

**BRIGHTON & HOVE CITY COUNCIL**

**PLANNING COMMITTEE**

**2.00pm 4 MAY 2022**

**COUNCIL CHAMBER, HOVE TOWN HALL**

**MINUTES**

**Present:** Councillors Littman (Chair), Ebel (Deputy Chair), Childs (Opposition Spokesperson), Barnett, Fishleigh, Janio, Moonan, Shanks, C Theobald and Yates

**Officers in attendance:** Nicola Hurley (Planning Manager), Liz Arnold (Planning Team Leader), Russell Brown (Principal Planning Officer), Steven Dover (Planning Officer), Sonia Gillam (Senior Planning Officer), Emma Kumar (Housing Officer), Emily Stanbridge (Senior Planning Officer), Shaun Hughes (Democratic Services)

**PART ONE**

**111 PROCEDURAL BUSINESS**

**a) Declarations of substitutes**

111.1 There were none for this meeting.

**b) Declarations of interests**

111.2 There were none for this meeting.

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

111.3 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.

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

**112 MINUTES OF THE PREVIOUS MEETING**

- 112.1 **RESOLVED:** The minutes of the Planning committees held on 21 March 2022 and 6 April 2022 were agreed.

**113 CHAIR'S COMMUNICATIONS**

- 113.1 The Chair noted that Hilary Woodward was retiring and stated that Hilary has worked for BHCC as our Senior Planning and Highways lawyer since April 1998 – in that time (24 years!!) she has been the Council's lead Planning lawyer, advising Members and Cttee across all Parties, representing the Council at Planning Enquiries and robustly defending the Council in Judicial Review Proceedings. She is an expert in planning law, but she is also genuinely passionate about supporting the decision making process and ensuring that members are fully able to make informed decisions. Hilary is unflappable and has steered this Committee through innumerable tricky issues over the years, always maintaining her calm and clear approach and respecting the role of all elected members in the process. She is such a wise and well respected member of the Legal Services Management Team – she will be sorely missed.

Hilary's regarded as a legend by the Planning Service. She's an institution whose advice the planners know they can rely on; and who has been a beacon of calm at Planning Committee and appeals over the years. She has guided many planning officers in their cases on legal matters and provided numerous training sessions to officers and Planning Committee councillors.

One area of work that Members of the Cttee may not be aware of is Hilary's support for junior staff in the legal team and her commitment to offering work experience placements for aspiring lawyers. Hilary has managed a successful programme of work experience placements in legal services for many years, sifting the applications, building relationships with local universities and setting up a fulfilling and inspiring programme for each of them. There are many students who have benefitted as a result of her dedication to ensuring that these opportunities are provided for entry into the legal profession.

Before working for BHCC Hilary worked for East Sussex County Council for 8 years – meaning that on her retirement this July she will be leaving behind her 32 years of local government service. She truly deserves a long and happy retirement, and we will miss her enormously!

**114 PUBLIC QUESTIONS**

- 114.1 There were none.

**115 TO AGREE THOSE APPLICATIONS TO BE THE SUBJECT OF SITE VISITS**

- 115.1 There were none.

**116 TO CONSIDER AND DETERMINE PLANNING APPLICATIONS**

**A BH2021/00780 - Land at Junction of Foredown Road and Fox Way, Portslade**

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

## Speakers

2. Ward Councillor Pissaridou addressed the committee and considered that the proposals were an overdevelopment of this site adjacent to a busy main road. The access would be a blind corner with no views to the left or right. Fox Way is a 30mph 'rat run' and very busy. The development would create displacement parking which would be an issue and visitors would need to reverse onto the new road. The site is next to an area of affordable housing. Money from commuted sums is needed now to create homes.
3. Paul Burgess addressed the committee as the agent acting on behalf of the applicant and stated that the development was granted planning permission on 7 July 2021 and the only difference was how the affordable housing was to be delivered. The application was to resolve the voluntary contribution. The applicant wants to deliver affordable housing and a S106 has been drawn up and agreed with the council legal team.

