- (13) Councillor Carol Theobald stated she did not like the scheme in relation to the location; loss of open space and the access, but noted that it would be difficult to refuse based on the ruling of the Inspector.
- (14) Councillor Mac Cafferty highlighted the difficult position of the Committee, and stated it was wrong that views of residents and elected Councillors were 'over-stepped' by the Inspector.
- (15) Councillor Bowden noted that the scheme was not popular with local residents, and he found the decision a difficult one.
- (16) Councillor Jones felt the application was contrary to policy, and he agreed with the points made by Councillor Hyde; however, he could not support the application and would vote against the Officer recommendation.
- (17) A vote was taken and planning permission was refused on a vote of 5 to 3 with 4 abstentions.

- 168.4 **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 that it is **MINDED to GRANT** planning permission subject to a s106 Agreement and the Conditions and Informatives as set out in the report.
- E. BH2012/03988 - 121-131 Conway Street, Hove - Removal or Variation of Condition** - Application for variation of condition 4 of 3/87/0895 (Change of use to 3no Class B1 Units from existing Builders Depot) that the use hereby authorised shall be limited to the hours of 0700 to 2100 Monday to Saturday, and 1100 to 1500 hours on Sundays and Bank Holidays.
- (1) The Area Planning Manager introduced the application and gave a presentation by reference to plans, photographs and elevational drawings, and made reference to the current hours of operation and those applied for in the application to vary the condition. The current conditioned hours were historic and had been imposed as the site backed onto residential properties on Conway Street and had a narrow access between two of the properties; it was felt that the current hours protected residential amenity. Officers considered that the hours applied for would cause material harm – in particular those later into the evening and on a Sunday; changing these would be harmful to residential amenity. The application was recommended for refusal for the reason outlined in the report.

#### **Public Speakers and Questions**

- (2) Mrs Prescott spoke in objection to the application in her capacity as a local resident. She explained that she had lived in Conway Street for 20 years, and the site was located behind 10 residential homes; all residents in the street were affected by the site as Conway Street was a no-through road, there was a small access point to the site. In the last few months there had been a significant increase in traffic, and the hours that the units had been operating were beyond those in the current planning permission. The busiest time was now during the evening when events such as parties and exhibitions had been held. Until seven months ago the businesses using the site had operated within the conditioned hours and these arrangements had worked well for residents; if the businesses needed to go beyond these hours then they were in the wrong location due to the close proximity of the residential neighbours. Mrs Prescott asked that the Committee refuse the application.
- (3) Councillor Davey asked for more information in relation to the businesses exceeding the conditioned hours in the last seven months, and in response Mrs Prescott explained that before August 2012 the units had been used by light industrial businesses and warehouses for storage and supply; these businesses had always worked within the conditioned hours. Since August 2012 some of the units had been subdivided and worked beyond the conditioned hours; for example late into the evening.
- (4) Mr Bareham spoke in support of the application in his capacity as the agent. He explained that the application sought a modest increase to the hours to reflect the changing nature of work patterns since the original approval; it was suggested that if the Committee were minded to grant the application this could be for a temporary basis to allow the situation to be properly monitored. The site had 50 employed people using

the units, and this equated to 30 full time positions; with 10 different companies operating and all but one needing to work into the evening. There was a danger that without the variation the businesses would have to relocate as the later hours were essential for the viability of their small businesses. The proposed hours were not excessive, and they reflected that the original permission was over 25 years old and working patterns had changed. It was considered that the report underplayed economic development arguments in favour of approval, and whilst the concerns of residents were understood the site was in a town centre location and there was no history of complaints to Environmental Protection. The work at the site was low key and efforts were made to ensure the units operated with respect to their neighbours. The Committee were asked to approve the application or consider approval on a temporary basis for monitoring.

- (5) Councillor Hyde asked for more information on why businesses would need to work so late in the evening and in response Mr Bareham explained that it was necessary for some small start up businesses.
- (6) Councillor Carol Theobald asked Mr Bareham for more information on the types of businesses currently operating and he stated these included: technology, jewellery makers, photographers, physiotherapists and magazine subscriptions. They were mostly start up businesses that needed the late hours.
- (7) Councillor Cobb asked about martial arts classes being run from the units, and Mr Bareham explained that there were currently no classes; however, there was a separate application for a change of use to allow small classes.
- (8) Councillor Bowden asked for more information on the length of tenancy of the units, and in response it was explained by the applicant, Mr Ellis, that the businesses had all been on 1 year tenancies which would roll on after this initial period. None of the new tenants since August had left.

