

**BRIGHTON & HOVE CITY COUNCIL**

**PLANNING COMMITTEE**

**2.00pm 12 DECEMBER 2008**

**COUNCIL CHAMBER, HOVE TOWN HALL**

**MINUTES**

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

**Co-opted Members** Mr J Small (CAG Representative) and Mr R Pennington (Brighton & Hove Federation of Disabled People)

**PART ONE**

**1. PROCEDURAL BUSINESS**

**1A. Declarations of Substitutes**

1.1 Councillors Cobb and Simson attended as substitute Members for Councillors Barnett and K Norman respectively.

**1B. Declarations of Interest**

1.2 There were none.

**1C. Exclusion of Press and Public**

1.3 The Committee considered whether the press and public should be excluded from the meeting during consideration of any items contained in the agenda, having regard to the nature of the business to be transacted and the nature of the proceedings and the likelihood as to whether, if members of the press and public were present there would be disclosure to them of confidential or exempt information as defined in Section 100A(3) or 100(1) of the Local Government Act 1972.

1.4 **RESOLVED** - That the press and public be not excluded from the meeting during consideration of any items on the agenda.

**2. CHAIRMAN'S COMMUNICATIONS**

2.1 The Chairman explained that following a "soft" launch meetings of the Planning Committee were to be webcast live including that afternoon's special meeting. Planning Committee meetings were to be filmed as part of a pilot project along with meetings of full Council, Cabinet and the Overview and Scrutiny Committee. The pilot project was

set to run until June 2009. Members were reminded to speak directly into their microphones and to switch them off when they had finished speaking in order to ensure that they could be heard clearly both within the Council Chamber and the Public Gallery above. The Chairman also explained that she fully understood that the application to be considered that afternoon was a controversial one and that a number of people present had contrasting views either in terms of opposition or support, however undue disruption of the meeting by any party present would not be tolerated. If such behaviour were to occur the meeting would be adjourned whilst the perpetrators were removed from the building.

2.2 The Clerk to the Committee explained that correspondence sent to those wishing to make representations at the meeting had included information to ensure that they were aware that the meeting was to be web-cast. Guidance had also been given relative to use of equipment available in the meeting room including operating instructions for the microphones.

**3. TO RECEIVE ANY PETITIONS IN RESPECT OF PLANNING APPLICATION  
BH2007/03544, LAND AT BRIGHTON MARINA INCLUDING INNER HARBOUR  
AND ADJACENT SITES**

3.1 Councillor Smith presented a petition in his capacity as one of the Local Ward Councillors. The petition was set out in the following terms:

“We the undersigned object in the strongest possible manner to the Explore Living Application for Brighton Marina (BH2007/03454) the development represents:

gross overdevelopment. It is alien and out of character. It is ugly. The Brighton Marina Act 1968 and height restriction must be observed. Has an unacceptable impact on Conservation Areas and Kemptown. There is an unacceptable loss of important strategic views and cliff views.

The development is not permeable. It is at too high a density. It is an unsustainable development. There is not enough open space, green space and public realm. The Marina is a unique natural environment, surrounded by sea, beach and cliffs, designated a site of special scientific interest. Development will harm the environment and ecology. The development does not respect the character or setting of the Marina site. The infrastructure is unable to cope. There would be an unacceptable loss of parking in the multi-storey car park.

There should be no more development in flood risk areas given rising sea levels and the increasing prevalence of violent storms. This is a missed opportunity for an imaginative and sensitive approach to development to further enhance the Brighton Marina.

We urge the Council to refuse the planning application (2,065 signatures)

3.2 **RESOLVED** - That the contents of the petition be received and noted.

4. **TO CONSIDER AND DETERMINE PLANNING APPLICATION BH2007/03454 LAND AT BRIGHTON MARINA INCLUDING INNER HARBOUR AND ADJACENT SITES (COPY ATTACHED).**
- 4.1 **Application BH2007/O3454, Land at Brighton Marina including inner harbour and adjacent sites-** Demolition of Asda superstore to create 3 – 10 storey building with enlarged store (3112sqm increase) and 2,025 sqm of other Class A1-A5 (retail/restaurant/drinking) uses on ground floor with 779 residential units above and community hall and new pedestrian/cyclist bridge link from cliff to roof of building and associated engineering works. Demolition of petrol filling station to create 28 storey building with 182sqm of Class A uses at ground floor and 148 residential units above. Demolition of McDonalds restaurant to create 5-16 storey building with enlarged drive-thru restaurant (285sqm increase) and 131sqm of other Class A uses and 222 residential units above. Demolition of the estates office to create 3-4 storey building of 35 residential units. The demolition of the western end of the multi storey car park to create 6-11 storey building adjacent to western breakwater of 117 residential units with stair access from the breakwater to Park Square. Demolition of part of the eastern end of multi-storey car park to create single storey petrol filling station, pedestrian footbridge and new lift and stair access. Total 1301 residential units associated car parking spaces (805 residential, 666 commercial), cycle parking (1907 residential, 314 in public realm), servicing, plant, refuse, CHP unit, public and private amenity space, hard and soft landscaping and outdoor recreation areas. Change of use of two A1 retail units (524sqm) within Octagon to medical use (Class D1). Alterations to vehicular, pedestrian and cyclist access and circulation, including new roundabout and transport interchange behind waterfront.
- 4.2 It was noted that the application had formed the subject of a site visit prior to the meeting.
- 4.3 The Assistant Director City Planner gave an introduction to the report setting out the context in which the proposal had been examined and outlining some of the key issues which had been addressed in detail.
- 4.4 The Assistant Director, City Planner also confirmed that the legal advice received in respect of the application had indicated very clearly that the planning process operated independently of the Brighton Marina Act and was not dependent upon that separate legislation. It was important to note that the proposal included buildings which would exceed the height of the cliffs. Accordingly, under the terms of the Brighton Marina Act 1968 if the Committee were minded to approve the application, it would be necessary for the Council to reach a decision on whether the Council acting corporately, would give consent for the scheme to proceed. It was noted that the comments of the legal adviser to the Committee were set out in Section 8 19 of the report.
- 4.5 The Assistant Director, City Planner emphasised that there was a robust planning framework in place to inform the Committee decision. He said that the applicant had responded positively to the challenges set by the Planning Advisory Note PAN04, notably around such aspects as the quality of the public realm and how it related to other parts of the Marina. In testing the infrastructure and many other aspects of the scheme, the applicant had had to take the cumulative impact of other schemes into account as far as these were known as well as its overall viability. Advice had been

sought from the District Valuer in this respect, who had helped inform an understanding of the financial aspects of the application which in turn, had helped inform conclusions on the proposed contributions and benefits to be secured as part of a legal agreement.

