

**BRIGHTON & HOVE CITY COUNCIL**  
**ENVIRONMENT, TRANSPORT & SUSTAINABILITY COMMITTEE**

**4.00pm 14 MARCH 2017**

**COUNCIL CHAMBER, HOVE TOWN HALL, NORTON ROAD, HOVE, BN3 3BQ**

**MINUTES**

**Present:** Councillor Mitchell (Chair) Horan (Deputy Chair), Janio (Opposition Spokesperson), Greenbaum (Group Spokesperson), Atkinson, Deane, Miller, Robins, G Theobald and Wares

**Other Members present:** Councillors Daniel, Gibson, Mears

**PART ONE**

**68 PROCEDURAL BUSINESS**

**68(a) Declarations of substitutes**

68.1 There were none.

**68(b) Declarations of interest**

68.2 There were none.

**68(c) Exclusion of press and public**

68.3 In accordance with section 100A of the Local Government Act 1972 ("the Act"), the Committee considered whether the press and public should be excluded from the meeting during an item of business on the grounds that it was likely, in view of the business to be transacted or the nature of proceedings, that if members of the press and public were present during that item, there would be disclosure to them of confidential information (as defined in section 100A(3) of the Act) or exempt information (as defined in section 100(l) of the Act).

68.4 **RESOLVED-** That the press and public not be excluded.

**69 MINUTES**

69.1 **RESOLVED-** That the minutes of the previous meeting held on 17 January 2017 be approved and signed as the correct record.

**70 CHAIRS COMMUNICATIONS**

70.1 The Chair provided the following communications:

*“For the month of March the council will be participating in the Great British Clean Up in conjunction with Keep Britain Tidy with four weeks of activities in local communities. I want to thank all of the residents and residents groups right across Brighton and Hove for their participation and all the work they are doing to make their neighbourhoods cleaner. I would also like to thank our Cityclean staff some of whom are here today. You will see on the table in front of you a whole programme of the activities that they are putting together and this has all been led by the Cityclean project officers. I’m sure that the committee would like to thank them for the work they will be putting in and I’m sure by the end of this month the city will look a lot cleaner and then of course it’s our task to make sure it stays that way. Thank you very much indeed.*

*“I have just one other point to make that is in view of the interest in the Hanover & Elm Grove parking scheme proposals, I am proposing moving that up the agenda to be taken first”.*

## **71 CALL OVER**

71.1 The following items on the agenda were reserved for discussion:

- Item 76: 2017/18 Local Transport Plan Capital Programme
- Item 77: Brighton & Hove Bike Share- TRO Representations
- Item 78: Hanover & Elm Grove/Craven Vale Resident Parking Scheme Consultations
- Item 81: Application for a Definitive Map Modification Order, The Paddock, Roedean

72.2 The Democratic Services Officer confirmed that the items listed above had been reserved for discussion and that the following reports on the agenda with the recommendations therein had been approved and adopted:

- Item 74: Health & Safety Service Plan 2017-18
- Item 75: Official Feed and Food Controls Service Plan 2017/18
- Item 79: West Hove Resident Parking Scheme Consultation
- Item 80: Parking Proposals within the Event Day Parking Schemes

## **72 PUBLIC INVOLVEMENT**

### **(a) Petitions**

#### **(i) Hove Station Footbridge**

72.1 The Committee considered a petition signed by 550 people requesting structural refurbishment or replacement and as well as cleanliness improvements be made to Hove Station Footbridge.

72.2 The Chair provided the following response:

*“Thank you for your petition. Members of this committee are aware of the longstanding issues regarding the state of the footbridge and the impacts on residents and the neighbourhood.*

*I can inform you that the council have regular and on-going discussions with the bridge owner Network rail. The contractual arrangements for the maintenance of the footbridge are currently being reviewed and analysed.*

*In response to your specific questions and requests in your petition I can inform you that:*

*City Clean is responsible for cleaning litter from the bridge and I will ask them to look into the standard of cleanliness of the bridge and if this can be improved or monitored more efficiently. But we do rely on the officers of Network Rail, who are in charge of the live rail, that could have implications for some of this work and we are reliant on their good will to enable this to happen.*

*Any short term measures to improve the appearance of the footbridge will be discussed with Network Rail. The council will only agree repairs that comply with the historic legal agreements regarding the maintenance of the footbridge, and that can be accommodated within existing budgets.*

*I can assure you that the bridge is safe and inspected regularly in terms of its structural integrity.*

*Refurbishing major parts or reconstructing the bridge will need to be discussed and agreed with Network Rail and full reconstruction of the bridge will be the responsibility of Network Rail. The bridge is more than 120 years old and is fast approaching its design life and the council will work with Network Rail to ensure a positive outcome and we will be back in touch with you regarding a link officer as you have requested.*

*The council will look at various funding opportunities both public and private to draw the necessary funds to maintain and improve the footbridge.*

*I will also pass this petition to Network Rail, the bridge owner, for their comments”.*

72.3 **RESOLVED-** That the committee note the petition.

**(ii) Hanover & Elm Grove controlled parking zone proposals**

72.4 The Committee considered a petition signed by 110 people requesting residents in the ‘top triangle’ area of Hanover & Elm Grove be given permission for some pavement parking in their area in relation to proposals for the introduction of controlled parking.

72.5 The Chair provided the following response:

*“Thank you for your petition and I do appreciate the concerns of residents in your group of roads.*

*The council cannot condone pavement parking when designing resident parking schemes. Parking on the footway is against the Highway Code, driving on footways is a road traffic offence and the council has duty to ensure its design proposals are safe and people are able to park legally.*

*Footway parking also constitutes a highway obstruction and is potentially hazardous for disabled and elderly people, those who are visually impaired and people with pushchairs and buggies. Or for people who simply want to walk side by side with their children. We receive numerous complaints about pavement parking from residents.*

*In 2013 the severity of pavement parking and highway obstruction in Elm Grove was so severe that this committee authorised joint enforcement action alongside Sussex Police. As you will be aware, the committee will be discussing proposals for a residents’ parking scheme in the Hanover and Elm Grove later on in the agenda.*

*I do not want to pre-judge the outcome of that discussion but can assure you that should this be agreed, officers will continue to do all they can to maximise available parking for residents through the detailed design stage prior to the Traffic Regulation Orders being advertised. Those orders are advertised for public comment and so people will have a further chance to comment on those and then the representations from those will come back to this committee in June.*

*Furthermore, all residents' parking schemes are kept under review following implementation and may be adjusted using an amendment order should any unforeseen, individual road safety problems arise”.*

72.6 **RESOLVED-** That the petition be noted.