## Answers to Committee Member Questions

4. Councillor Shanks was informed by the Housing Enabling Officer that housing was much needed in the city, however, the council do not usually look at sites under 15 units for affordable housing. Registered providers also do not take on small sites. The council accepts commuted sums. The Councillor was also informed by the Planning Manager that the proposals were policy compliant and that BHCC Housing were able to buy housing with the commuted sums. There were no grounds to the defer the application. The Senior Solicitor noted that the application had not been determined and the statutory decision date had passed and so the application could be appealed
5. Councillor Childs was informed that the Transport Team found the proposals acceptable, and they were slightly different from the previous 2019 refused application.
6. Councillor Fishleigh was informed by the Housing Enabling Officer that it was unusual to comment on small sites and it was not too early for social landlords to look at the site as this can be within the S106 agreement. The Planning Manager confirmed that the Housing Team had been consulted and the application was policy compliant. The Senior Solicitor noted the application would be likely to fail at appeal if the committee refused the application.
7. Councillor Janio was informed that the Gas Governor cabin is an electric substation which is to be constructed as part of the development. The Planning Manager noted that the application red line boundary did not cover this area.
8. Councillor Moonan was informed by the Chair that Housing policy related to larger developments and agreed that affordable housing would be better than commuted sums. The Chair agreed they would talk to the TECC committee to find a way forward.
9. Councillor Theobald was informed that the parking issues have not been decided and the ecology of the site would be investigated by condition, along with the landscaping of the site.

10. Councillor Barnett was informed that the application was an outline application and parking was not included at this stage. All matters were reserved apart from the access.
11. Councillor Yates was informed that land could not be accepted under policy instead of commuted sums. The case officer confirmed that the policy states a contribution should be made and that policy CP20 states a financial contribution.
12. Councillor Childs was advised that the County Archaeologists recommendation for refusal was due to insufficient information. This would be dealt with under reserved matters. The policy CP20 states a financial contribution only.
13. Councillor Shanks was informed that it would not be appropriate to condition consent of the Housing Department.
14. Councillor Fishleigh was informed that the Bentham Road development was to be linked to the application site, however, the planning application on Bentham Road had been refused at planning committee.

#### Debate

15. Councillor Janio considered that the council needed to spend the already accepted commuted sums. The councillor supported the application.
16. Councillor Theobald noted there was no open space on the site and 39 objections had been received. The entrance was dangerous, and the site was ideal for affordable housing. The councillor was against the application.
17. Councillor Moonan stated they supported the application as the applicant would win at appeal. The councillor considered that policy needed revising.
18. Councillor Fishleigh considered a Registered Provider may want homes on the site. The councillor wanted to see the final layout of the site and questioned why the application was outline. The councillor was against the application.
19. Councillor Childs noted that affordable housing was needed in the city and would be glad to look at policy as they considered the council were being 'short changed'. The councillor was against the application.
20. Councillor Ebel was not happy with the constant flow of commuted sums as family homes would be more appropriate. As the application was policy complaint the councillor supported the application.
21. Councillor Barnett stated they were against the application as there were too many units on the site which would destroy the outlook for existing residents.

- 22. Councillor Yates was torn on the application with deep concerns about the access. The councillor considered Registered Providers may step forward and noted that outline permission allows the developer to change the number of units.
- 23. Councillor Shanks was against the application and wished to defer the item to the next committee.
- 24. Councillor Littman noted that an outline application was acceptable, and they supported the application. They understood the points raised by the committee and considered a deferment. The Senior Solicitor consider it possible to defer the application, however this application was outstanding and policy compliant. As it was suggested to defer to the next committee meeting the applicant may not appeal in the meantime.
- 25. The Planning Manager noted that policy CP20 states that development over 15 units would attract 40% affordable housing and more units on the site would require a new planning application. It was noted that the previous application was agreed by the committee.

