

BRIGHTON AND HOVE CITY COUNCIL
PLANNING COMMITTEE
2.00pm 2 NOVEMBER 2022
COUNCIL CHAMBER, HOVE TOWN HALL
MINUTES

Present: Councillors Littman (Chair), Ebel (Deputy Chair), Childs, Janio, Moonan (Opposition Spokesperson), Yates, Gibson and Hugh-Jones

Apologies: Councillors Barnett, Hills, Shanks and Theobald

Substitutes attending: Councillors Hugh-Jones and Gibson

Officers in attendance: Nicola Hurley (Planning Manager), Jane Moseley (Planning Manager), Katie Kam (Senior Lawyer), Don Anyiam (Highway Agreements Officer), Chris Swain (Planning Team Leader), Sonia Gillam (Senior Planning Officer), Emma Kumar (Housing Enabling Officer), Steve Dover (Planning Officer), Wayne Nee (Principal Planning Officer) and Shaun Hughes (Democratic Services Officer)

PART ONE

51 PROCEDURAL BUSINESS

a) Declarations of substitutes

51.1 Councillor Hugh-Jones substituted for Councillor Shanks. Councillor Gibson substituted for Councillor Hills.

b) Declarations of interests

51.2 Councillor Janio stated they had expressed views on the Madeira Terrace proposals at full council and would withdraw from the debate when items D and E were discussed.

c) Exclusion of the press and public

51.3 In accordance with Section 100A of the Local Government Act 1972 (“the Act”), the Planning Committee considered whether the public should be excluded from the meeting during consideration of any item of business on the grounds that it is likely in view of the business to be transacted or the nature of the proceedings, that if members of the public were present during it, there would be disclosure to them of confidential information as defined in Section 100A (3) of the Act.

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

52 MINUTES OF THE PREVIOUS MEETING

- 52.1 **RESOLVED:** That the minutes of the meeting held on 5 October 2022 were accepted as a correct record.

53 CHAIR'S COMMUNICATIONS

- 53.1 The Chair stated: The most significant piece of news to emerge over the last month, ignoring the ongoing game of musical chairs being played at Downing Street, is Council's agreement to pass City Plan Part 2.

The ramifications of this are huge. Among other things, it allows this committee greater powers in determining whether the applications before us represent developments which are in the best interests of the city, now and into the future.

One thing that many members of the public find surprising, and that includes most newly elected Councillors, is how little power Local Planning Authorities have to actually carry out local planning. As with all matters of Government, decision-making powers are heavily weighted in the favour of central Government. We live in the country with the most centralised Government powers of any country in Europe.

City Plan Part 2 does something to shift that balance in the direction of local democracy.

In practical terms, City Plan Part 2 means that local policies have full force. We will now be able to:

- Raise the quality and affordability of new homes
- Support the local economy
- Ensure developers engage with providers of the city's essential infrastructure
- Move towards carbon neutrality
- Ensure developments leave biodiversity in a measurably better state than it was before the development took place
- And protect our historic properties.

Brighton and Hove needs to keep developing. We're a vibrant city, we can't sit still. However, now we can take a little more control in order to ensure that what is developed is the sort of development we need and doesn't come at a cost of our existing built or natural environment.

I, for one, am looking forward to seeing what we can achieve.

54 PUBLIC QUESTIONS

- 54.1 There was one public question from Gareth Hall:

In 2017 planning permission was given to demolish the tea pavilion in Hove Park and build a restaurant.

It was agreed that a healthy elm tree could be felled provided replacement trees were planted once the restaurant was built.

The tree was felled but the new build hadn't gone ahead.

Why does the planning committee not put a time limit between the felling of trees and the replacement of them?

Gareth Hall

Response:

Thank you for your question. Planning permission to replace the existing café was granted under delegated powers in June 2018 (reference BH2017/02095). The works allowed for the removal of the elm tree beside the existing cafe, with replacement tree-planting being required by condition. The condition required that the approved planting be carried out in the first planting season after the development was completed.