**(b) Written Questions**

72.7 Jonathan Bromberg presented the following question:

*“1.9.16. I stated “It’s clearly much more sensible that the proposed "hub" is sited further north along Whitecross Street so it’s away from residents premises, commercial premises / deliveries, and also closer to a large group of potential users of the "hub", being students at City College”. 2.9.16. ward councillor supported this. Officers never responded about this alternative.*

*10.11.16. FOIA response states "This allocated area needs to be continuous (not interrupted by street furniture) and alternative sites identified unfortunately don't provide such a footprint."*

*Therefore council officers have NOT considered all alternatives identified. Why has this alternative not been considered?”*

72.8 The Chair provided the following reply:

*“I understand that the North Laine Community Association and you have raised a number of concerns in respect of the proposed Whitecross Street Bike Share location. As documented in the committee report, officers have sought to address any issues raised regarding all of the proposed sites and in some cases amendments have been made to the proposals.*

*In this case, alternative locations were suggested at Station Street, on the footway adjacent to the Trafalgar Street car park and at the northern end of Whitecross Street. Station Street and Trafalgar Street car park were not considered possible for technical reasons owing to the available footway and carriageway space. Underground services are also present at Station Street in the carriageway opposite the existing cycle parking. In addition, it is considered that the positioning of a hub on the footway in those locations would have obstructed thoroughfares and resulted in a greater risk of conflict between cyclists and pedestrians in particular. Therefore, these locations were not considered to be feasible.*

*With regards to an alternative on-carriageway location, officers have considered sites based on the extent to which concerns could be addressed. When identifying locations, specific considerations have also included the accessibility of a site as well as the impact on car parking and pedestrians. Officers have selected hub locations which would be visible, convenient for users and therefore most likely to be well used. Consideration also needs to be given to where Bike Share sites are located in relation to one another. Space constraints in the North Laine generally are such that the*

*Whitecross Street proposal is the only site within the North Laine with the exception of Church Street that is acceptable. Relocating north would mean that the North Laine is under served.*

*Officers therefore deem an alternative siting at the northern end of Whitecross Street to not meet the location criteria.*

*Furthermore, the majority of the comments put forward in relation to Whitecross Street are not site-specific and indicate an opposition to the Bike Share scheme generally. These include a loss of parking, use of the street by large vehicles, impact on traffic flow and addition of visual clutter.*

*Whilst officers have respectively acknowledged and sought to respond to these objections, it was not considered they could be addressed without removing the North Laine location. This would not be desirable from the point of view of the attractiveness of the Bike Share scheme for future users.*

*Given the number of objections received is small at two responses; officers have therefore recommended to the committee that the proposal is approved. It is also noted that two representations in support of the location have been received, both of which request that all locations be implemented”.*

72.9 Jonathan Bromberg asked the following supplementary question:

*“Does the visibility of the hub override all other criteria and considerations for the locations of a hub and if the site is not visible, then it has not been considered at all? If so, please tell me the criteria for determining what a visible site is and whether this criteria were set and hence potential site choices were made before the TRO consultation began”*

72.10 The Chair provided the following reply:

*“Visibility is just one of the criteria that we used when conducting a site search for the potential location of the hubs. I’m very happy to provide you with the further information you have requested”.*

**(ii) Brighton & Hove Bike Share**

72.11 The questioner was unable to attend the meeting in person. The following reply was read by the Chair at the meeting and sent in writing:

*“The operator will have a dedicated team of mechanics and drivers with two electric support vehicles to service and redistribute the bikes according to customer needs. All bikes are equipped with GPS devices which will allow the operations team to monitor availability and parking loads in real time and respond appropriately. If a hub is full, customers may leave the bike at any nearby available cycle parking stand. This will avoid over parking at a busy hub.*

*The operator will develop an access plan for each location in conjunction with the local highway authority. This will detail where the support vehicle may wait to load and unload.*

*The support vehicles will only need to be at a location for a short time to restock, take bikes away or to carry out a quick check on the bikes. Those requiring service will be taken to the workshop”.*

**(iii) Electrical Vehicle Charging Points**

72.12 Paul Norman asked the following question:

*“Would the council consider placing EV charging points adjacent to all Car Club bays in the proposed Hanover & Elm Grove CPZ area, and include this in the forthcoming Traffic Regulation Order?”*

72.13 The Chair provided the following reply:

*“As you will be aware, the parking proposals for the Hanover and Elm Grove area are part of the agenda for this meeting and therefore I am sure that you will understand that I cannot pre-empt the outcome of the committee’s discussion and decision on that item in relation to your question.*

*The current proposals do include one bay for electric vehicle charging in the Cobden Road Area.*

*However, if a parking scheme is agreed today and goes on to the Traffic Regulation Order stage, I can confirm that officers will consider the technical feasibility and value for money of your request as part of that detailed design stage. Those designs would be advertised formally for further comment by residents and others before coming back to this committee.*

*Officers have received interest in charging points in the area independently of the parking consultation, and further locations could be proposed and considered in the same way during the Traffic Regulation Order stage, or they could be considered at a later date*

*We do aim to expand the city’s vehicle charging network to respond to growing demand and this is also included on further item on the agenda, the Local Transport Plan that I urge you to read”.*

72.14 Paul Norman asked the following supplementary question:

*“Will Brighton & Hove City Council consider entering a bid for a central government grant for the installation of EV Charging points which is available for another year to enable not only the installation of EV charging points not only in Hanover & Elm Grove but potentially citywide?”*

72.15 The Chair provided the following reply:

*“Officers are always looking for external funding for EV charging points and they are aware of that particular fund and I am very hopeful that we will be able to submit a bid”.*

**(iv) Hanover & Elm Grove controlled parking zone consultation**

72.16 John Woodington asked the following question:

*“The street plan was drawn up with no definitive determination of the number of parking spaces required other than a dubious, limited survey by HEGLAT. Could residents be assured that an accurate survey will be made ensuring that the proposed plan will provide residents with sufficient parking spaces for vehicles already DVLA registered (+10% contingency?) and nobody will be required to sell vehicles or face daily fines of*

*£70. This could be achieved by those requiring spaces applying for permits prior to final draft completion. The object of the exercise is to improve lives not cause stress or confrontation.”*

72.17 The Chair provided the following reply:

*“As you are aware from the agenda the results of the consultation from the Hanover & Elm Grove and Craven Vale areas are being presented later in this meeting for Members of this Committee to discuss the way forward.  
As the report shows, around 7,600 residents of as part of the Hanover & Elm Grove area were consulted using the detailed information from the Local Land and Property Gazetteer.  
The DVLA provide only limited information to local authorities and vehicle registrations within specific areas are not included within this. Therefore, it is very difficult to provide accurate survey figures on current car ownership.  
However, residents have responded to the two rounds consultation and made choices based on the detailed design information made available to them and they will have a further opportunity to comment during the next more detailed Traffic Order stage if any proposal is agreed. The outcome of that further stage will come back to this committee (in June)”.*

72.18 John Woodington asked the following supplementary question:

*“The Hanover & Elm Grove parking proposals are designed not to be for profit and the purpose is to improve the environment for all residents. All residents have had the opportunity to vote and it has been acknowledged that problems have arisen due to over spilling from adjacent CPZ's and the failure to prevent non-residents parking in Hanover rather than the fault of residents parking near their homes. Why are those owning vehicles expected to pay for the improvement rather than the cost shared by all householders who will benefit? Should resident parking not be included in council tax and therefore spread citywide?”*

72.19 The Chair provided the following reply:

*“That's a very interesting idea. This is a residents parking scheme, they are what they say, and they are intended to give residents priority to park. Usually this means residents with a vehicle. I take your point that schemes do improve areas for everybody but the legislation does mean that they are governed in relation to car ownership thus the supply of car permits is dependent on that”.*

**(c) Deputations**

**(i) Road Safety on Francis Street**

72.20 The Committee considered a Deputation requesting wide-ranging public realm, parking and traffic improvements on Francis Street.