Vote

- 26. A vote was taken, and by 2 to 5, with 3 abstentions, the committee voted against the officer recommendation for approval.
- 27. Councillor Yates, seconded by Councillor Shanks, proposed the application be deferred to the next committee meeting to allow the Housing Department and other housing providers to consider the affordable housing on the site.

Vote

- 28. A recorded vote was taken, and the following councillors voted for the motion to defer: Littman, Ebel, Childs, Fishleigh, Moonan, Shanks and Yates. The following councillors voted against the motion to defer: Theobald, Barnett and Janio.
- 29. **RESOLVED:** Deferred to allow the Housing Department and other housing providers to consider the affordable housing on the site.

**B BH2021/04525 - 10 Shirley Drive, Hove - Removal or Variation of Condition**

Items B & C were presented and discussed at the same time.

- 1. The Planning Manager introduced both applications to the committee.

Answers to Committee Member Questions

- 2. Councillor Theobald was informed that the difference in external appearance was shown in the illustrations and samples circulated at committee

3. Councillor Ebel was informed that an informative could be added to the decision notice regarding the colour of the rendering.

Debate

4. Councillor Theobald considered the previous design to be better and it was a shame the house was to be lost. The councillor was against the application for reasons of bad design.
5. Councillor Shanks supported the application.
6. Councillor Littman noted the application had been overturned by the inspector and granted permission and considered the design was not very different from before. The councillor supported the application.

Vote

7. A vote was taken, and by 7 to 2, the committee agreed to grant planning permission. (Councillor Janio took no part in the decision making process or the 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 set out in the report.

**C BH2021/04527 - 10 Shirley Drive, Hove - Removal or Variation of Condition**

Items B & C were presented and discussed at the same time.

1. The Planning Manager introduced both applications to the committee.

Answers to Committee Member Questions

2. Councillor Theobald was informed that the difference in external appearance was shown in the illustrations and samples were circulated at planning committee.
3. Councillor Ebel was informed that an informative could be added to the decision notice regarding the colour of the rendering.

Debate

4. Councillor Theobald considered the previous design to be better and it was a shame the house was to be lost. The councillor was against the application for reasons of bad design.
5. Councillor Shanks supported the application.
6. Councillor Littman noted the application had been overturned by the inspector and granted permission and considered the design was not very different from before. The councillor supported the application.

## Vote

7. A vote was taken, and by 7 to 2, the committee agreed to grant planning permission. (Councillor Janio took no part in the decision making process or the 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.

**D BH2021/03074 - Henge Way (Land Next to 2 Brackenbury Close, Portslade) - Full Planning**

1. The Planning Manager introduced the application to the committee. The committee were informed that additional objections had been received from neighbours and Ward Councillor Atkinson. All matters raised had already been addressed in the report.

## Speakers

2. Ward Councillor Atkinson submitted a statement which was read out to the committee by the Democratic Services officer: This development has been extremely problematical and worrying for nearby residents from the first application in 2017 and then from the time the actual building started. There is concern that the developer has, up to now, repeatedly ignored the previously agreed plans and built the property as they wish including confusion over nearby trees and land grabbing for the construction of a wall. Residents have been severely disappointed and astounded by the Planning Department's apparent lack of interest in policing compliance. On numerous occasions the residents have alerted the Planning Department to contraventions. Surely this should have resulted in the council paying much more attention to this development – particularly as it had been refused planning permission on three different occasions and only allowed on national appeal. One resident puts this succinctly "It is important that the Committee is aware that from the beginning of this application there have been continuous and significant breaches and subsequent applications for variations on what was originally approved. The applicant has shown no regard for requirements asked for by the Planning Department who, equally, seem to have made no determined effort to enforce such breaches – the mantra being nothing can be done until the breach has taken place. A prime example of this is that the total height of the house is clearly much higher than that approved by The Planning Inspectorate. Local residents continually raised this issue when the foundations first went down but the Planning Department did nothing.