So, in answer to your question, the condition does specify a time limit for the replacement of trees lost to development, which is within the first planting season after the works are completed. However, local planning authorities have no power to ensure works are completed, or how long that process might take.

It is also worth noting that 'implementing' a planning permission can consist of as little as digging a trench. Thereafter, the permission remains 'live' and can be implemented at any future point.

In other words, we don't know whether or not the developer intends to complete the work at some point.

As a result, we could not put a time limit between the felling of trees and the replacement of them, since, in law, once implemented, the decision whether or not to go ahead with a development and the timetable for any such development, rest solely with the developer.

It should perhaps also be noted that any tree which is not subject to a Tree Preservation Order or lies within a conservation area, can be removed without consent.

Finally, as noted, this application did not come before this Committee. Personally, I think that is a real pity. Although we have no greater powers than do officers, and might easily have made the same decision, I believe democratic oversight might have been beneficial, especially had members had the chance to ask relevant questions. Unfortunately, since there was only one public objection, and the ward Councillors did not choose to ask for the application to be brought here, this did not happen.

Do you have a supplementary question?

Why is this down to the developer?

Response:

The legal stipulations state that the Local Planning Authority have no further powers on this matter. The Planning Manager will forward to legal wording being referred to.

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

55.1 There none requested.

56 TO CONSIDER AND DETERMINE PLANNING APPLICATIONS

A BH2022/01855 - 62-63 Old Steine and 3 Palace Place, Brighton - Full Planning

1. The Planning Manager introduced the application to the committee.

Answers to Committee Member Questions

2. Councillor Moonan was informed that there would be one disabled unit at ground floor level and no marketing of the building had been undertaken as a viability assessment had been undertaken on this council owned property. It was also noted that the property had wheelchair access by condition. The Housing Development & Acquisitions Manager noted that the June 2021 Housing committee agreed to release the building as part of the asset disposal strategy.
3. Councillor Yates was informed by the Highway Agreements Officer that the highways comments were there should be no parking for the property. It was noted that the cycle basement parking would require by discharge of condition to be demonstrated to be accessible. The Planning Manager stated that the cycle parking condition could be looked at. Councillor Yates suggested 'or alternative arrangements as with transport', and an informative to enforce.
4. The Planning Manager noted this was a car free development and stated that the process has changed from securing this via a condition and an informative can be attached instead which would alert the transport team to decide if residents would be restricted in accessing permits.

Debate

5. Councillor Hugh-Jones considered the access to cycle parking through three doors to be an issue.
6. Councillor Yates noted the property has a long history and considered the loss of office space in the city centre a concern. The councillor did not consider the cycle parking the best use of the underground space and requested more useful cycle parking be found.
7. Councillor Gibson supported the scheme with 100% affordable housing and high eco standards.
8. Councillor Janio considered that policy prevents conversion to accommodation. The councillor supported the application.

Vote

9. A vote was taken on the informative, and the committee agreed unanimously: Existing Controlled Parking Zone/Residents' Parking Scheme: You are advised that details of the development will be passed to B&HCC as Traffic Authority administering the Controlled Parking Zone, of which the development forms part, so they can determine whether occupiers should be eligible for residents' parking permits.

10. A vote was taken on the changes to condition 8, and the committee agreed unanimously: Amend condition 8: The development hereby permitted shall not be occupied until the cycle parking facilities shown on the approved plans have been fully implemented and made available for use or an alternative arrangement has been agreed with the Local Planning Authority which is subsequently implemented. The cycle parking facilities shall thereafter be retained for use by the occupants of, and visitors to, the development at all times.

Reason: To ensure that satisfactory facilities for the parking of cycles are provided and to encourage travel by means other than private motor vehicles and to comply with policy DM36 of the Brighton & Hove City Plan Part Two, and SPD14 Parking Standards.