- 4.6 The Assistant Director, City Planner commented on a number of other issues such as environmental sustainability; provision of sports and recreation facilities; emergency access; infrastructure and housing. He recognised that the application presented a number of complex challenges and raised many legitimate issues and concerns. He commended the applicant's approach to communication and project management.
- 4.7 The Planning Projects Manager then gave a presentation setting out the policy framework within which the scheme needed to be considered. This included particular reference to the following policy documents and their relevance to Brighton Marina.
- 4.8 The Brighton & Hove Local Plan was part of the adopted development plan for the City. Policy SR5 included part of the Marina as a designated district centre. SPG20, Brighton Marina had been adopted as supplementary planning guidance in January 2003, covering the western commercial area of the marina (including the application site). This document focused on improving built environment and public realm and identified opportunities for new land uses and development including utilisation of underused space in the Merchants Quay (Village Square) area with new buildings, including the introduction of a bridge link from the clifftop; building a replacement Asda store on the site of the existing store and its car park, with housing provided above on a raised platform; improvement of the appearance of the leisure area, utilisation of underused space at the eastern and western ends with new buildings to provide views outwards to the marina and the sea as an important destination and landmark. This included proposals for Black Rock in accordance with the Black Rock SPG; opportunities for new development over the spending beach. In terms of the scale and density of new development, the SPG suggested a layout for future development including the demolition of one of the access ramps to improve both the appearance of the area and access through the site. SPG15 Tall Buildings, had been adopted as supplementary planning guidance in January 2004. This document had identified the Marina as a node suitable for taller development.
- 4.9 Brighton Marina Planning Advice Note (PAN04) had been prepared to take account of the Brunswick outer harbour planning permission; to address the issue of differing land ownership; to avoid the continued risk of incremental piecemeal development; and address the wider Marina area (not just the western commercial area as covered by SPG 20). The document collected together and explained existing planning guidance, policies and SPG's within the context of the marina. It was approved by the Environment Committee in March 2008. Further work was in progress to upgrade the document to a supplementary planning document (SPD). The emerging Local Development Framework had given rise to a preferred options paper which had been the subject of public consultation in the summer of 2008 and had included a preferred option (DA2) in respect of Brighton Marina, with an expectation that the area would yield 2,000 additional units (including the Brunswick permission) over the plan period. The Planning Projects Manager concluded his presentation by clarifying the relative status of the above documents, with the Local Pan SPG's constituting "adopted" policy, and the PAN and LDF representing "emerging" policies.

- 4.10 The Planning Officer then gave a detailed presentation including a fly through presentation containing 48 slides containing impressions of the site when viewed from key strategic and other locations across the City from the vicinity and in longer views. Besides showing the site as it was currently these perspectives sought to include the proposed development and how it would appear within the context of the “Brunswick” scheme for which planning permission had already been granted.
- 4.11 It was considered that the development would deliver key Local Plan objectives within a phased scheme. The Environmental Statement submitted with the application was robust and complied with the Environmental Impact Assessment regulations. The development would accord with central government advice and Local Plan Policies and the adopted Supplementary Planning Guidance Note for the Marina SPGBH20 and Pan 04 Brighton Marina Master Plan (2008). Elevational treatments, heights and footprints of the buildings had been amended in order to address design concerns, to preserve the setting of views of strategic importance and to help the development relate satisfactorily to existing and the approved Brunswick outer harbour development. The development was considered to be of a good quality design, would use high quality materials and the proposal would generally have an acceptable visual impact on the character and appearance of the locality and views of strategic importance including the setting of Conservation Areas, Listed Buildings and gardens and the Sussex Downs Area of Outstanding Natural Beauty. It would incorporate satisfactory private amenity space to serve residents. It would meet the demand it created for infrastructure, including education, transport, health and community facilities and public art and; would enhance existing community recreation facilities in the Marina. It would not result in significant traffic generation or compromise highway safety. It would significantly enhance sustainable modes of transport and provide highway improvements and provide enhanced pedestrian cycle access. It would make effective and efficient use of land and would be sustainable; being energy efficient, generating renewable energy and incorporating sustainable building practices to a high standard. It would incorporate a public realm of high quality and would not create an adverse micro – climate. It would incorporate landmark architecture, including tall buildings. It would help regenerate the Marina and would provide jobs and training. It would meet a range of housing needs of people with disabilities and would enhance the role of the Marina as a district shopping centre and would not compromise the role of existing shopping centres in the city. The development would not harm sites of ecological importance and would enhance biodiversity and archaeology would not be adversely affected by the development. It would not have an adverse impact on the amenity of existing or present occupiers or compromise security for users of the development or the Marina. It would incorporate refuse and recycling storage. The development would not be at risk of flooding, provided the proposed sea wall upgrades were carried out. The submitted Environmental Statement was considered to be a self -contained document and was considered to be robust. All statutory consultations had been carried out in accordance with the appropriate regulations.
- 4.12 The Marina had been identified as a site which presented opportunities for development, enhancement and regeneration and would meet the key aims of the adopted Local Plan, PAN04 and the adopted Supplementary Planning Guidance Note for Brighton Marina (SPGBH20), in that it would enhance the Marina environmentally, visually, functionally and commercially.