72.21 The Chair provided the following response:

*“Thank you for your deputation Mr Harper. I am very sorry that you and your neighbours find yourself in this situation.*

*I am aware that you have been in correspondence with council officers about the situation in Francis Street, including the changes to the street as a result of the new developments there, including the Open Market. Officers are aware of the various concerns that you have raised, as are your local councillors such as Councillor Greenbaum who is here today as a member of this committee, and I would like to reassure you that she is making representations to us and that we are working actively on all of these matters and are trying to resolve them with the other parties and companies who are involved.*

*Your concerns and the findings of the independent Road Safety Audit have been the subject of a very recent, positive and constructive meeting which officers arranged with Hyde Housing and others. A number of potential solutions that residents have suggested were discussed and all parties remain eager to review and agree a combination of measures and actions that are considered safe, technically feasible and deliverable within the legal processes available. Once these discussions are complete and a way forward agreed, officers will be informing the local ward councillors and yourself as the presenter of the deputation and Chair of The Barrows Residents Association.*

*In the meantime, I can also advise you that our Parking Enforcement Team have been advised of the illegal parking that has been occurring and reported in the street and our contractor will do its best to respond swiftly to these reports, alongside the many others that it receives.*

*That also gives me the opportunity to promote, and remind people here, that the council does want to keep our streets clear and safe and therefore we welcome reports of illegal parking and they can be made in person directly to our contractor, NSL, by phone; or online using the information on the Parking page of the council’s website”.*

72.22 Councillor Greenbaum moved a motion to request a report to the next meeting as there were long-standing issues in Francis Street and more could be done to resolve these.

72.23 Councillor Janio formally seconded the motion.

72.24 The Chair stated that she was happy to agree to the request once a set of proposals had been drawn up and those proposals had been consulted upon with local residents.

72.25 **RESOLVED-** That the Committee receive a report on the matter to a future meeting.

**(ii) Old Shoreham Road Toilets**

72.26 The Committee considered a Deputation requesting the refurbishment and re-opening of the toilets on the north side of Old Shoreham Road to benefit attendees of the local Cemetery.

72.27 The Chair provided the following response:

*“Thank you for bringing your deputation today. The toilets were closed as part of a council agreed budget saving in April 2012. Having been closed for four years, they are therefore not included in the council’s current tender exercise for cleaning and*



*maintenance and no capital funding is readily available to refurbish and adapt them to accommodate disabled access and provide an acceptable standard of accessibility that we like all of our public toilets to have. I appreciate that this response will be disappointing, however, we are very willing to discuss with you any opportunities for the external funding and running of the toilets”.*

- 72.28 Councillor Janio asked if funding could be found for the refurbishment of the toilets as part of the tender currently advertised.
- 72.29 The Chair clarified that the tender advertised related only to toilets currently open but discussions could be held on the viability of external funding opportunities.
- 72.30 Councillor Theobald stated that he believed the matter to have equality implications and asked why the facilities could not be added to the contract currently out to tender.
- 72.31 The Chair advised that the committee could not make financial commitments without the budget implications also presented to them to ensure their decision-making was sound. It was not possible to add this facility to the tender as that had already been advertised with identification of the toilets to be part of that contract and the known cost of refurbishment of those facilities.
- 72.32 Councillor Janio asked if the surplus income from any contract could be diverted to refurbishment of the facilities on the north side of Old Shoreham Road.
- 72.33 The Chair stated that the projected income had been built into the business plan but should there be surplus income above and beyond that projection, the issue could be revisited.
- 72.34 Councillor Theobald stated that it would be beneficial for the committee to know the costs of refurbishment of the toilet.
- 72.35 The Chair stated that she would request officers to examine the cost of refurbishment and the revenue and capital cost required.
- 72.36 **RESOLVED-** That the Committee note the Deputation.

**(iii) Traffic on Surrey Street**

- 72.37 The Committee considered a Deputation regarding parking, congestion, air quality and anti-social behavioural problems on Surrey Street connected to taxis and buses.
- 72.38 The Chair provided the following response:

*“I utterly and completely agree with you as does your ward councillor, Councillor Deane. For the last 18 months to two years, we have been meeting regularly with Network Rail, with taxi representatives, with bus company representatives, with the police and with our own transport officers to look at this situation. What you are talking about is totally and utterly unacceptable but it is not a taxi rank and it is not a ranking issue because those taxis are simply queuing to get to a 17 space parking area at the front of the station on private land.*

*If that taxi rank was on public land, on the highway, the council as the licensing authority could regulate that rank and we could mitigate against over-ranking. As it is, you are in the worst possible of situations because for you it's like living next door to a large supermarket that has 17 spaces and a load of people in cars that are trying to access it the whole time. That is the situation that we found ourselves in and we have also found that Govia Thameslink have issued hundreds of permits to taxis for those 17 spaces who obviously want to make back a return for their outlay for their permits. It is utterly, utterly untenable and I totally agree with you.*

*We have had meetings with all of those attendees and we are setting up another one. I have to say those meetings have been optimistic and we have been carefully looking at alternative siting's for that taxi rank. Those ideas have not come totally to fruition yet but plans are being looked because at the moment the situation is not working or helping anybody: anybody trying to get through on a bus, pedestrians, even people trying to get taxis, it is not really helping at all and something has to give. Our officers are working very, very hard with the rail company who own the land and who do have prime responsibility here.*

*We are continuing to fight on your behalf with ward councillors and I do hope at some point soon, we can find a way through this. We'd much rather find an acceptable solution in terms of relocation of that rank than for to have to us the more difficult highway measures at our disposal to continually bear down on those queues of taxis and the various confrontation that is going to incur which would almost certain entail having to use the police. I hope that is helpful to you and we will let you know of our progress through Councillor Deane”.*

72.39 Councillor Deane appraised the work being done but this was not reported in the public domain and she believed it valuable that the committee receive a report on the matter.

72.40 The Chair stated that a report would be returned to the committee in any event the circumstances changed.

72.41 **RESOLVED-** That the Committee note the Deputation.

**(iv) Parking on Pankhurst Estate**

72.42 The Committee considered a Deputation requesting the Pankhurst Estate be excluded from the proposed controlled parking zone for Hanover & Elm Grove and be provided an opportunity to reconsider their choice in one year.