11. A vote was taken on the officer recommendations, and the committee agreed unanimously to grant planning permission.

12. **RESOLVED:** That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in the report and resolves to be **MINDED TO GRANT** planning permission a s106 agreement and the Conditions and Informatives as set out in the report.

B BH2020/03583 - Kings House, Grand Avenue, Hove - Deed of Variation

1. The Case Officer introduced the application to the committee.

Answers to Committee Member Questions

2. Councillor Moonan was informed by Steve Underwood of Southern Housing that the units would be marketed to the Council first and the properties would be 75% shared ownership.

Debate

3. Councillor Moonan considered the above usual 60% affordable housing to be very good and supported the application.

4. Councillor Yates considered the percentage to be good and supported the application.

5. Councillor Hugh-Jones supported the application.

Vote

6. A vote was taken, and the committee agreed unanimously to agree the Deed of Variation.
7. **RESOLVED:** That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in the report and resolves to **GRANT** a Deed of Variation to the following Head of Term for the S106 Agreement in respect of Affordable Housing in order to remove the requirement for a commuted sum and remove the requirement for a review mechanism.

C BH2017/01665 & BH2020/03619 - Whitehawk Clinic, Whitehawk Road, Brighton - Deed of Variation

1. The Planning Manager introduced the application to the committee.

Speakers

2. Daniel Harris addressed the committee as concerned resident and they noted that the land was a council asset, however the rehabilitation centre has been lost from the site. The speaker considered it important that the council 'push back' against the developer and noted that no viability assessment had been undertaken. Following the Knoll House evictions there was more need for homes and commuted sum of £56,000 was too little. The community are considered to be demoralised; therefore, the committee are requested to reject the application.
3. Guy Dixon addressed the committee as the agent for the applicant and noted that the client was in financial difficulties and work on the site was 'stop-start'. 15 affordable housing units is not viable now. 26% affordable housing and £56,000 are suggested. The committee are requested to approve the application.
4. The Planning Manager noted that objections had been received from Councillor Williams and Councillor Platts.

Answers to Committee Member Questions

5. Councillor Moonan was informed that the size and tenure were flexible to provide the best chance for a regulated provider to be interested. It was noted the regulated provider could say no to the development. The Housing Enabling Officer noted that small developments with few units are difficult for the council or regulated providers. It was noted that shared ownership is usually better for regulated providers. The council prefer on site affordable housing; however, a commuted sum is acceptable.
6. Councillor Yates was informed by the Housing Enabling Officer that the total commuted sum would be £1.1m. The Planning Manager noted that a viability assessment has taken place and the £56,000 was not equal to 5 units.
7. Councillor Hugh-Jones was informed by Lloyd King of Southern Homes that the demolition and enabling works proved very expensive and the District Valuer Service (DVS) revised report was accepted by Martin Homes. 10 units is the maximum number of units the scheme can viably sustain.

8. Councillor Gibson was informed by Lloyd King that the contingency fund was 5% as agreed with DVS, and this has been used already. Profits were estimated by DVS and Martin Homes disagreed but accepted were 17.5% on private and 6% on affordable housing.
9. The Planning Manager noted that Planning policy guidance finds 15 to 20% acceptable and informed Councillor Gibson that 10 affordable units could be added to the Heads of Terms.
10. Councillor Childs was informed by Lloyd King that they were unable to say if the developers will make a profit at this time.
11. Councillor Yates was further informed that it was within the applicants right to put the application before the committee and change items later on, and the council had to accept this.
12. Councillor Janio was informed by Guy Dixon that the lender was unhappy at the current position and the scheme cannot be finished if the application is not agreed. Lloyd King noted that a review mechanism forms part of the conditions suggested in the recommendations. It was noted that agreement at committee would allow the scheme to be completed.
13. Councillor Moonan was further informed by the Planning Manager that they would get back to the Member regarding how much was in the council commuted sum pot and where it will be used. It was noted that a report would be submitted on this matter to TECC.
14. Councillor Ebel was informed that the affordable housing could not be reduced under the review mechanism.
15. Councillor Gibson was further informed by Housing Enabling Officer that the commuted sum would usually be paid at an early stage. Guy Dixon confirmed there was approximately two months' work left on the scheme.