- 4.13 The proposals were generally considered to have an acceptable visual impact on the character and appearance of the locality and views of strategic importance and would address some of the fundamental deficiencies in the current Marina and would raise its profile. It was considered acceptable in terms of its sustainability and, would create jobs and training opportunities and would support the Marina's role as a District Shopping Centre. The scheme was welcomed by the South East England Development Agency and the Brighton & Hove Economic Partnership, whilst meeting regional planning objectives and Local Plan Policy. A significant increase in the city's housing stock would arise from the development with a commitment to a 40% affordable housing provision.
- 4.14 A package of measures would be secured via the Section 106 Agreement which the applicant would be required to enter into and satisfy, this would meet the demands generated by the development and would serve to mitigate against any potential adverse effects. Legal implications including the Brighton Marina Act were set out in the report and it had been concluded that planning permission should not be withheld on the basis of it.
- 4.15 It was therefore concluded that the proposed development would provide the much needed regeneration of the Marina whilst addressing the current problems with the site identified in the Brighton Marina Supplementary Planning guidance Note on Brighton Marina (SPGBH 20) and the Council's planning advice note PAN04, Brighton Marina Masterplan and within the report itself. The development both private and affordable would also provide a significant increase in housing for the city. The development was considered to be in broad accordance with the provisions of central government advice, policies in the Development Plan, SPG's and PAN 04 and would meet their key objectives. It was therefore recommended that, subject to the measures to be secured by the Section 106 legal agreement and the conditions and informatives detailed in the report that minded to grant planning permission be approved.
- 4.16 Following the Officers presentation Members had the opportunity to see clarification and to ask questions relative to the constituent elements of the scheme. These are set out below and include the responses given by the relevant officers.
- 4.17 Councillor Kennedy requested to see sectional views across the Cliff into and from the site pre and post development from the East and West.
- 4.18 Councillor Davey sought clarification relative to access to the site from Black Rock and details as to how it would integrate with the proposed rapid transport system. The Principal Transport Planning Manager explained that the first line of the proposed rapid transport system would use the knock through from Madeira Drive proposed by the applicants.
- 4.19 Councillor Steedman requested details regarding the breakdown of the various sizes of unit, 1/2/3 bedroom, types of tenure and their location within the proposed development. He also wished to know whether the smallest units whilst not meeting the Council's own recommended standards would comply with housing corporation standards. The Housing Development Manager confirmed that some of the units would be smaller than the Council's or social housing recommended standards and that all would be located facing towards the cliff. Councillor Simson was shown visuals at her request indicating the location of the affordable units. The Housing Development Manager confirmed that

in line with the Council's preferred mix the scheme would provide 40% (208) 1 bed, 50%(260) 2 bed and 10% (55) 3 bed units. Whilst it was accepted that the unit sizes met Housing Corporation minimum requirements a significant number (212) out of 520 i.e. (41%) did not meet the Council's internal space standards as set out in the Council's affordable housing brief; and while it was accepted that the affordable homes were all located on the cliff site they would be evenly distributed across the cliff site. Windows would be located at a distance of between 20 / 40m. from the cliff face. In answer to further questions relative to the mix of 1/2 bedroom units it was explained that these had been provided based on the levels of need indicated by the Council's own research.

- 4.20 Councillor Carden sought details regarding access arrangements for emergency service vehicles. The Development Control Manager explained that emergency service vehicles would obtain access under the flyover into the site; the applicant had worked closely with the emergency services none of whom had raised any objections. The precise arrangements put into place would need to meet building control regulations. Councillor Mrs Theobald sought confirmation as to whether or not a sprinkler system would be fitted and it was confirmed that it would.
- 4.21 Councillor Mrs Theobald also asked whether it was intended to extend the Volks Railway into the site. The Principal Transport Planning Officer explained that it was not, the Volks Railway was a slow moving form of transport and was considered to be primarily a tourist attraction.
- 4.22 Councillor Wells sought information regarding measures intended to be imposed in respect of the park and ride scheme and the location of visitor/short stay parking following loss of part of the existing multi storey car park. The Principal Transport Planning Officer Traffic Manager explained that commensurate with the new arrangements a new car park management plan would need to be approved by the Council and that this would be subject to periodic review. The manner in which car parking spaces would be allocated would also need to be approved by the Council. Councillor Mrs Theobald referred to parking provision for vehicles using the Casino. The Traffic Manager explained that it was intended that all existing parking rights would be respected in drawing up any new arrangements.
- 4.23 Councillor McCaffery referred to potential issues arising from the lack of natural daylight / ventilation to the kitchens and bathrooms of some of the units and it was explained that the applicant intended to revisit the internal layout of those units in order to provide mitigating measures. Councillor Davey referred to the limited amenity space which would be afforded to some units asking whether measures would also be undertaken in that respect. It was explained that in addition to providing as much private amenity space to individual flats as possible that communal areas had been woven into the scheme as well.
- 4.24 Mr Pennington, Brighton & Hove Federation of Disabled People wished to know how the sum of £70,000 requested towards a car club/shop mobility scheme would be split. The Principal Transport Planning Manager explained that the how this sum would be broken down would form the subject of further detailed negotiation. In answer to further questions by Mr Pennington, it was noted that the recommendation included provision for a small increase in disabled parking to be required by condition. However, dialogue had taken place with the Council's Disabled Access Officer who was satisfied that the

disabled parking proposed in the application for wheelchair accessible residential units was satisfactory. It was confirmed that SPG 4 parking standards did not differentiate wheelchair using and ambulant disabled parking requirement. It was noted that at least 52 (10%) of the affordable units would be built for wheelchair users and required to comply with the Council's wheelchair accessible standard.

