

BRIGHTON & HOVE CITY COUNCIL

PLANNING COMMITTEE

2.00pm 15 AUGUST 2018

COUNCIL CHAMBER, HOVE TOWN HALL

MINUTES

Present: Councillors Cattell (Chair), Gilbey (Deputy Chair), Inkpin-Leissner, Littman, Miller, O'Quinn, Marsh, Page, Taylor and Wares

Co-opted Members: Jim Gowans (Conservation Advisory Group)

Officers in attendance: Nicola Hurley (Planning Manager), Jonathan Puplett (Principal Planning Officer), Gareth Giles (Principal Planning Officer), Sarah Collins (Principal Planning Officer), Mark Thomas (Senior Planning Officer), David Farnham (Development and Transport Assessment Manager), Hilary Woodward (Senior Solicitor) and Tom McColagn (Democratic Services Officer)

PART ONE

24 PROCEDURAL BUSINESS

24a Declarations of substitutes

24.1 Councillor Taylor was in attendance as a substitute for Councillor Hyde, Councillor Wares was in attendance as a substitute for Councillor Theobald, Councillor Page was in attendance as a substitute for Councillor Mac Cafferty, and Councillor Marsh was in attendance as a substitute for Councillor Morris

24b Declarations of interests

24.2 The Chair stated that she had received emails from residents regarding BH2018/01445 and BH2018/01645. She also stated that she had worked with the applicant for BH2018/01645 around 6 or 7 years ago on a scheme for the same site which was refused. She confirmed that she had had no involvement with the applicant since that time and had had no input on the proposal being considered by the Committee and that she came to the meeting with an open mind.

24.3 Councillor Taylor declared that he had received emails regarding BH2018/01445 and stated that he came to the meeting with an open mind.

24.4 Councillor Inkpin-Leissner stated that he had objected to BH2018/00316 as a local Ward Councillor and would leave the room for the consideration of the application.

24c Exclusion of the press and public

24.5 There were no part two items.

25 MINUTES OF THE PREVIOUS MEETING

25.1 **RESOLVED** – That the Chair be authorised to sign the minutes of the meeting held on 18 July 2018 as a correct record.

26 CHAIR'S COMMUNICATIONS

26.1 The Chair noted that Gareth Giles, Principal Planning Officer, was leaving the Council and thanked him for all of his hard work with the Planning Team.

27 PUBLIC QUESTIONS

27.1 The Chair invited Mr Hall to ask his question:

“Councillors Vanessa Brown, Jayne Bennett, Peter Kyle MP, Park gardeners, tennis players, residents associations, neighbours, dog walkers, basketball players, rock climbers, no one other than some people frequenting the cafe knew about its demolition and the felling of three trees (1 elm) until it was too late.

“Publicising of planning applications to residents of Brighton and Hove may reach minimum statutory requirements but is not good enough.

“What are councillors going to do to ensure the planning department do more within the current spending constraints to ensure that the people they represent are better informed about planning applications?”

27.2 The Chair responded:

“The Town and Country Planning (Development Management Procedure) (England) Order 2015 is the relevant legislation that prescribes how planning applications must be publicised. The application for the Pavilion Tea Rooms, Hove Park was publicised in accordance with those statutory requirements. Although we do go further than some equivalent local authorities who have stopped sending letters to residents.

“Two site notices were displayed, one on Old Shoreham Road and one within the park close to the existing café building which is in accordance with the Development Management Procedure.

“It is considered that sufficient publicity is given to planning applications and was in the case of the café in Hove Park. Statutory requirements are met and full details of all applications required can be found on the Council’s website, including a facility to view and be alerted by ward.

“The weekly list of applications was sent to the ward councillors in the normal way and every councillor has the right to call in a planning application within three weeks of advertising the application. We have no plans to extend this.”

27.3 Mr Hall stated that he felt the correct process had not been followed with regards to application BH2017/02805 as his Ward Councillors had informed him that they had not been aware of the application and because of this failure, three trees including an elm had been lost. He stated that the application referenced in his question was tied to application BH2018/01445 which was due to be considered by the Committee. He felt that it would be inappropriate for Members to determine this application while his complaint had not been formally resolved as this would essentially amount to dismissing his concerns as the matters were so closely linked. He reminded the Committee that the decision to grant planning permission was intractable and that they would not be able to change the decision if the ongoing investigation found fault with the Council's process. He called on the Chair to defer consideration of BH2018/01445 until the issues relating to BH2017/02805 had been resolved.

27.4 The Chair responded that she was aware of Mr Hall's complaint and that it had been escalated to stage 2. She stated that the Planning Committee had a duty to determine the applications before it and that she was not prepared to defer consideration of BH2018/01445 as it was completely separate from BH2017/02805.

28 DEED OF VARIATION TO S106 LEGAL AGREEMENT RELATING TO BH2015/02917 - 121-123 DAVIGDOR ROAD, HOVE

28.1 The Principal Planning Officer introduced the report which detailed a request to vary the Heads of Terms of a Section 106 agreement signed in connection with planning application BH2015/02917, in order for affordable housing to be secured by way of a commuted sum in conjunction with on-site provision of 15 shared ownership units of a mix of unit sizes.