72.43 The Chair provided the following response:

*“Thank you for coming today with your deputation. As you are aware from this meeting's agenda, the consultation results from the Hanover, Elm Grove and Craven Vale areas is being presented to members of this committee to discuss.*

*It is fully appreciated that for some distinct groups of roads within the overall consultation area, the narrow widths of the roads and footways mean that when designing a parking scheme a conventional parking design cannot be proposed for a minority of roads. It is the same situation that is faced in other areas of the city where there are clusters of narrow streets within a wider area.*

*So this is why the scheme is proposed to cover a large area and why the whole area has been consulted at the same time, and consulted twice on the type of scheme*

*preferred. By consulting across a wide area, the availability of resident-only bays can be maximised and reduces the likelihood of displacement parking.*

*This work is still ongoing and in very recent discussions further opportunities to improve the scheme for residents have been proposed and additional resident only bays identified.*

*We are also very mindful indeed of the experience from a number of other parking schemes where areas have been left out due to resident preference at that time but then have come forward with serious concerns about displacement parking and their inability to park.*

*We must also take into account that 60% of respondents across the whole area were in favour of a residents' parking scheme in some form.*

*It is rather unlikely that the council could come back to re-consult the Pankhurst Estate after just one year. We have several other areas that have been promised a consultation as part of the current parking scheme timetable that runs up till the end of 2018 or early 2019. In November this year proposals for the next timetable will be brought to this committee and there are already further areas asking to be consulted on that timetable. If a scheme is approved today the decision will be to proceed to the next stage of the process which is the advertising of the Traffic Regulation Orders and I can give you an assurance that officers will make early contact with you, in the way that you suggest, to walk around with you, listen to your points, your local knowledge and to go through further options before the Traffic Regulation Orders are advertised for further comment. Then at the end of that process, those comments on the orders come back to this committee for a further decision”.*

72.44 **RESOLVED-** That the Committee note the Deputation.

**(v) Parking in Hanover & Elm Grove**

72.45 The Committee considered a Deputation urging the Committee to consider the impact on business and providing suggested amendments in relation to the proposed Hanover & Elm Grove controlled parking zone.

72.46 The Chair provided the following response:

*“At present, two business permits are the maximum allowed under current policy to ensure that the supply for permits meets but not exceeds parking demand within controlled parking areas.*

*A permit review alongside the new online permit system is being proposed later in the year which will further review current citywide policies such as this.*

*Officers will investigate the amount of business permits that could be issued based on the size of a business similar to that when issuing school permits but we do need to consider the impact on the citywide parking situation, particularly in predominantly residential areas. We do have to ensure we get the balance right as obviously residents will also be purchasing permits and expecting to park near their homes.*

*I can give you the assurance that this will be considered as part of that review.*

*There are currently no permits available to businesses to provide to their visitors.*

*Allowing visitor permits to be offered to businesses will be investigated as part of that review; however, we need to think of the effect this will have on available parking particularly when businesses are located together.*

*The Council are also looking at opportunities to provide additional parking bays would allow visitors to businesses to park during restricted hours. Businesses will have the opportunity to comment further on this during the next more detailed Traffic Order stage if any proposal is agreed today. The outcome of that stage will then be coming back to this committee.*

*The reason that a 7 day operation for the light-touch area was proposed in the report is to try to protect the area from significant parking displacement and congestion at weekends when of course that particular part of the area would be totally unrestricted. However, we have listened to yourself and other residents who in that area would prefer a five day a week operation and I believe an amendment is being proposed to that effect this afternoon”.*

72.47 **RESOLVED-** That the Committee note the Deputation.

**(vi) Statement from Hanover & Elm Grove Local Action Team Parking Sub-Group**

72.48 The Committee considered a Deputation requesting amendments to the proposed Hanover & Elm Grove controlled parking zone proposals to improve parking capacity and aid traffic calming.

72.49 The Chair provided the following response:

*“During the 2010 consultation within the Hanover & Elm Grove area, concerns were also raised from the fire service over the proposals to introduce parking on both sides of the carriageway in those pocket areas. They ultimately outlined that they require a 3.1 metre carriageway width due to the length of the roads in the area if parking is on both sides. The comparison drawn up between the roads does not factor in the vast difference in the road lengths between those in the Lewes Road Triangle area and those in Hanover & Elm Grove. A number of roads in the Lewes Road Triangle area were also subject to a historical formal parking arrangement going back a number of years which was drafted into final detailed design. The emergency services were consulted on those proposals and they chose not to comment at that time which resulted in the design of that scheme. If any form of resident parking scheme is approved today, it will simply be to move to the next stage of the process which is the advertising of the formal traffic regulation orders. That gives us a period of some weeks where we can indeed work with you, we can look at areas in more detail, officers can come forward with any further suggestions we can sound you out on. And you have my commitment today that we will certainly do that. And of course the advertising of the orders themselves will give people living in the area the opportunity to comment and then the outcome of that consultation will come back to this committee”.*

72.50 **RESOLVED-** That the Committee note the Deputation.

**(vii) Hanover & Elm Grove Controlled Parking Proposals**

72.51 The Committee considered a Deputation requesting changes to the proposed Hanover & Elm Grove controlled parking zone to allow for parking on both sides in some medium width streets.

72.52 The Chair provided the following response:

*“During the 2010 consultation within the Hanover & Elm Grove area, concerns were raised by the fire service over the proposals to introduce parking on both sides of the carriageway and they did outline that they required a 3.1 metre carriageway to enable fire engines and emergency equipment to access and pass through the roads safely due to the length of the roads in the area.*

*Our officers have been in close contact with the fire service and they have made their requirements very clear.*

*If any form of resident parking scheme is approved this afternoon, it will be to pass on to the next traffic regulation order stage so there will be a further opportunity for residents to comment on the design and those will include detailed measurements that I’m sure you will want to respond to and then those responses will then come back to this committee in June”.*

72.53 **RESOLVED-** That the Committee note the Deputation.

### **73 MEMBER INVOLVEMENT**

#### **(c) Letters**

##### **(i) Application for a Definitive Map Modification Order, The Paddock, Roedean**

73.1 The Committee considered a Letter from Councillor Mears expressing support of the Roedean residents for their application for a Definitive Map Modification Order at The Paddock, Roedean.

73.2 The Chair provided the following response:

*“Thank you Councillor Mears for your letter and the comments you have made today. As you will be aware, the committee will be discussing this issue at Item 81 on our agenda and I’m sure Members will take your observations into account when considering the item”.*

73.3 **RESOLVED-** That the Committee note the Letter.

##### **(ii) Hanover & Elm Grove controlled parking zone proposals- Councillor Page**

73.4 The Committee considered a Letter from Councillor Page outlining his support for some element of the proposals and his disagreement with other proposals.

73.5 The Chair provided the following response:

*“Thank you for your detailed letter and I appreciate the work undertaken by all the Ward Councillors in the area. As you are aware from the agenda the results of the consultation from the Hanover & Elm Grove and Craven Vale areas are being presented later in the meeting for Members of this Committee to discuss the way forward”.*

73.6 **RESOLVED-** That the Committee note the Letter.