- 4.25 In answer to questions of Councillor Cobb relative to allocation of Section 106 Agreement monies, the legal adviser explained that these were allocated in accordance with strict guidance approved by Central Government and were required to be set out in any agreed "Heads of Terms". This had to be tied in specifically to the development. In answer to questions about proposed junction improvements, the Principal Transport Planning Officer explained that these were mainly proposed on the public transport links from the application site into the city centre. He also confirmed that the detailed arrangements for the bus interchange formed the subject of negotiations between all relevant parties including the applicants and the bus company.
- 4.26 Councillor Wells sought confirmation regarding measures proposed to ensure the integrity of the cliffs as part of an area of AONB, bearing in mind that measures to underpin them had been required in the past. Councillor Wells also requested details to be taken to ensure run off of surface water and measures to ensure that on site drainage was able to cope with the additional waste water and sewage which would arise from an increase in the number dwellings and businesses proposed by the scheme. In response it was noted that English Nature had removed their objections and that Southern Water had raised no objections to the scheme.
- 4.27 Councillor Smart asked to see photographs of the sports areas which would be provided and details of the areas to be dedicated to different sporting activities. He was mindful that it was intended that the areas under the existing ramps be used for this purpose and that a greater head height would be required for sports such as basketball or football. The Development Manager, Sports and Leisure Projects explained that it was intended that facilities would be provided in order to carry out a range of urban sports. Activities requiring a higher ceiling height would take place in the area to the south where there was a greater head height and the site was more sheltered.
- 4.28 Councillor Smart enquired regarding the new shared access arrangements in respect of the Harbour Square. It was explained that this would operate similarly to the existing scheme in New Road, Brighton, a form which had also been used at locations in London and elsewhere across the country.
- 4.29 Councillor Steedman referred to the fact that although some of the units would be occupied by families there were no schools within the immediate vicinity. He enquired whether as children would need to travel some distance to school by public transport or otherwise placing pressure on the traffic infrastructure, this would be mitigated against as a result of a contribution being made for education. It was explained that the number of children who might occupy the units and their need for primary or secondary education was difficult to quantify and would not of itself constitute grounds to refuse planning permission.
- 4.30 Councillor Simson asked for clarification regarding the cost of the units and level of deposit required in respect of the affordable units where in addition to the mortgage a

rental contribution would also be required towards the shared equity element. It was explained that in order to purchase one of the 1 bedroom with a 40% equity share an individual would need to have earnings of £18,000 and above. The salary levels required rose incrementally for the 2 bedroom units where a minimum salary range of between £22,000-£26,000 would be required. It was noted that at the present time the housing market was in a state of flux.

- 4.31 Councillor Smart referred to the fact that it was not proposed that the Octagon would be used as a doctor's surgery because it was too small and enquired regarding its alternative use as a healthy living centre, and as to the facilities which would be available there. It was explained that a series of health professionals would work from the building such as practice nurses, other health workers and nutritionists.

### **Representations by Objectors**

- 4.32 Following the Officers' presentations representatives on behalf of those objecting to the scheme were permitted to speak for 30 minutes in total setting out the nature of their objections. The following individuals spoke on behalf of the various objectors groups.

Mr R Powell -For Marine Gate Action Group

Mr P Martin -Brighton Marina Residents Association

Mr P Phillips -Kempton Society

Mr B Simpson -Save Brighton

- 4.33 Members were afforded the opportunity to ask questions or to seek clarification of any matter from objectors, but no questions were asked.

### **Mr Powell – Marine Gate Action Group**

- 4.34 Mr Powell stated that as an architect he had examined the current proposals in depth. He referred to the original Brunswick scheme which had been refused on the grounds that it had been excessive and had lacked permeability. The same criticisms could be made in respect of the Explore Living scheme which would represent a high rise high density estate which failed to respect or recognise the marine environment into which it would be placed or to recognise the importance of views of the cliff both from within the immediate vicinity and in longer strategic views. This increased number of dwellings would destroy the identity of the Marina as a place primarily for boats and leisure and would create a residential suburb to meet central government targets. Overall the buildings proposed as part of the scheme were unremarkable (the tower building) and poorly designed buildings which would be bulky and out of scale with the cliffs, many of the apartments would be north facing with restricted views of the cliffs. It was considered that the sea wall building would provide a poor relationship to the Kemp Town Conservation Area. The overall sustainability of the scheme was in objectors' view questionable and the level and quality of amenity space was considered to be unacceptable.

- 4.35 It was considered that the cliff building would create a canyon along the under cliff. Not only did it lack permeability it formed a physical barrier to connections from the under cliff path to the core of the Marina. Location of all of the affordable housing within that element of the scheme ran counter to good planning practice of “pepper potting”. The standard of accommodation to be provided would be very poor and could lead to a ghettoisation of this part of the development. Overall the camera angles chosen in preparing the fly through visuals which accompanied the application indicated that the effect of the proposed development would be benign. They did not accurately reflect the scheme as it would appear from inside the Marina or in its immediate vicinity in his view close examination of the photographs revealed a tendency to gloss over the negative aspects of the development. Having examined the proposals in depth objectors were of the view that the scheme as presented failed to meet more than 20 requirements set out in the Local Plan. In his view for a scheme to be acceptable the height of the tallest blocks needed to be reduced and permeability through the site as a whole needed to be improved.