28.2 In response to Councillor Page, Officers confirmed that the commuted sum would be used by the Council to provide affordable rented accommodation.

28.3 Councillor Miller asked if officers had considered using construction costs or house prices to index commuted sums as these rates were often higher than other measures of inflation and reflected that the sums were to be used to acquire or build new properties.

28.4 The Legal Adviser stated that the Construction Price Index had been used previously by the Council and officers could certainly investigate using it for indexing of commuted sums.

28.5 In response to Councillor Marsh, Officers stated that the Council's adopted policy sought a mix of tenure in developments but recognised that there may be exceptional reasons why this could not be achieved. Where this was the case it was up to Officers and Members to balance the benefit of the scheme with the harm caused by not having on site provision of affordable units.

28.6 Councillor O'Quinn expressed concern that the affordable units provided as part ownership were going unsold as despite the discount they were still out of the price range of most residents. She felt that developers had to apply for variations because the

affordable houses were still unaffordable and similar requests would continue coming to Committee until the underlying issue was addressed.

- 28.7 Councillor Littman stated that the city was in need of more affordable rented units and that it was regrettable that they would not be provided on site however he was pleased that there would still be affordable units provided on site.
- 28.8 Councillor Miller stated that it would be useful for the Committee to have sight of how the commuted sums were being spent and asked that more information be included in the next Section 106 Annual Update.
- 28.9 On a vote of 9 For with 1 abstention the Committee agreed to vary the s106 agreement.
- 28.10 **RESOLVED:** That the Head of Term be varied to require the Developer to provide a financial contribution of £669,900 (plus indexation) towards off-site provision of affordable housing, and the provision of 15 shared ownership affordable units on-site comprising 5x 1-bedroom, 8x 2-bedroom and 2x 3-bed units.
- 29 DEED OF VARIATION TO S106 LEGAL AGREEMENT RELATING TO BH2017/01083 - FORMER CITY COLLEGE, 87 PRESTON ROAD, BRIGHTON**
- 29.1 The Principal Planning Officer introduced the report which detailed a request to vary the Heads of Terms of a Section 106 Agreement signed in connection with planning application BH2017/01083, in order to amend the affordable housing requirements.
- 29.2 In response to Councillor Littman, Officers stated that the commuted sum offered by the developers should the Council deem no tenure mix onsite to be acceptable was not scrutinised by the District Valuer Service as the proposed number of affordable units at the development met the 40% target set by Council Policy. If the number of affordable units had been less than the 40% target officers would have asked for the District Valuer's opinion.
- 29.3 Councillor Miller asked if Officers had considered seeking an additional s106 contribution as well as the ten shared ownership units. A shared ownership scheme placed less financial burden on the developer and so the variation proposed would benefit the developer.
- 29.4 Officers responded that as the developer was still proposing a level of affordable accommodation which met the Council's 40% target and had demonstrated that none of the Council's social landlord providers wished to take on the rental units and the constraints of the site it was reasonable to request the variation without an increased s106 contribution.
- 29.5 On a vote of 9 for with 1 abstention the Committee agreed to vary the s106 agreement.
- 29.6 **RESOLVED:** That the Head of Term be varied so that the developer is obligated to provide the affordable housing on site as set out in the s106, but with the tenure amended from 5 x affordable rented and 5 x shared ownership to 10 x shared ownership

units, which would represent 40% on-site provision of affordable housing, at 100% shared ownership.

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

30.1 There were none

31 TO CONSIDER AND DETERMINE PLANNING APPLICATIONS

A BH2018/01137 - 76-79 & 80 Buckingham Road, Brighton - Full Planning

Partial demolition of no. 80 Buckingham Road erection of a five storey building over basement including roof accommodation to create 20no. dwelling units (C3) and community use unit (D1). Conversion of nos. 76-79 Buckingham Road to provide 14no. dwelling units (C3) with associated car parking, cycle parking, landscaping and service provision.

Officer Introduction

- (1) The Principal Planning Officer, Gareth Giles, introduced the application and gave a presentation by reference to plans, elevational drawings, photographs and floor plans. He stated that the main considerations in determining the application related to: the principle of development, including the loss of the community use floorspace; the design of the proposed development and its impact on the character and appearance of the conservation area; the provision of affordable housing to ensure mixed, sustainable communities; the standard of residential accommodation and private amenity space for future occupants, any impacts on neighbouring amenity and transport impacts. Two letters objecting to the scheme had been received as well as one representation commenting on the scheme.
- (2) The Planning Officer also informed Members of some corrections to the report: the recommendation should read '5th December 2018' not '2017', the wording of Condition 11 would be updated to the latest asbestos condition wording, the Highways Authority wished to include an additional provision in Condition 23 to request the submission of a car park management plan, and Condition 26 was to be removed as it duplicated Condition 9 and the following conditions would be renumbered accordingly.