Most recently a concrete footing, for a garden wall, was poured several feet west of the plot boundary, on council land alongside an ancient right of way. This resulted in the council's Estate Team demanding that the developer kept to the new build's legal boundary. Hopefully the Planning Department will investigate this before this wall is erected on a permanent basis and we are assuming that the developer will be, or has been, instructed to dig out the foundation and return the grass verge to original condition. One of the major issues is that of privacy and how by not building the house to plan this has impacted upon local residents. This is due to the development being higher than on the agreed plan meaning that there is now no privacy whatsoever within one resident's back garden in particular.

The response from the council to the latest planning application says” *All windows on the first floor, east facing elevation of the building facing No.2 Brackenbury Close shall be made of obscure glass*”. This was also part of the National Inspector’s conditions. This simply hasn’t happened, and a patio door has been inserted with clear glass with a laughable attempt made at part obscuring it with some kind of adhesive film. It is imperative that this is addressed as it impacts on a number of near neighbours and is a direct breach of the planning agreement. This is particularly embarrassing as the Planning Officer realised before the last planning committee that he hadn’t received a first floor plan for this application, so it had to be pulled from the last committee’s papers.

#### Answers to Committee Member Questions

3. Councillor Yates was informed that both conditions 8 and 9 were to be completed prior to occupancy and condition 10 refers to void areas above the ground floor patio doors.
4. Councillor Fishleigh was informed that the approved scheme showed level ground to the rear of the proposed dwelling, and this is not the case. There is no height increase at the front and 0.9m added to the rear to make the building level. The overall height has not increased.
5. Councillor Theobald was informed that the levels had been clarified and the first floor windows would need to be obscure glazed before occupation. It was noted that planning officers had visited the site and enforcement investigations were ongoing.
6. Councillor Shanks was informed that the Planning department were looking at land levels now and the application had been granted at appeal. The Planning inspector made a site visit and did not notice the change in ground levels to the rear.
7. Councillor Fishleigh was informed that the enforcement team have visited the site and the planning officers were not able to condition matters that were permitted development or consider matters relating to land ownership.
8. Councillor Moonan was informed that Policy M4.2 required the dwelling to be disabled compliant before occupation. It was noted that the front door has level access.
9. Councillor Childs was informed that if the committee refused the application, enforcement would continue, and the applicant could appeal the decision.

#### Debate

10. Councillor Fishleigh considered that Ward councillors and residents should have spoken at committee and considered that developers do not stick to agreed plans. The councillor was against the application.
11. Councillor Theobald considered the proposed dwelling to be a funny shape and there seemed to be a few errors and breaches.

#### Vote



12. A vote was taken, and by 6 to 3 the committee agreed to grant planning permission. (Councillor Janio took no part in the decision making process or the 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** planning permission subject to the Conditions and Informatives in the report.

#### **E BH2022/00749 - 12 London Road, Brighton - Full Planning**

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

##### Speakers

2. Ian Bros, the applicant, addressed the committee and stated that the buildings between Aldi and Costa along London Road appeared unoccupied and it seemed not right to be worried about one small piece of frontage when there were at least 20 shutters along London Road, and none appeared to have been granted planning permission. Boots and Greggs did not appear to have planning permission. There appeared to be no retrospective applications either. The speaker considered that if shutters were not wanted on London Road, why haven't they been removed. The speaker has complained to the Planning department and noted a number of social issues in the area making shutters much needed.