### **Questions for Officers**

- (9) In response to a query from Councillor Mac Cafferty the Area Planning Manager explained that a temporary permission for one year could be explored if the Committee were minded to grant the application.
- (10) Councillor Hyde asked if the application was a means to regularise the current arrangements following complaints from residents, and in response it was explained that this application sought an amendment to the conditioned hours; Officers were aware of other uses at the site and there were retrospective applications to address these which were separate from this application. Officers could not say if the application related to unauthorised activity outside the conditioned hours.
- (11) Councillor Bowden asked if there had been any formal complaints in relation to the site, and it was explained that there was an historic complaint in relation to fan noise; this application had received no objections from Environmental Protection. Following further questions the Area Planning Manager confirmed he could not comment on the hours the nearby Salvation Army Citadel operated.

- (12) Issues in relation to the address and the location of the units on the site were confirmed following queries from Councillors Cobb and Hyde.
- (13) Councillor Gilbey asked about the level of parking at the site, and Officers could not give an exact number, but felt this to be in the region of approximately 12 spaces in an informal arrangement.

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

- (14) Councillor Mac Cafferty noted that the application sought to balance a number of different factors. The original permission dated back to 1987; he was of the mind that a compromise could be to grant the permission for a temporary period to properly monitor the impact of the change. Councillor Hawtree added that it was important to keep employment space, but he was mindful that this was a residential area. Councillor Hyde noted that she agreed with these comments, and was supportive of approval on a temporary basis; she also noted that if the units were no longer viable they could be lost in favour of housing.
- (15) Councillor Robins expressed concern that the site was not gated and there was no way to monitor who was using the site late at night.
- (16) Councillor Bowden noted that a temporary approval could be a solution, and this might include some kind of provision for gated access to the site.
- (17) Councillor Hamilton said that the historic permission presented the compromise that was already in existence; he calculated that the units were already able to operate for 61 hours per week, and the extension requested in the application was unacceptable in a residential location. He would vote in support of the Officer recommendation.
- (18) Councillor Mac Cafferty added that Conditions and Informatives could be attached to a permission to ensure the site was properly monitored.
- (19) Before the vote was taken the Deputy Development Control Manager highlighted that the application was for an extension to conditioned hours for the current B1 authorised use.
- (20) A vote was taken and planning permission was refused on a vote of 6 to 4 with 1 abstention.

168.5 **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 reason set out below:

- i. The proposed extended hours of use would result in additional comings and goings to and from the commercial premises, both pedestrian and vehicular, outside of normally accepted working hours thereby leading to additional noise and disturbance to the detriment of the amenities of the occupiers of residential properties that adjoin the site. The proposal is thereby contrary to the provisions of policies QD27 and SU10 of the Brighton & Hove Local Plan.

**Note:** Councillor Davey declared an interest during the consideration of this application – having realised that he knew the applicant personally; he withdrew from the meeting and took no further part in the debate or discussion on the application.

**F. BH2013/00120 - 38 Medina Villas, Hove - Householder Planning - Alterations to front boundary wall including installation of matching pier to form access to new parking space.**

- (1) It was noted that this application had formed the subject of a site visit prior to the meeting.
- (2) The Area Planning Manager introduced the application and gave a presentation by reference to plans and photographs. The application site related to the left side of a sub-divided property; the property also benefited from a garage accessed via an undercroft. The parking space would be for use by number 38, and the proposal would remove a section of wall with the loss of the railings as well. The site was currently the subject of an Article 4 Direction to protect walls, and although the application would create a parking space there would be no overall net gain in parking due to the loss of the residents' bay to accommodate a drop kerb. A similar application on the same street had been refused by the Planning Authority and this decision had been upheld by the Inspector at appeal on the basis that both the wall and the railings made a positive contribution to the area; it was also noted this eastern side of the street retained a strong character and provided a positive contribution to the area. If the application were granted the applicant would need to fund the relocation of a parking meter in the front of the proposed site. Using photographs it was demonstrated that there was an unbroken view of walls and railings, and although similar arrangements already existed in the street it was felt further alterations would be detrimental to the wider area; the Heritage Team had also been consulted and were of the mind that the character of the area should be protected. The application was recommended for refusal for the reasons set out in the report.

### **Public Speakers and Questions**

- (3) Mr Tomlins spoke in support of the application in his capacity as the agent. He noted that the appeal decision referred to in the report was in 2010 and the Inspector had observed at the time that the property at no. 35 shared an access with no. 36 and it was considered a separate access was unnecessary; in this case no. 38 had no separate access. It was stated that 19 out of 32 properties had direct access, and the application would also include the relocation of an unsightly parking meter. The applicant was aware of the parking restrictions in the street when he purchased the property; however, he had not anticipated the demand for spaces; the applicant also proposed an electric car charging point. Mr Tomlins asked that the Committee grant the application.

### **Questions for Officers, Debate and Decision Making Process**

- (4) Following a query from Councillor Cobb the location of the proposed bay was clarified. It was also explained that there had been a lot of work undertaken in this street to restore front boundary walls and railings. Officers felt this loss would be detrimental to

the appearance of the conservation area. It was also confirmed, by the Principal Transport Officer, that the bay was above the minimum standard required.