The meeting was adjourned at 17:45 and reconvened at 18:05

#### **74 HANOVER & ELM GROVE / CRAVEN VALE RESIDENT PARKING SCHEME CONSULTATIONS**

- 74.1 The Committee considered a report of the Executive Director, Economy, Environment & Culture that set out the outcome of the public consultation undertaken for a proposed parking scheme in the Hanover & Elm Grove and Craven Vale areas and requested permission to proceed with respective schemes as detailed in the report.
- 74.2 Councillor Gibson addressed the Committee on the proposals. He explained that there had been three years of very hard work from Hanover & Elm Grove Local Action Team (HEGLAT) to try and find a solution. Councillor Gibson stated that it was this work that had meant an area that had rejected a controlled parking scheme a number of years ago was now broadly, but not entirely, in favour of a scheme. Councillor Gibson congratulated officers who had responded well to high engagement from residents and had been flexible on the detail of the scheme. Councillor Gibson noted that there would be a forthcoming amendment moved and he urged the committee to support the actions in that amendment in order to respond to residents wishes and make the scheme better. Councillor Gibson explained that the amendment would mitigate issues such as those highlighted by the residents of Pankhurst Estate and the 'Top Triangle' and address the issues raised by local businesses.
- 74.3 Councillor Daniel addressed the Committee on the proposals. Councillor Daniel thanked officers who had worked on the proposals as she had found them to have listened to the all the ideas put forward by residents and had put in a great deal of effort. Councillor Daniel also thanked HEGLAT for their work especially the Chair. Councillor Daniel noted that the outcome of the two-stage consultation that demonstrated support from the majority of residents for the proposals in the report. Councillor Daniel stated that the proposals set a good balance between the voice of residents and the needs of businesses and even some of those residents entirely against a scheme had found the proposals to be fair. Councillor Daniel stated that it would be irresponsible to leave selected areas out of any controlled parking zone as it would only cause misery to those residents living in those areas. Furthermore, a new school had been identified for area toward the top of Elm Grove that would only bring further pressure on parking. Councillor Daniel urged the Committee to accept the report recommendations.
- 74.4 Councillor Miller noted that he had raised the issue of parking consultations conducted on the basis of individual residents rather than households at the previous meeting and asked if any update on that was available.
- 74.5 The Parking Infrastructure Manager stated that the matter had been discussed and he would circulate the detailed written text to Members subsequent to the meeting.
- 74.6 Councillor Theobald asked how many spaces would be lost should the proposals be agreed.
- 74.7 The Parking Infrastructure Manager stated that it would be extremely difficult to give an accurate figure at this stage due to the high amount of illegal parking in the area. 4,500

spaces would be created in the scheme and it could be estimated that up to 1,000 spaces could be lost due to parking on crossovers, junctions, pavements and with some roads losing parking on both sides of the roads.

74.8 Councillor Janio stated that businesses in the Fiveways area had reported a reduction in income since the introduction of a parking scheme in their area. Councillor Janio asked if there was an established method of actively monitoring such issues.

74.9 The Parking Infrastructure Manager stated that subsequent to any scheme being in place for one year, a survey was carried out with residents and businesses to assess how they felt the scheme was progressing and amendments to the scheme could be considered.

74.10 Councillor Greenbaum moved a motion on behalf of the Green Group as set out in bold italics below:

2.1 That the Committee approves:

(a) That a new resident parking scheme (Monday to Sunday 9am-8pm) be considered within the area South of Elm Grove (including the southern section of Elm Grove) and for those streets in the North West section (Appendix G) and that this proposal be progressed to the final design with the Traffic Order advertised to allow further comment

(b) That a new resident parking scheme (Monday to Sunday 9am-8pm) be considered within the Craven Vale area (Appendix G) and that this proposal be progressed to the final design with the Traffic Order advertised to allow further comment.

(c) That a new resident parking scheme (Monday to **Friday 11am-12 Noon & 6pm-7pm**) be considered within the remainder of the roads (Appendix G) and that this proposal be progressed to the final design with the Traffic Order advertised to allow further comment ***subject to e), f) and g) as set out below***

(d) ***That a new resident parking scheme (Monday to Friday 11am-12 Noon & 6pm-7pm) be considered within the remainder of the roads for the following coherent area:***

***Bonchurch Road, Whippingham Road, Whippingham Street, Shanklin Road, Bembridge Street, Sandown Road, Totland Road, Brading Road, Bernard Road, Bernard Place, Hartington Place; Hartington Terrace and the stretch of Hartington Road, starting at the end of proposed full scheme and ending at the bottom of Sandown Road and that this proposal be progressed to the final design with the Traffic Order advertised to allow further comment. All remaining roads and half roads included in the proposed area for the Hanover & Elm Grove light scheme will be removed and not progressed further***

(e) ***That the proposed shared parking on Freshfield Road be amended to resident permit only to give residents in the Pankhurst area more opportunities to park; with further consideration given to accommodating***

***some parking in Firle, Glynde and Clayton roads respectively and a report brought back to the next committee.***

- (f) That officers arrange a meeting with representatives of the residents associations in the Pankhurst area and the 'Top Triangle' area to discuss any refinements to the scheme available with the Elm Grove Residents Action Group ahead of the traffic order being advertised with outcome reported back to the next ETS Committee.***
- (g) That the Council's Road Safety Team investigates options to deter potential speeding along Pankhurst Avenue in response to concerns raised by residents and consider concerns raised by residents about speeding in Firle, Glynde and Clayton Roads, should the proposed double yellow lines be installed and report back to the next ETS Committee.***
- (h) That a trial scheme should be piloted allowing businesses to buy a number of visitor permits, in order to help offset potential adverse impacts of a CPZ***
- (i) That an order should be placed for any required pay and display equipment to ensure implementation of the new proposed parking scheme (if agreed at a further committee meeting) is undertaken as programmed.

74.11 Introducing the motion, Councillor Greenbaum stated that the amendments were an attempt to accurately reflect resident's views and the hard work of ward councillors who had engaged with the community.

74.12 Councillor Deane formally seconded the motion.

74.13 Councillor Wares commented that he had found it unhelpful that a large and complex amendment had been tabled such a short time ahead of the meeting. Councillor Wares stated that he was especially concerned that amendment (d) had not been put to residents and many were unlikely to know about it due to the lateness of the motion.

74.14 Councillor Atkinson stated that the introduction of a scheme was a complex issue as demonstrated that two rounds of consultation had been undertaken. Councillor Atkinson noted that he felt the recommendations provided a way forward for residents in the area and repeated the concerns regarding amendment (d) put forward by the Green Group expressed by Councillor Wares.

74.15 Councillor Janio observed that whilst he appreciated the efforts of the ward councillors in trying to do the best for their residents, the Green Group amendment was very late and very complex although he found the proposals for a pilot for businesses to buy resident permits imaginative. Councillor Janio stated that debate caused upon each introduction of a scheme demonstrated the need for a wider review of parking in the city.