##### Answers to Committee Member Questions

3. Councillor Moonan was informed that the enforcement team will look at the issues raised by the speaker and the application should be considered on its own merits. The Planning Manager noted that there is a 4 year time limit on enforcement action.
4. The applicant stated that the doorway had been used as a public toilet, and for drug deals. Nappies and needles have been left in the doorway, where people have sheltered from the rain. The area adjacent to the frontage is dark at night.
5. Councillor Moonan was informed that a grill across the doorway would also require planning permission. The Planning Manager stated that the doorway to nearby Santander was covered by a grill set back in the alcove.
6. Councillor Childs was informed by the applicant that a grill would not be practicable as the frontage shop fittings would not allow fitting and a grill would not be sturdy enough. The applicant also stated that a metal gate would be difficult to fit as a result of the existing fittings and no quotes for fitting such had been requested by the applicant. The applicant believed that anything would require a substantial strut, and this would not be possible given the existing windows.
7. Councillor Ebel was informed by the applicant that the submitted drawings show the artwork to be used on the proposed shutter. The applicant was happy to have the top half slotted and it would therefore be difficult to put a design on this part of the shutter. The case officer noted that if permission were granted for the shutter the artwork may

also require planning permission. Councillor Ebel noted that a heavy shutter would require electricity to operate to ensure the shutter was not left down during the day.

8. Councillor Shanks was informed that when the shutter would be down, it would be larger than other shutters in the area. The proposed shutter would be too big in any area of the city and the housing outside the building would be against policy.
9. Councillor Yates was informed that no police consultation had taken place as the applicant had not considered policy SCP2.
10. Councillor Littman was informed that if permission were granted a condition would require external artwork.

#### Debate

11. Councillor Yates advised the applicant to read the guidance contained in SPD2 which gives a range of options including demountable shutters, changeable shutters and exemptions. The councillor considered the application to be worse than the previous application. The councillor considered the application did have an exemption and was against the application, supporting the officer's recommendation for refusal.
12. Councillor Theobald considered enforcement action should be taken against any shutters without planning permission and the proposed shutter was not good. The councillor stated they were against the application, supporting the officer's recommendation.
13. Councillor Ebel noted that London Road was not a conservation area, however, the council needs to be strict in other areas. The councillor considered the proposal would not ruin the area and felt the anti-social challenges would be reduced by the shutter. The volunteers should not have to clear a pathway into the shop. An electric shutter would be best. The councillor noted that the applicant was open to having artwork on the shutter and the shutter would often be up in the evenings as the site did not follow shop hours. The councillor supported the application against the officer recommendation.
14. Councillor Fishleigh supported the application against the officer recommendation.
15. Councillor Moonan was sympathetic to the issues however the application was an overengineered solution. The proposal needs to be proportionate. Reporting crimes online would help the case for a shutter. It was considered that a grill would be better. The councillor was against the application, supporting the officer's recommendation.
16. Councillor Yates stated that he agreed with Cllr Moonan and that there were probably other structures that could be installed. The councillor considered the proposal would damage the street scene.
17. Councillor Shanks supported the application, against the officer recommendation.

18. Councillor Theobald considered that London Road had improved over the last two years and the proposed shutter would spoil the area. The councillor was against the application and supported the officer recommendation.
19. Councillor Littman sympathised with the applicant; however, evidence was needed to make an exemption. The applicant should talk to the council on how to maintain the shop front and security. The councillor noted other properties were boarded up, however, this was temporary.

Vote

20. A vote was taken, and by 5 to 3, the committee voted to refuse planning permission. (Councillors Barnett and Janio took no part in the decision making process or vote).
21. **RESOLVED:** That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in the report and resolves to **REFUSE** planning permission for the reasons set out in the report.

**F BH2021/02844 - Land to the North of St Nicholas CE Primary School, Locks Hill, Portslade - Full Planning**

1. The Planning Manager introduced the application to the committee and updated the committee that the Conservation Action Group had changed comments to support the application, and extra conditions have been added regarding contaminated land and M4.2 implementation.