Debate

16. Councillor Moonan considered the regulated providers need to be looked at and the council should look at small sites. It was considered that mix use developments are good in the city.
17. Councillor Janio considered that the developer needed to make a profit and supported the application.
18. Councillor Gibson noted the scheme was two months away from being completed and considered that each home purchase would be around £75,000, therefore £1.1m equals 14 homes. The councillor considered mixed communities to be good, but the council need to maximise money.
19. Councillor Hugh-Jones noted the site looks close to being finished and considered the situation to be awful as the affordable housing would be reduced.

20. Councillor Childs did not support the application as it put profit before housing.
21. Councillor Yates did not feel able to vote for the application as this would mean the developer could come back and change what was previously agreed. Affordable housing is needed everywhere, especially in this community.
22. Councillor Littman stated they were unhappy with the application as it reduced affordable housing.

Vote

23. A vote was taken, and by 7 to 1 the committee refused the officer recommendation to approve.

24. An alternative recommendation was proposed by Councillor Yates and seconded by Councillor Childs: Members refused the deed of variation on the basis that it would not give sufficient confidence that the scheme would deliver an acceptable level of affordable housing in the city.

Vote

25. A recorded vote was taken, and the following Councillors voted for the alternative recommendation against the officer recommendation: Councillors Ebel, Childs, Moonan, Yates, Gibson, Hugh-Jones and Littman. Councillor Janio voted against the alternative recommendation.

D BH2022/02577 - Madeira Terrace, Madeira Drive, Brighton - Full Planning

1. The Planning Manager introduced applications D and E to the committee, stating they would be discussed at the same time. The case officer updated the committee and stated that one further letter of support had been received and two letters of objection. No new issues had been raised apart from location.

Answers to Committee Member Questions

2. Councillor Yates was informed by the case officer that the new lift had been considered at pre-application stage when the design, usability and materials had been considered. There are maintenance plans in place. The existing lift will be updated removing the necessity for operator and the by condition there will be management and maintenance plans. The lift will operate all hours, be wheelchair accessible, with entrances lit at night.
3. Councillor Moonan was informed by the case officer that there were no specific plans for water fountains, however, these would not require planning permission. There were conditions referring to maintenance plans for the lift and management. The lower level will be flexible use for Pop-up events with seating, space allowed, drainage, water and electric points included.
4. Councillor Yates was further informed that the upper level balustrade public safety issues were not a planning matter.

5. Councillor Childs was informed by the case officer that 22 car parking spaces would be lost to create 3 access points from the verges with pedestrian crossings. A conscious effort had been made to make the design of the new lift different from the existing, allowing the older lift to retain prominence in the terrace.

Debate

6. Councillor Yates supported the changes and updates of this area that is the jewel of the city. The councillor did not want to lose the promenade area and considered the design met the needs of the city. The proposals improve the area with better access through the lifts and stairs for this key way of getting to the beach. The promenade is heritage asset, and the proposals enhance and protect the area.
7. Councillor Ebel considered the proposals to be a good design with flexible spaces under the arches being good for pop-up events. The improvements in lifts and stairs improved accessibility. The Councillor supported the application.
8. Councillor Childs considered the area was currently an embarrassment to the city and the design of the new lift was not good, however, the Councillor supported the application.
9. Councillor Littman supported the application as it was a good design, and the accessibility was good. Historic England support the lift design and the access outweighed any impact.

Vote

Item D: Planning Permission

10. A vote was taken, and the committee agreed unanimously to grant planning permission. (Councillors Hugh-Jones and Janio took no part in the decision making process or vote).
11. **RESOLVED:** That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in the report and resolves to **GRANT** planning permission subject to the Conditions and Informatives in the report.