#### **Mr Martin - Marina Residents Association**

- 4.36 Mr Martin spoke on behalf of the Marina Residents Association stating that it was considered that the current proposals represented a missed opportunity. It was recognised that the Marina was in need of redevelopment and development which would enhance the Marina would be welcomed. The scheme threatened to repeat the high rise housing disasters of the 1960's and 1970's by turning the Marina into a sprawling housing estate when primarily it should be retained as a Marina with moorings for boats. This scheme was completely out of keeping and represented over development pure and simple. Concerns had been expressed by the lifeboat service relative to their access arrangements in the event of an emergency and those concerns remained.
- 4.37 The affordable housing was considered to be too small and it was considered that key workers in the City deserved better accommodation than was offered up by this scheme. Over 100 apartments faced north directly onto the cliff face, that area of the scheme could easily become ghettoised and stigmatised. 40 % of the units had a floor area below that recommended in the Council's own guidance, a further 20 % would never receive direct sunlight. These apartments would have a restricted view of the lower part of the cliff face with bathrooms and kitchens which had no daylight and required mechanical ventilation. Many living and dining rooms would have limited views of the sky. It was difficult to see how these could be rated highly in terms of sustainability. The Square-about and bus interchange arrangements proposed would be hazardous, give rise to increased congestion, noise and pollution and would destroy the café culture they were designed to support. The children's play area and other recreation facilities would be placed in dark and sunless areas of the site and would be largely unusable. Overall the scheme represented a failed concept.

#### **Mr Phillips - Kempton Society**

- 4.38 Mr Phillips stated that notwithstanding that the application was thorough it had failed on many levels to meet the high standards required. In his view the scheme contravened the Council's own guidance on tall buildings, the objections raised by local residents and conservation groups had been ignored and consultation had only taken place with

“fringe” groups until such time as the scheme was well advanced. Sufficient account had not been taken of the effect of the proposals on the setting of the conservation area or of the fact that views through the site to the beach, from the beach towards the cliff and along the cliff from strategic locations should also be conserved. Important views would be blighted or lost altogether should the scheme proceed, and would result in mass obstruction, which was unacceptable.

- 4.39 Setting planning guidelines in respect of the site was insufficient and development of the site should be subject to an SPD rather than a PAN which carried less weight and could impact deleteriously on other development. For instance one of the proposed amenity spaces would restrict access to Black Rock. The western breakwater would become an area crammed with buildings.

**Mr Simpson - Save Brighton**

- 4.40 Mr Simpson Stated that the scheme in his view sought profit in everything and the value of nothing and would be grotesque. He referred to the views provided by the applicant stating that they were misleading and did not reflect views as they would actually appear to the naked eye or to the sense of enclosure which would result from the proposals. Referring to the northernmost block at the site he reiterated the comments made by earlier speakers that most of this building would be in permanent shadow. Elements of the scheme such as the tower had been manipulated to fit into the scheme and would not sit within the development in the same way that they appeared in the photographs. Importantly existing views through the site from the rear of the site to the beach and sea and back towards the cliff would be obscured or lost. A huge number of letters and e-mails had been sent in setting out detailed objections and it was not considered that the officers’ report accurately reflected them in their totality. Any scheme approved for this site would be a legacy for the city for years to come and would impact on its future. Plans for this monstrous and mediocre housing estate should be resisted. The primary function of the Marina and its relationship with the beach, sea and cliffs should be protected.

**Submissions on Behalf of the Applicant/Agent**

- 4.41 Following submissions by those speaking on behalf of the objectors a further 30 minute period was allowed for those speaking on behalf of the applicant/agent or in support of the scheme:

Rt. Hon John Gummer MP

Mr B Allies / Mr J Dennis - Allies and Morrison

Mr B Stern - Owner of a boat moored at the Marina

Ms K Hogben - Nurse at Royal Sussex Hospital

Mr B Betts - Brighton Marina Car Wash Operator

- 4.42 Members had the opportunity to ask questions or to seek further information from those representing the applicant and where this was the case this is referred to in respect of the relevant individual(s).

**Rt. Hon John Gummer MP**

- 4.43 The Rt. Hon John Gummer MP spoke explaining that he knew Brighton well having had family ties with the City over a number of years. The scheme was ambitious and he accepted that courage and forward thinking were required in agreeing it. However, courage and foresight had been required too when structures which now formed other landmarks in the city had been erected. This had been the case with the Royal Pavilion and with the original Marina scheme. The comments of the District Valuer were key and flagged up the potential benefits for the city if the scheme were to go ahead. The backdrop to the scheme was that undoubtedly the country was heading into a period of high unemployment. Regeneration which could accrue for the scheme besides providing much needed housing could serve to revitalise the city and act as a catalyst to bring in additional funds at a time when this was sorely needed. The scheme was brave and bold with plans produced by world renowned architectural practice. The scheme was highly sustainable and would achieve a high BREAM rating and would use an innovative combined heat and power (CHP) system.
- 4.44 The applicants had worked with the city planners for over two years in order to seek to overcome objections from a number of interest groups and to develop a comprehensive scheme.
- 4.45 Councillor Mrs Theobald enquired regarding the rationale for the mix of one and two bedroom units within the development. The honourable Mr Gummer explained that the mix of units within the development had been based on the Council's own needs analysis which had been Market Assessment (2008).
- 4.46 In answer to questions of Councillors Davey and Steedman and Mr Small (CAG) regarding measures to combat climate change and to address potential future dangers of potential flooding the honourable Mr Gummer responded that these matters had been addressed to the satisfaction of the Environment Agency who had withdrawn their objections. The CHP system proposed was highly sustainable and would provide heat and power within the scheme at an optimum level.

**Mr B Allies-Allies and Morrison**

- 4.47 Mr Allies stated that on first visiting the site he had been struck by the level of impoverishment of the public domain and had been struck by the potential offered by the site developer had taken the PAN04 document as their departure point and had sought to use that as the basis for a complex and wide ranging scheme. They had sought to look at the site holistically in seeking to provide much needed additional housing and the infrastructure and facilities needed to support it whilst also seeking to increase the attractiveness of the Marina as a destination location in its own right. Works had been phased in order not to compromise existing uses. For instance the existing Asda supermarket would be retained until its replacement had been built. Additional recreation areas had been created in currently underutilised areas and the access arrangements to the site had been significantly improved. The scale of the site overall

would be lower than that of the Brunswick scheme which had already received planning approval. The scheme had been designed in order to offer a sustainable and healthy future for the Marina.