74.16 Councillor Deane stated her appreciation of the considerable work put in by officers in a very complex and very wide area. Councillor Deane stated that the matter had received considerable debate and consultation and it was clear that the majority of people in the area wanted a controlled parking scheme. However, some areas were decidedly against a scheme or elements of the scheme and that a resolution for that was reflected in the



Green Group amendment. Councillor Deane stated that it had been made clear to those residents that if a scheme was not taken forward at this point then it was unlikely that the council would return to the issue for a number of years. Councillor Deane urged the Committee to support the motion.

- 74.17 Councillor Wares stated that if a scheme was to be approved, the committee could not leave elements out as it would cause enormous displacement and pain for those areas outside the scheme.
- 74.18 The Deputy Head of Law stated that Brighton & Hove City Council had a clear, established method of consultation with residents and residents would therefore have legitimate expectation that process would be followed. In the case of recommendation 2.1 (d) of the motion, residents might argue that the council had not followed its established procedures.
- 74.19 The Chair then put the Green Group motion to the vote. Recommendation 2.1 (c), (e), (f), (g) and (h) were carried and recommendation 2.1 (d) failed.
- 74.20 The Chair then put the recommendations as amended to the vote that were agreed.
- 74.21 **RESOLVED-** That the Committee approves:
- (a) That a new resident parking scheme (Monday to Sunday 9am-8pm) be considered within the area South of Elm Grove (including the southern section of Elm Grove) and for those streets in the North West section (Appendix G) and that this proposal be progressed to the final design with the Traffic Order advertised to allow further comment
  - (b) That a new resident parking scheme (Monday to Sunday 9am-8pm) be considered within the Craven Vale area (Appendix G) and that this proposal be progressed to the final design with the Traffic Order advertised to allow further comment.
  - (c) That a new resident parking scheme (Monday to Friday 11am-12 Noon & 6pm-7pm) be considered within the remainder of the roads (Appendix G) and that this proposal be progressed to the final design with the Traffic Order advertised to allow further comment subject to e), f) and g) as set out below
  - (d) That the proposed shared parking on Freshfield Road be amended to resident permit only to give residents in the Pankhurst area more opportunities to park; with further consideration given to accommodating some parking in Firle, Glynde and Clayton roads respectively and a report brought back to the next committee.
  - (e) That officers arrange a meeting with representatives of the residents associations in the Pankhurst area and the 'Top Triangle' area to discuss any refinements to the scheme available with the Elm Grove Residents Action Group ahead of the traffic order being advertised with outcome reported back to the next ETS Committee.
  - (f) That the Council's Road Safety Team investigates options to deter potential speeding along Pankhurst Avenue in response to concerns raised by residents and consider concerns raised by residents about speeding in Firle, Glynde and Clayton Roads, should

the proposed double yellow lines be installed and report back to the next ETS Committee.

- (g) That a trial scheme should be piloted allowing businesses to buy a number of visitor permits, in order to help offset potential adverse impacts of a CPZ
- (h) That an order should be placed for any required pay and display equipment to ensure implementation of the new proposed parking scheme (if agreed at a further committee meeting) is undertaken as programmed.

## **75 HEALTH AND SAFETY SERVICE PLAN 2017-18**

- 75.1 **RESOLVED-** That the Committee approves the proposed Health & Safety Service Plan 2017/2018 at Appendix 1.

## **76 OFFICIAL FEED AND FOOD CONTROLS SERVICE PLAN 2017/18**

- 76.1 **RESOLVED-** That the Committee agrees the Official Feed and Food Controls Service Plan 2017/2018 set out in the appendix to the report.

## **77 2017/18 LOCAL TRANSPORT PLAN CAPITAL PROGRAMME**

- 77.1 The Committee considered a report of the Executive Director, Economy that requested the Committee to recommend to Policy & Resources Committee the 2017/18 Local Transport Plan (LTP) capital programme budget allocation of £6.635 million to projects and programmes and to note the indicative allocation of future LTP budgets to projects and programmes for 2018/19 and 2019/20 of £5.169 million per year to fund the LTP 4-year Delivery Plan.
- 77.2 Councillor Theobald welcomed the substantial increase in funding provided by central government. Councillor Theobald noted that Manchester had begun to remove 20mph limits on some streets and asked if officers had any comment to make on that.
- 77.3 The Assistant Director- City Transport stated that he was unsure of the reasons why Manchester had made their decision. Monitoring undertaken in Brighton & Hove had demonstrated a reduction in speed and accidents in roads where 20mph limits had been introduced.
- 77.4 Councillor Miller noted that central government had made an announcement of £690 million to be invested in transport schemes in the Budget and asked if officers intended to bid for any of that funding. Councillor Miller noted that £80,000 had been identified for investment in the 20mph scheme and asked whether that investment should be moved elsewhere as he did not believe the introduction of 20mph limits had been successful.
- 77.5 The Head of Transport Policy & Strategy stated that £220 million of the £690 million investment by central government had already been allocated to specific schemes. Further announcements would be made in due course on a portion of the remaining funding and it was his understanding that local authorities would have to bid to win this funding. In relation to the £80,000 allocated for 20mph speed limits, the Head of Transport Policy & Strategy explained that this would be used for certain locations

where compliance was not what it should be and further measures were required to reduce speeds.

- 77.6 Councillor Wares noted that a specific funding of £135,000 had been provided for the repair of potholes and asked if that could be separated out in the budget lines to provide committee oversight of where that was being spent. In addition, Councillor Wares noted that £250,000 had been identified for drainage improvements and enquired whether this would be targeted in the 10 'hot-spot' flood risk areas, such as Patcham. Furthermore, Councillor Wares asked whether the £200,000 for pedestrian crossings would be spent on the existing pedestrian crossing priority list or a new one would be generated.
- 77.7 The Assistant Director- City Transport stated that a condition of the £135,000 Pothole Action Fund was for the council to report on the council website on where this had been spent. The intention of the funding was to deliver pro-active structural improvements to stop potholes from forming rather than remedial repairs. The Head of Transport Policy & Strategy stated that the £250,000 identified for drainage improvements would all be invested in existing problems in highway drainage and gully's and some of those may well be in proximity to some of the hot spots identified in terms of flood risk but no finalised programme had yet been devised. Pedestrian crossing data would be compiled in April or May and when that information was received, a programme would be created for which to allocate the £200,000. That programme could be circulated to the committee members when complete.
- 77.8 Councillor Janio noted that allocations for National Productivity Investment Fund (NPIF) appeared in the report to be directed towards West Street/Shelter Hall. Councillor Janio enquired as to whether this would be an indefinite allocation or whether a priority would follow this and what that would be. Councillor Janio noted that £160,000 was allocated toward Valley Gardens and asked whether this related to the beginning of construction work.
- 77.9 The Head of Transport Policy & Strategy stated that there would be consideration of other areas for the NPIF once works at West Street/Shelter Hall had been completed subject to the level of funding. He added that work on site would begin for the Valley Gardens project before the end of March 2018.
- 77.10 Councillor Greenbaum noted her disappointment in the lack of reference to air quality improvement measures and there were many more things that could be done by the council in terms of the scale of the problems faced in Brighton & Hove.
- 77.11 The Chair stated that across the entire LTP programme, the need to improve air quality was addressed and asked officers if there were any specific funding announcements made by central government.
- 77.12 The Head of Transport Policy & Strategy clarified that there were many areas of investment across the LTP programme that sought to improve air quality and included the Safer Routes to School programme and School Travel Plan measures that were focussed on sustainable measures of transport, the Intelligent Transport Systems investment and the electrical charging point investment.