- (5) It was confirmed for Councillor Carol Theobald that Officers could not confirm where the parking meter would be relocated to; it was also noted that the applicant would need to get a licence to drop the kerb.
- (6) Councillor Robins asked about the logic behind the current positioning of the parking meter; Officers explained they were unable to comment as these functions were delegated to a different section in the authority.
- (7) It was confirmed for Councillor Mac Cafferty that policy sought to preserve where enhancement was not possible; it was accepted that lengths of wall on the western side of Medina Villas had been demolished but it was necessary to preserve what remained. The Deputy Development Control Manager highlighted that the Article 4 Direction sought to remove permitted development rights to bring this kind of change within the control of the Planning Authority.
- (8) Councillor Hawtree noted that there no waiting list for parking in this area.
- (9) Councillor Hyde noted the gap would be an improvement on the parking meter, and felt that the needs of the applicant should outweigh the retention of the wall. She would be voting against the Officer recommendation.
- (10) A vote was taken and planning permission was refused on a vote of 7 to 4 with 1 abstention.

168.6 **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 **REFUSE** planning permission for the reason set out below:

- i. The front boundary wall, railings and garden contribute positively to the character of the street scene and of the Cliftonville Conservation Area. The partial loss of the front wall and railings would further erode the front boundary treatment in this section of the street and would detract from the historic character of Medina Villas. In addition the hardstanding, when in use, would disrupt the front elevation and bay window of the building which would further detract from the character of the area. The proposal would fail to preserve the character or appearance of the Cliftonville Conservation Area, contrary to policies QD14 and HE6 of the Brighton & Hove Local Plan and to the provisions of Supplementary Planning Document 09, Architectural Features.
- G. BH2012/03464 - Land to rear of 1-2 Victoria Terrace, Kingsway & Spa Court, Kings Esplanade, Hove - Removal or Variation of Condition** - Application for variation of condition 2 of application BH2011/03375, (Refurbishment of building including replacement of existing roof with new copper roof and rooflights, external rendering and construction of boat store adjacent to entrance ramp) to permit revisions to approved drawings to relocate memorial cross and enlargement of canoe store.
- (1) It was noted that this site had formed the subject of a site visit prior to the meeting.

- (2) The Area Planning Manager introduced the application and gave a presentation by reference to plans, photographs and elevational drawings. Two points of verbal update were also provided such that Condition 1 had been removed to reflect that the development had commenced, and Condition 5 five in relation to transmission of sound had been replaced. The site formed part of a private car park and the building had formerly been used as an artist's studio. Permission had already been granted in early 2012 for a music studio and an ancillary use as a canoe store. The building stopped at a point that would protect the memorial cross in situ at the site. Since the approval the need to provide plant and other technology had impacted on the size of the canoe store and the application sought a variation to allow it to be enlarged. The memorial cross would be relocated within a 'bungaroosh' wall and recessed to protect it; the memorial cross was currently surrounded by red brick that was not considered to be original, and the applicant had agreed to do restorative work to the cross. A method statement from an archaeologist had also been submitted on how to treat and relocate the memorial cross. A condition would be attached such that the enlargement of the canoe store could not be undertaken until the memorial cross was relocated. The memorial cross was not listed or protected. The application was recommended for approval for the reasons set out in the report.

#### **Questions for Officers, Debate and Decision Making Process**

- (3) In response to Councillor Carol Theobald it was confirmed that comments that the memorial cross related to a burial site were speculative, and there was no evidence to support this.
- (4) Councillor Bowden asked if a condition could be attached requesting some additional information on a plaque be placed with the cross; Officers confirmed that an appropriate informative could be added to this extent.
- (5) A vote was taken and planning permission was granted on a vote of 11 to 1.

- 168.7 **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; the removal of Condition 1; the amended Condition 5 set out below and the Informative set out below.

#### **Amend Condition 5 to read:**

The plant and rooftop grilles hereby approved shall be implemented in accordance with the details approved under application BH2013/00020 on 1<sup>st</sup> March 2013, including the approved means of treating the plant against the transmission of sound.

**Reason:** To safeguard the amenities of the occupiers of adjoining properties and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.



**Additional Informative 3:**

In recognition of its historical importance, the applicant is requested to fix a plaque in an appropriate location explaining the brief history and purpose of the memorial cross and its relevance to the site.

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

169.1 There were none.

**170. APPEAL DECISIONS**

170.1 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.

**171. LIST OF NEW APPEALS LODGED WITH THE PLANNING INSPECTORATE**

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

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

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

**173. INFORMATION ON PRE APPLICATION PRESENTATIONS AND REQUESTS**

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

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

174.1 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 5.34pm

Signed

Chair

Dated this

day of