- 4.48 Councillor Simson referred to the lack of amenity space and natural daylight to some of the affordable units and enquired whether the applicant was intending to implement measures to mitigate against this. Mr Allies stated that this was the case in respect of 6 of the units and that it was intended to redesign their internal layout in order to address these issues. It would also be possible to remove some of balconies but that would further reduce the available amenity space.
- 4.49 Councillor Mrs Theobald queried why solar power/photovoltaic units and wind turbines had not been included in order to improve sustainability of the development and in respect of the levels of car parking charges following removal of the existing free car parking arrangement.
- 4.50 In response it was explained that whilst sustainability issues could be revisited or controlled via the Section 106 Agreement, this had been assessed carefully and it had been considered that in order to be effective wind turbines and solar powered units would need to be of such dimensions that they would be considered visually intrusive. The applicant had sought to reach a balance. Mr Dennis and Mr Markides explained on behalf of the applicants that the levels of car parking provided did reflect current usage. It was not considered that there would be an under provision. Issues relating to levels of charges for those visiting residents had yet to be determined as part of the Section 106 agreement and that this could be form the subject of further detailed negotiation. It was anticipated that residents would be provided with an agreed number of "guest" tokens (10) and that this number could be reviewed subsequently in the light of operational experience and need. The Principal Transport Planning Officer explained that parking arrangements would form the subject of a Car Park Management Plan to be agreed with the Council which would thereafter be subject to periodic review. Mr Dennis and Mr Markides confirmed that a similar approach would be adopted relative to shoppers visiting the new Asda supermarket. It was not intended that they would need to pay to park. The applicant was confident that the required level of flexibility could be built into any on site parking scheme, whilst seeking to stop some of the current misuse for long stay free parking by those not visiting or living at the Marina.
- 4.51 Councillor Davey enquired regarding measures to safeguard security of residents. It was explained that the development had been designed with that aspect in mind and that the scheme would also fall within the remit of the Marina's facilities management.
- 4.52 In answer to questions by Councillors Davey, Kennedy, Steedman and Mr Small (CAG) regarding the rectilinear design of the scheme, proposed materials to be used and how these might be viewed in juxtaposition to the "Brunswick" scheme in those areas where it would be adjacent to the applicants scheme; Mr Allies explained that a subtle approach would be adopted to provide texture and layering to the external surfaces of the buildings which whilst different to the surrounding buildings was not considered to be at variance with them.
- 4.53 In answer to further questions relative to the concerns raised by CAGE and the fact that to date these had not been overcome Mr Allies stated that these related to the

complexity of the scheme and the fact that the applicant had been unable to address all issues raised relative to the harbour square to their full satisfaction at the present time.

- 4.54 Councillor Smart queried how the figure of a potential income coming into the Marina of £1m per week had been arrived at. He also sought clarification regarding access of those living in the development to medical practices and to local schools. It was explained that this figure had been arrived at based over a 7-year period based on the figures provided independently by the District Valuer. At the present time the Health Authority did not appear to have plans to provide a large group practice at the Marina, although a drop-in facility was proposed at the Octagon. Issues relative to education had been addressed within the report as had provision of the level of recreation/play space included in the scheme.
- 4.55 Councillor McCaffery enquired regarding employment and training opportunities which would accrue from the scheme and it was explained that there was a strong commitment to provide as many apprenticeships as possible and that to that end approaches would be made to City College. Employment opportunities would arise during construction of the scheme and as a result of the new businesses which would be created as an integral part of it. In answer to questions regarding materials and finishes to be used to the walkways it was explained that it was proposed that the walkways would be constructed of grey painted concrete with a metal curtain wall.

#### **Mr B Stern**

- 4.56 Mr Stern an existing berth holder at the Marina spoke in support of the scheme. He stated that when created the original Brent Walker development had been innovative and exciting. However, that concept had never been fully realised and the Marina as currently presented did not live up to its image and, indeed was somewhat second rate. The proposals would serve to enhance it for everyone and would make it more attractive to and for visiting yachtsman or those mooring their craft there as well as for residents and visitors. The scheme presented an opportunity to improve the Marina itself and to bring positive benefits for the City as a whole.

#### **Mr S Betts**

- 4.57 Mr Betts spoke in support of the scheme from his perspective as the owner of a business currently operating from the Marina. He was proprietor of the hand car wash which had been operating from the Marina for 10 years. The Marina was potentially a beautiful place but could be improved and needed to be improved. Currently it was dated and uninviting and did not live up to visitors expectations. It was in desperate need of regeneration. Parts of the Marina were extremely run down which made it very hard for businesses to survive. That was likely to become increasingly the case with the current economic downturn. The site needed to be cleaner, brighter, safer and more resident /visitor friendly in order to encourage greater footfall.

#### **Ms K Hogben**

- 4.58 Ms Hogben spoke as a nurse employed at the Royal Sussex County Hospital. She stated that as a key worker she on a modest salary she was currently unable to purchase property of her own anywhere in the City and was living in shared

accommodation which necessitated a daily commute by car to her place of work which lengthened her working day and meant that she also contributed to traffic congestion and pollution in the city. The affordable accommodation proposed as part of the scheme would help to address a chronic shortage of such housing in the City. It was difficult for key workers such as herself to secure accommodation and such issues did have an impact on recruitment and retention of staff. Whilst she would like to settle in the city, the absence of affordable accommodation would be an issue which would determine whether ultimately she continued to live and work there.

- 4.59 Councillor Simson queried whether based on the information given Ms Hogben or others receiving a similar income would be in a financial position to buy into the part rent/part buy equity arrangement required. Councillor Cobb was also sceptical in this regard notwithstanding that Ms Hogben and Mrs Dennis gave assurances with regard to this matter.

#### **Presentation by Ward Councillors - Councillor Smith**

- 4.60 Councillor Smith spoke in his capacity as a Local Ward Councillor setting out his objections to the scheme. He had received numerous objections from local residents and was in agreement with them that the scheme represented an unacceptable form of overdevelopment which should be refused. He fully concurred with the comments made by those speaking as objectors to the proposal.