- 77.13 Councillor Deane noted that the committee had received a deputation earlier in the meeting cataloguing the many transport issues in Surrey Street but the area and any measures to address the problem was not mentioned in the report.
- 77.14 The Head of Transport Policy & Strategy noted that £15,000 was allocated in the report for final amendments to the Brighton Station Gateway scheme and that could contribute to improvements on Surrey Street as required and subject to any progress made in discussions with GTR.
- 77.15 Councillor Theobald enquired as to the budget allocated for pedestrian crossing improvements in comparison to the previous financial year, any allocation for yellow lines outside of controlled parking zones.
- 77.16 The Head of Transport Policy & Strategy stated that the budget allocated this year of £115,000 for pedestrian crossing was the same as in the previous financial year and any investment would be relative to the nature of the improvements that were required. The Parking Infrastructure Manager clarified that yellow lines could be introduced for schemes related to the LTP and outside of controlled parking zones as well as maintenance of existing yellow lines.
- 77.17 Councillor Wares enquired as to how the committee could be assured that the varying allocations were an accurate reflection of the investment required.
- 77.18 The Head of Transport Policy & Strategy stated that page 76 of the report noted that there were caveats to the allocations made that could reflect a change in circumstances or revisions required. Furthermore, the programme of spend was monitored on a monthly basis by officers.

77.19 **RESOLVED-**

That the Environment, Transport & Sustainability Committee:

- 1) Recommends to request that Policy, Resources & Growth Committee agrees the 2017/18 Local Transport Plan capital programme budget allocation of £6.635 million to projects and programmes, as set out in Appendix 2 of this report; and
- 2) Notes the indicative allocation of future LTP budgets to projects and programmes for 2018/18 and 2019/20 of at least £5.169 million in each year to fund the Local Transport Plan 4-year Delivery Plan, as set out in paragraph 7.1 of this report.

**78 BRIGHTON & HOVE BIKE SHARE - TRO REPRESENTATIONS**

- 78.1 The Committee considered a report of the Executive Director, Economy, Environment & Culture to set out the comments and objections received in relation to the proposed Traffic Regulation Orders (TRO) associated with sites identified for the Brighton & Hove Bike Share Scheme and requested approval to proceed.
- 78.2 Councillor Janio welcomed the report adding that whilst it had been a long process, he hoped it could be a success. Councillor Janio stated that he hoped that the council would make no financial contribution that had not already been agreed as part of the

contract and that there would be no revisions to the contract terms following commencement.

- 78.3 Councillor Wares asked for assurance that there would not be a displacement or congestion of bikes in one area.
- 78.4 The Principal Transport Planner stated that there were unknowns to the issue of displacement as it would be difficult to predict human behaviour and movements until the scheme had begun. However, the contract terms had clear Key Performance Indicators and one of those was that the operator would be responsible for re-distribution of the bicycles.
- 78.5 Councillor Greenbaum welcomed the scheme adding that with the key seasons of spring and summer missed before it became operational; some focus was needed on promotion of the scheme.
- 78.6 The Principal Transport Planner explained that there was funding available from the Access Fund to cross-promote and the operator had a number of local businesses to market and promote the scheme.
- 78.7 Councillor Miller asked what measures would be taken to prevent obstructive parking of the bicycles.
- 78.8 The Principal Transport Planner stated that the issue was complex and down to a number of factors however, there would be enforcement of the scheme by both the operator and the council.
- 78.9 **RESOLVED-**
- 1) That, having taken account of all duly made representations and objections, Committee Members approve as advertised the following order:

Brighton & Hove Various Controlled Parking Zones Consolidation Order 2015 Amendment Order No.\* 201\* (ref: TRO-29-2016)

- 2) That, having taken account of all duly made representations and objections, Committee Members approve the leasing of public open space to the Bike Share Operator.

## **79 WEST HOVE RESIDENT PARKING SCHEME CONSULTATION**

- 79.1 **RESOLVED-** That the Committee approves that a detailed design proposal for a resident parking scheme as a light touch (two periods during the day which are proposed to be 11am -12 Noon and 6pm - 7pm) and Monday to Sunday be consulted upon in the whole consultation area as detailed at Appendix A.

## **80 PARKING PROPOSALS WITHIN THE EVENT DAY PARKING SCHEMES**

- 80.1 **RESOLVED-** That the Committee (having taken into account of all the duly made representations and objections) agree the following:

- a) Approve the Various Controlled Parking Zones Consolidation Order 2015 Amendment Order No.\* 201\* with the following amendments:
- b) That the proposed double yellow lines in Ashurst Road be amended on this Traffic Regulation Order due to the concerns outlined in para 3.3

**81 APPLICATION FOR A DEFINITIVE MAP MODIFICATION ORDER, THE PADDOCK, ROEDEAN**

- 81.1 The Committee considered a report of the Executive Lead, Strategy, Governance & Law that set out the result of the Council's consideration of an application for a Definitive Map Modification Order for The Paddock, Roedean submitted by the Roedean Residents Association.
- 81.2 Councillor Miller asked for a clear definition on "interruption" and clarification on how the Southern Water works met that test.
- 81.3 The Lawyer stated that the route was inaccessible when the Southern Water works were being carried out which did qualify as an interruption if the route could not be used because of obstruction. The Lawyer added that signs were also displayed during the work that demonstrated no intention on behalf of the landowner to dedicate the route as a right of way.
- 81.4 Councillor Miller noted that a Planning Inspectors report relating to footpath closures during the foot and mouth outbreak had not found interruption to exist in that case even through permanent closure. Councillor Miller asked why neither consideration nor photographs had been provided for the steps on neither the south east side of The Paddock nor photos of the gates backing on to The Paddock had been given.
- 81.5 The Lawyer noted that The Paddock had been closed for 18 months during the Southern Water works that may be a longer period of time than the closures relating to foot and mouth. The Lawyer referred to the photos taken in 2006 on page 268 of the agenda that showed the south east corner and steps.
- 81.6 Councillor Janio asked if the signs displayed during the Southern Water interruption stated that the site was closed.
- 81.7 The Deputy Head of Law stated that the signs put up by Southern Water and the licence submitted by Southern Water and issued by the Council led to the conclusion that the 18 months work did constitute an interruption in accordance with Section 31 of the Highways Act.
- 81.8 Councillor Janio asked for clarification on whether the signs stated that access was denied or if they stated that Southern Water was undertaking work.
- 81.9 Councillor Theobald asked what the process would have been should the site had already been designated as a Right of Way before the Southern Water works and the site had needed to be accessed for engineering work.