Item E: Listed Building Consent

12. A vote was taken, and the committee agreed unanimously to grant planning permission. (Councillors Hugh-Jones and Janio took no part in the decision making process or vote).
13. **RESOLVED:** That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in the report and resolves to **GRANT** Listed Building Consent subject to the Conditions and Informatives in the report.

E BH2022/02578 - Madeira Terrace, Madeira Drive, Brighton - Listed Building Consent

1. Applications D and E were discussed at the same time. For minutes, please see item D.

Vote

2. A vote was taken, and the committee agreed unanimously to grant listed building consent. (Councillors Hugh-Jones and Janio took no part in the decision making process or vote).
3. **RESOLVED:** That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in the report and resolves to **GRANT** Listed Building Consent subject to the Conditions and Informatives in the report.

F BH2022/02324 - 13 Hailsham Avenue, Saltdean - Householder Planning Consent

1. The Planning Manager introduced the application to the committee.

Speakers

2. Toby Amies addressed the committee as objecting neighbour and requested that the committee defer the application until a site visit could take place. Under City Plan Part 2 the committee cannot grant planning permission as the external materials were not mentioned in the plans, which didn't seem fitting to the estate. In new builds balconies are not allowed to overlook, this development will overlook the residents house, and the suggested frosted glass to protect privacy will not be enough. The proposals are not well designed and there will be a loss of garden space. The committee were requested to refuse the application.
3. Charlie Sharps addressed the committee as the applicant and stated they could not move so needed to develop the existing property. The proposals have been designed to fit into the estate. The property already overlooks the neighbour to the rear and there is no gain in height to the property. The development is simply to help family and is not outrageous. It is noted that a neighbour nearby with a similar scheme has been approved. The speaker stated they were not a property developer and loved the area and wanted to stay there. The building guidelines have been adhered to.

Answers to Committee Member Questions

4. Councillor Janio was informed by the case officer that the footprint was similar there was no side extension proposed.
5. Councillor Yates was informed that the colour of the dormer needed to be similar to the existing roof to be permitted development otherwise planning permission would be required.

Debate

6. Councillor Yates noted that moving the roofline forward and changing the colour required planning permission otherwise the proposals could easily be permitted development. The councillor supported the application.

Vote

7. A vote was taken, and the committee agreed unanimously to grant planning permission. (Councillor Hugh-Jones took no part in the decision making process or vote).
8. **RESOLVED:** That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in the report and resolves to **GRANT** planning permission subject to the Conditions and Informatives in the report.

G BH2022/01505 - Brighton and Hove High School, Montpelier Road, Brighton - Listed Building Consent

1. This application was not called for discussion and the officer recommendation was therefore taken as having been agreed unanimously.
2. **RESOLVED:** That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in the report and resolves to **GRANT** planning permission subject to the Conditions and Informatives set out in the report.

H BH2022/02872 - Brighton Dome, Brighton Museum and Art Gallery, Church Street and New Road, Brighton - Listed Building Consent

3. This application was not called for discussion and the officer recommendation was therefore taken as having been agreed unanimously.
4. **RESOLVED:** That the Committee has taken into consideration and agrees with the reasons, or the recommendation set out in the report and resolves to be **MINDED TO GRANT** Listed Building Consent subject to the receipt of no further representations raising additional material considerations within the re-consultation period ending **28 October 2022** and the Conditions and Informatives in the report.

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

57.1 There were none.

58 LIST OF NEW APPEALS LODGED WITH THE PLANNING INSPECTORATE

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

59 INFORMATION ON INFORMAL HEARINGS/PUBLIC INQUIRIES

59.1 There were none for this meeting.

60 APPEAL DECISIONS

60.1 The Committee noted the content of the letters received from the Planning Inspectorate advising of the results of planning appeals which had been lodged as set out in the agenda.

The meeting concluded at 4.50pm

Signed

Chair

Dated this

day of