#### **Discussion, Decision and Debate**

- 4.61 The Development Control Manager clarified that the objections lodged by the RNLI had been withdrawn subsequently, this had been referred to in "Late List."
- 4.62 The Housing Development Manager confirmed that the outcome of that the Housing Needs Survey 2005 and Strategic Housing Market Assessment 2008 had identified a shortfall of around 1,200 affordable homes per annum; 62% of households on the Council's Housing Register needed 1 or 2 bedroom properties so were highest numerically but there was also a very significant pressure on larger family homes and this was being addressed across the City. The proposals in respect of this development, 10% 3 bedroom considered commensurate with the site location.
- 4.63 Councillor Wells stated that he had a number of concerns relative to the proposed development. He had concerns regarding the pressures that would be placed upon the local infrastructure relative to educational provision and also increased demands for water usage and in terms of increased sewage output. He considered that the location of the affordable element within the scheme which would face into the blank wall of the cliff was not acceptable as it would provide a very poor level of amenity for those occupying those units. The fact that a number of the units would fall below the Council's own recommended floor area was unacceptable to him and represented town cramming. There was a need for homes with gardens rather than an over proliferation of small flats.
- 4.64 Councillor Mrs Theobald stated that although a great deal of work had clearly been undertaken in preparing the scheme and notwithstanding that improvements would be effected to the entrance to the Marina she considered that the scheme overall was

unacceptable by virtue of its excessive height bulk and density. It represented overdevelopment of the site.

- 4.65 Councillor Mrs Theobald went on to state that she did not consider the height of part of the development, two storeys above the height of the cliff at some points to be acceptable, nor was the lack of 3 bedroom units across the development as a whole. The scheme was characterised by too many small one bedroom units. She was also of the view that the level of amenity space proposed was insufficient for the number of units proposed. A greater level of integration with and funding of improvements to the Volks Railway would have been desirable. A reduction to the existing levels of free parking was also not acceptable. The easy availability at present of free on site parking was one of the considerations which attracted visitors to the Marina. She felt that sufficient weight had not been given to the concerns of objectors to the scheme.
- 4.66 Councillor Steedman stated that the decision in respect of this application was the most important he had been charged with making since being appointed to the Committee. The scheme would if approved effect improvements to the existing public realm whilst providing a significant level of social housing which was desperately needed in the City. The existing multi-storey car park was grim and desolate and the existing Asda building was an ugly pastiche. The elements of the scheme in terms of transport infrastructure and encouragement of sustainable transport coupled with cycling/walking represented a forward looking approach as did those for combined heat and power (CHP). Notwithstanding this there were a number of negative aspects too. Impact of the proposed scheme on views along the cliffs was important and formed part of the City's visual heritage which went beyond the immediate vicinity of the site. The relationship between the land and the sea was very important and could be severely compromised; this could take away the "draw" currently provided by the boats in the Marina itself and their visibility from the cliff top. The size of flats within the development overall was very small, a number fell below the size recommended by the Council. The level of open space on site was small for the number of units proposed and the facilities provided at East Brighton Park were not immediate to the site and could not be accessed other than by crossing the A259, a very busy main road. He did not consider that these issues had been adequately addressed nor had assessments relative to potential flood risk. For these reasons he felt unable to support the scheme.
- 4.67 Councillor Kennedy thanked officers for their comprehensive report and welcomed the positive approach adopted by the developers a positive contribution would be provided by some elements of the scheme. She drew the analogy that the scheme was like the curate's egg "good in parts". She had major concerns however, regarding the quality of the design which was severe and rectilinear and would sit at variance with the curved structures which formed part of the existing development and the earlier Brunswick Development for which permission had already been granted. In addition she considered that the number of units particularly the "affordable" element of the scheme represented gross overdevelopment. It was unacceptable that the only aspect from these units would be directly into the cliff face. The development was too big and too close to the cliff and views between the sea and the cliff would be lost. Once built any scheme would be there for a long time, the site presented the opportunity for innovative redevelopment, this scheme however was of little architectural merit. If the scheme were to be refused she hoped that the developer would take on board the issues raised and come back with a much improved scheme.

- 4.68 Councillor Simson was in agreement that the Marina was in need of regeneration with a suitable form of development however in her view this was not it. The scheme as presented was too bulky and she remained to be convinced that the percentage of market and affordable housing within the scheme was appropriate and would satisfy an identified need. She had grave concerns regarding the “affordability” of the non-market element of the scheme for the key workers at whom it was aimed bearing in mind that rental payments would also be required in addition to any mortgage arrangement entered into. She concurred with other Members that the number of 2/3 bedroom units were too few and that the site would be dominated by very small one bedroom units. She had concerns regarding how the square-about element of the scheme would work in practice. The scheme would be too dense and its impact on the surrounding area would be overwhelming and detrimental.
- 4.68 Councillor Hamilton referred to the letter received from Des Turner MP requesting the views of all objectors be fully taken account of by the Planning Committee in reaching their decision. In his view some of the points raised and discussions which had taken place were not germane to determining the planning application. He was in agreement that the Marina operated separately from the powers vested with the Planning Committee. It was appropriate for the Committee to consider and determine the application before them that day. Whilst some of the objectors stated on the one hand that the Marina should be an area where boats were moored, by virtue of the fact that there was a residents association they appeared to be indicating that although they did not consider that anyone else should. The area had been clearly identified within the Council’s own policies as one which would benefit from high density re-development. It was recognised that businesses at the Marina were struggling to survive, this was increasingly likely to be the case given the current economic down turn and had been borne out by the comments of one of the speakers. Increased numbers of inhabitants and the additional facilities could provide the level of regeneration needed and improved shopping and other facilities would be likely to follow in its wake as well as providing much needed housing. Given the acknowledged need for more housing and for regeneration of key areas of the City, a “refusal” coupled with other recent refusals would send a negative message to developers which would do little to encourage them to come forward with the schemes which were so desperately needed. Whilst acknowledging that the scheme was not perfect he was of the view that any remaining issues could be resolved by imposition of the conditions proposed as part of the Section 106 Agreement. On balance he considered the scheme to be acceptable and would be voting in support.
- 4.70 Councillor Carden echoed the views expressed by Councillor Hamilton referring to the dearth of affordable housing available for young people and key workers. There were also a number of people across the City living in 3 bedroom family houses (in Mile Oak to his certain knowledge), who could relocate to smaller units of the type indicated which would in its turn free up larger family accommodation. He referred to the fact that a several major applications comprising mixed schemes of affordable and family housing had been refused in recent weeks, accommodation which was desperately needed. The young people and young families of Brighton and Hove had been badly let down.
- 4.71 Mr Small (CAG) referred to the earlier comments of the Assistant Director City Planner that virtually all objections raised had been overcome or addressed. He stated that