- 81.10 The Lawyer stated that if the site had already been a claimed route then Southern Water would need to have obtained a permit to carry out the work. Instead, a licence was required as the site was deemed to be on private land.
- 81.11 Councillor Miller asked why the initiation of 'the clock' in 2012 had not started earlier for example when the planning application was submitted which indicated it was a path.
- 81.12 The Lawyer clarified that under the Highways Act, the 20 years was taken from the date of challenge and the date of challenge was taken to be when the signs were erected stating that it was not a Right of Way.
- 81.13 Councillor Deane asked if the land was not designated or recognised as a Right of Way and was continued to be used, whether the Council undertake prosecution against residents.
- 81.14 The Lawyer stated that the Council, as landowner, currently provided permissive use for residents to use the land.
- 81.15 Councillor Deane asked if that permission was ever likely to be withdrawn.
- 81.16 The Deputy Head of Law stated that the determination of the Committee should be based upon the evidence available of whether a Right of Way on the land could reasonably or alleged to subsist rather than future plans for the land
- 81.17 Councillor Wares asked if it was known when and why the steps in the south east corner of The Paddock had been put there for.
- 81.18 The Lawyer stated the report from Earthship Biotech Limited detailed what was on the site and that only referenced a footpath on the western boundary with no other footpath mentioned. With reference to the placement of the steps and the date they were built, the Deputy Head of Law stated that the Council had no evidence about those steps and therefore could not make an informed decision. However, the evidence that the steps exist did not support that as a specific, claimed route.
- 81.19 Councillor Wares stated the assessment to be made was on the information available and Members could infer that the presence of the steps could mean that there was a footpath around the boundary of the site.
- 81.20 The Deputy Head of Law commented that the steps were one part of the evidence put forward and the report set out many other pieces of evidence and a conclusion had been made on the whole.
- 81.21 Councillor Janio asked hypothetically that if the route had been used for a very long time, the fact that Southern Water works had required a licence meant that Members were compelled to support the recommendations.
- 81.22 The Lawyer stated that hypothetically speaking that would be the case however, that was one factor of the evidence and from that evidence no footpath could be claimed to exist from Ordnance Survey maps until 2013 when Cityclean had begun mowing the route.

- 81.23 Councillor Miller stated that he felt there had been a failure in the report to address how the common law test had not been met.
- 81.24 The Lawyer stated that the report did address the matter with consideration of the twenty year test under the Highways Act which encompassed the common law test. Furthermore, to qualify under the common law test, there would have to have been many more users than eleven over the twenty year period.
- 81.25 Councillor Miller asked why the private property signs were erected in 2012 if it was not until 2013 that it was understood the land was being used otherwise.
- 81.26 The Lawyer stated that the signs had been put in place due to concern about a potential village green application.
- 81.27 Referring to page 184 of the agenda, Councillor Miller stated that he was unsure why the term “identifiable” in relation to an established route had been used as this was not a term used in legislation. In addition, Councillor Miller asked if there was potential for judicial review of the decision made by the Committee by Roedean Residents Association.
- 81.28 The Lawyer clarified that the term “identifiable” referred to case law. The Lawyer added that if the recommendation was accepted as per the report, the Roedean Residents Association would be entitled to appeal to the Secretary of State and there would be a Public Inquiry.
- 81.29 Councillor Miller asked if the Roedean Residents Association had the right to judicially review the council independent of an appeal.
- 81.30 The Deputy Head of Law stated that the established rules for public administrative law would apply in that if the Roedean Residents Association felt that an unlawful, irrational decision had been made they could request a judicial review application. The Deputy Head of Law clarified that this was of low-risk to the council as there was a clear means of appealing the decision.
- 81.31 On behalf of the Conservative Group, Councillor Miller moved an motion to amend recommendation 2.1 as shown in bold italics below:

- 2.1 ***That the Committee does approve the application for a Definitive Map Modification Order on the basis that it has been found that, on the balance of probabilities, a right of way over the Claimed Route subsists or can reasonably be alleged to subsist. This is on the basis that on the balance of probabilities it can reasonably be alleged that a right of way over the land has been enjoyed by the public as of right and without interruption for a full period of 20 years. The documentary evidence, along with the user evidence and councillor evidence, does support the existence of the Claimed Route. There is also not sufficient evidence that there was no intention to dedicate the Claimed Route within that period.***



81.32 Introducing the motion, Councillor Miller stated that there was a large amount of evidence that had failed to be considered specifically, the photos of the back gate, the photos the steps and no reference had been made to the user evidence that Section 31 of the Highways Act set out as a requirement. Councillor Miller noted that there was a contradiction in the statements made as the Ordnance Survey maps had been used to support the claim that no route existed yet page 236 of the agenda noted a solid line running along the eastern side and western side of The Paddock. Councillor Miller stated that he disagreed with the officer evidence and judgement and there was an identifiable route in his view.

81.33 Councillor Janio seconded the motion had stated he reiterated the views expressed by Councillor Miller.

81.34 Councillor Greenbaum stated that she was mindful of the photo provided by Councillor Miller of the gates as she was unaware they were there and she was concerned that was evidence of a physical path. Councillor Greenbaum commented that she was minded to abstain as she could not be certain of a clear conclusion based upon the physical evidence.

81.35 On behalf of the Labour Group, the Chair moved the following motion to add a recommendation 2.2 as shown in bold italics below:

***2.2 That the Committee recommends that, given the complexity of the case and the legal position, that the matter be referred by the Roedean Residents Association to the Secretary of State for Environment, Food and Rural Affairs***

81.36 Councillor Horan seconded the motion.

81.37 Councillor Miller asked if the committee could decline to make a decision and what would happen if the recommendation in the motion was rejected by Roedean Residents Association.

81.38 The Deputy Head of Law confirmed that if the motion was agreed, a Modification Order would not be made and the Residents Association could appeal directly to the Secretary of State.

81.39 The Chair then put the Conservative motion to the vote which failed.

81.40 The Chair put the Labour Group motion to the vote that passed.

81.41 The Chair put the recommendations as amended to the vote that passed.

81.42 **RESOLVED-**

1) That the Committee does not approve the application for a Definitive Map Modification Order on the basis that it has not been found that, on the balance of probabilities, a right of way over the Claimed Route subsists or can reasonably be alleged to subsist.

- 2) That the Committee recommends that, given the complexity of the case and the legal position, that the matter be referred by the Roedean Residents Association to the Secretary of State for Environment, Food and Rural Affairs

**82 ITEMS REFERRED FOR FULL COUNCIL**

- 82.1 No items were referred to Full Council for information.

The meeting concluded at 8.05pm

Signed

Chair

Dated this

day of