Speakers

2. Ward Councillor Hamilton submitted a statement which was read out by the Democratic Services officer: I find it unbelievable that this application to build properties on what was an access driveway to a private house is down for approval. At the very least a site visit should take place as the site is not visible from any public location. On my visit today it was not possible to inspect the site as there are high gates at the western end and a garage at the eastern end. This driveway runs immediate to the south of Loxdale, an impressive building with extensive grounds. The presence of these buildings, referred to as sheds by some residents, will be detrimental to the Portslade Conservation Area. On page 100 of the report, it states that CAG objected, and it is not clear whether this objection has been withdrawn. The narrow nature of the site rules out the use of vehicular access. There is no vehicular access to these properties with access for pedestrians and cyclists only. How deliveries or even the construction of the properties will be carried out is unclear. There will be no access for fire appliances and ambulances will have to park outside the site and ambulance crews will have to then walk to the property concerned. It is my understanding that the freeholders of Greenways, the flats at the eastern end of the proposed development, are not prepared to allow vehicles from the new development to park on their car parking area and that part of the development site is not in the ownership of the developer.

The case for approval appears to be based on the concept that as we are short of building land virtually any housing applications are acceptable irrespective of all policy considerations. On an housing application refused last year where officers had

recommended consent, they nevertheless found two reasons to justify refusal on all four of the refusal reasons.

I ask committee to reject this application and if not to at least make a site visit to see for themselves that the development proposed for this site is unacceptable.

3. Joseph Pearson, the agent acting on behalf of the applicant, addressed the committee and stated they supported the officer's report which had a good level of detail. All units meet space standards. The new application is better located and designed. The concerns around Greenways are understood. The new homes will be one bed pre constructed dwellings creating 6 homes following negotiations with officers.

#### Answers to Committee Member Questions

4. Councillor Theobald was informed by the agent that there was no affordable housing as no registered provider wanted any sites with less than 20 units.
5. Councillor Childs was informed by the Planning Manager that CP20 policy states there is no requirement for onsite provision of affordable housing on a site of 6 units, there would be financial contributions only.
6. Councillor Theobald was informed that the previous house was demolished and replaced with flats. As the site would not be directly accessible to fire engines, the proposed dwellings would include sprinklers. Access for ambulances would be from Highlands Road or Locks Hill. Five trees of low quality and damaged are to be removed. The units exceed room standards. Bin stores will be located at each property and bins will be collected from Locks Hill.

#### Debate

7. Councillor Yates liked the scheme and felt the narrative needed to change across the city, with a different number of ways to live in the city. The councillor noted no car parking was proposed and the 6 units would be good quality with outside space, bus links and cycle links to come. The councillor supported the application.
8. Councillor Shanks supported the application.
9. Councillor Theobald considered the development to be too much to be built in a driveway and was concerned over bins, parking and emergency services access. The councillor was against the application.
10. Councillor Ebel considered the application to be nice and green. The councillor considered that if this was refused then others with no direct access for fire and ambulance should also be refused.
11. Councillor Childs considered the proposal to be a good use of redundant land and better here than on fringe edges of the city.
12. Councillor Littman considered the application to be fine and all within policy.

Vote

13. A vote was taken, and by 6 to 1, the committee agreed to grant planning permission. (Councillors Barnett, Janio and Moonan took no part in the decision making process or the vote)

14. **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 subject to a s106 agreement on the Heads of Terms and with the Conditions and Informatives all as set out in the report, **SAVE THAT** should the s106 Planning Obligation not be completed on or before the **27<sup>th</sup> July 2022** the Head of Planning is hereby authorised to refuse planning permission for the reasons set out in section 12.1 of the report.

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

117.1 There were none.

**118 LIST OF NEW APPEALS LODGED WITH THE PLANNING INSPECTORATE**

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

**119 INFORMATION ON INFORMAL HEARINGS/PUBLIC INQUIRIES**

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

**120 APPEAL DECISIONS**

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

The meeting concluded at 5.05pm

Signed

Chair

Dated this

day of