those raised by CABE were significant and had not been overcome as were those put forward by CAG who remained of the view that the scheme was unacceptable. CAG felt that no proactive assessment had been taken in evaluating the capacity of the Marina, the current proposal took away the rationale of a marina for boats. The real "draw" for the site was as a marina for boats. Whilst the visuals provided had been beautifully crafted, they did not in his view reflect the reality of the situation should the development proceed, namely that from the rear of the site neither the boats moored at the Marina, nor the sea itself would be visible.

- 4.72 Councillor Davey stated that he had also experienced difficulty in determining scheme. He recognised the need to provide affordable housing and that from the developers perspective a critical mass was needed in order for the scheme to be viable. The scheme had much to offer in terms of sustainability but he remained concerned regarding its density and scale and had been shocked by the proposed height of buildings adjacent to the cliff.
- 4.73 Councillor Cobb stated that in her view the scheme which was very high and dense was also out dated in its concept. A number of blocks from the 1960's and 1970's had been demolished across the country because high density living was not popular in the United Kingdom. She had been actively involved with a housing exchange scheme, it had been demonstrated that those seeking such moves required lower rise less densely packed accommodation.
- 4.74 Councillor McCaffery stated that whilst she had concerns in respect of some elements of the scheme she considered that these were not insurmountable, the scheme would address an identified housing need and could be controlled by conditions imposed as part of the Section 106.
- 4.75 Mr Pennington (Brighton & Hove Federation of Disabled People) stated that no negative comments had been received relative to disabled access across the site and to the proposed units. Therefore if the scheme were to be refused he hoped that the same consultants would be retained by the applicant for any subsequent scheme.
- 4.76 Councillor Smart stated that he knew the site well and had been familiar with it prior to the original scheme being built. He considered that the current scheme as presented was of a poor design. He also considered that the cascading street scene would present a steep incline when walking back through the site. The level of bus /coach parking proposed was inadequate and he remained to be convinced that the shared cycle/pedestrian/vehicular access proposed by the square about would not be hazardous. He did not feel able to support the current scheme and would therefore be voting against it.
- 4.77 A vote was taken and on a vote of 9 to 3 planning permission was refused in the terms set out below:
- 4.78 **RESOLVED** -That having considered the application before them the Committee refuses planning permission for the following reasons:
1. The proposed development ,by reason of siting layout and height would be overly dominant within the Marina and would fail to preserve the setting and

views of strategic importance, in particular views into and out of the Kemp Town Conservation Area, the Sussex Downs Area of Outstanding Natural Beauty and the Cliff which is a Site of Special Scientific Interest. The proposal would therefore fail to comply with policies QD1, QD2, QD3, QD4, HE3, HE6, HE11, and NC8 of the Brighton and Hove Local Plan and policies S1, S6, EN1, EN2, EN3 and EN26 of the East Sussex and Brighton and Hove Structure Plan.

2. The proposed development would cause material nuisance and loss of amenity to residents living opposite and within the Marina and in addition, by reason of north facing views and overshadowing the proposed development would cause loss of amenity to occupiers of the residential units in the Cliff Building. The proposal would therefore be contrary to the requirements of policy QD27 of the Brighton & Hove Local Plan.
3. The applicant has failed to demonstrate that the proposed scheme reflects and responds to the current housing need in the City. In particular through the provision of the appropriate housing mix and unit size. The proposal is therefore contrary to policy HO3 of the Brighton and Hove Local Plan.
4. The application has failed to demonstrate that the proposed high density of development would be appropriate for the location. The proposal would therefore be contrary to the objectives of policy HO4 of the Brighton & Hove Local Plan.
5. The applicant has failed to demonstrate that the proposed development would result in a scheme with an inadequate provision of outdoor amenity and recreational space. The proposal is therefore contrary to the requirements of policy HO6 of the Brighton and Hove Local Plan.
6. The applicant has failed to demonstrate that educational facilities would be provided to meet the needs of the residents of the proposed development. The proposal would therefore be contrary to the objectives of policy HO21 of the Brighton and Hove Local Plan.
7. The proposed development would be in a High Probability Flood Zone as defined in PPS25:Development and Flood Risk and does not pass the Exception Test as set out therein.

**[Note 1:** A vote was taken and on a vote of 9 to 3 planning permission was refused in the terms set out above]

**[Note 2:** Councillor Wells proposed that planning permission be refused. This was seconded by Councillor Cobb. A recorded vote was then taken Councillors Cobb, Davey, Hyde (Chairman), Kennedy, Simson, Smart, Steedman, Mrs Theobald and Wells voted that planning permission be refused. Councillors Carden, Hamilton and McCaffery voted that planning permission should be granted subject to the terms of the proposed Section 106 Agreement. Therefore on a vote of 9 to 3 planning permission was refused].

**5. SITE VISITS**

signed

Chair

Dated this

day of