Questions to the Planning Officer

- (3) In response to Councillor Miller, the Planning Officer confirmed that the affordable units would all be located in number 76-79 and would consist of a mix of one and two bed dwellings.
- (4) Councillor Wares asked that in light of the two requests to vary s106 conditions on affordable housing provision considered by the committee earlier on the agenda if the Committee could include an additional condition for the developers to approach the Council's social landlord providers before the s106 agreement could be finalised.
- (5) Officers responded that they understood that it was frustrating for Members considering applications as it was difficult to guarantee what was permitted could actually be

delivered. However, Officers felt that applying a condition around agreements with social landlord providers would place an unreasonable burden on developers at this stage of the application process. Officers were also concerned that a condition may be difficult to defend at appeal and there was no precedent that they were aware of.

- (6) The Chair stated that while a condition for approaching the Council's preferred social landlord providers was not included as part of the planning permission Members and Officers were increasingly raising the issue with developers at pre-application briefings.
- (7) Councillor Page welcomed that the developers now proposed to reuse the existing frame of number 80 rather than demolishing it. He asked officers to confirm the tenure mix of the affordable units, how much outside amenity space was being provided, how many car parking spaces were being created and how these were to be allocated.
- (8) The Planning Officer confirmed the location of the communal garden in the development and that each apartment would have a private balcony and that the affordable housing would consist of seven affordable rented units and seven part ownership units.
- (9) The Transport Officer stated that the developer proposed to create eight parking spaces in the basement of number 80 two of which would be disabled spaces. The developer had not yet stated how these spaces would be allocated and an additional condition had been recommended to require the submission of a car parking management plan.
- (10) The Representative from the Conservation Advisory Group asked the Committee to consider including an additional informative which requested the developer reinstate several historic street signs on the surrounding roads.

Debate and decision making process

- (11) Councillor Littman stated that he was in favour of the application and that it improved on the previously agreed scheme.
- (12) Councillor O'Quinn stated that she regularly passed the site and that she felt the proposal would be a positive addition to the area.
- (13) Councillor Inkpin-Leissner stated that he welcomed the onsite provision of affordable housing and would be supporting the application.
- (14) Councillor Miller stated the he was pleased that there would be affordable housing on site and that he saw no issue with the additional informative suggested by the Conservation Advisory Group.
- (15) The Chair praised the much improved scheme which had gone from providing no affordable housing to providing 41% on site affordable housing.
- (16) The Committee unanimously voted to be minded to grant planning permission.

- 31.1 **RESOLVED:** That the Committee has taken into consideration and agrees with the reasons for the recommendation set out below and resolves to be **MINDED TO GRANT** planning permission subject to a s106 Obligation and the conditions and informatives as

set out in the report as amended above (2) including the additional informative recommended by the Conservation Advisory Group (10) **SAVE THAT** should the s106 Planning Obligation not be completed on or before 5th December 2018, the Head of Planning is hereby authorised to refuse planning permission for the reasons set out in section 10 of the report.

B BH2018/01181 - Preston Barracks, Mithras House, Watts Building, Lewes Road, Brighton - Reserved Matters

Reserved matters application pursuant to outline permission BH2017/00492, as amended by BH2018/00636 and BH2018/01002, for approval of layout, scale and appearance relating to the University's proposed Business School and Linked Canopy, forming defined site parcels 1 and 2 respectively.

Officer Introduction

- (1) The Principal Planning Officer, Sarah Collins, introduced the application and gave a presentation by reference to plans, elevational drawings, photographs and floor plans. She stated that the main considerations in determining the application related to the layout, scale and appearance of the Business School (Academic Building), the removal of the canopy from parcel 2, the accessibility of the Academic Building and the potential impact of the development on the environment, the local highway network and the street scene. BH2018/01181 was a reserved matters application which related to BH2017/00492.

Questions to the Planning Officer

- (2) Councillor Wares stated that he was concerned that the titled façade may mean that artificial lighting would be necessary during the day in rooms which would otherwise be adequately lit by natural light through unobscured glazing.
- (3) The Planning Officer responded that the design of the titles allowed enough light to pass through so that most teaching spaces would comply with light requirements for a residential property. The main circulation area was served by a large lightwell.

Debate and decision making process

- (4) Councillor Miller stated that he was disappointed that the canopy which had originally been proposed as an architectural feature tying the campus together had been lost but that this was not enough to warrant refusal.
- (5) Councillor Inkpin-Leissner stated that he was in favour of the application and liked that the design disguised the bulk of the building.
- (6) The Committee unanimous voted to grant planning permission.

31.2 **RESOLVED:** That the Committee has taken into consideration and agrees with the reasons for the recommendation set out below and resolves to **GRANT** planning permission subject to the Conditions and Informatives detailed in the report.

C BH2017/04113 - 64 St James's Street, Brighton - Full Planning

Part demolition of existing building. Erection of three storey extension to front elevation and creation of additional storey to rear elevation to facilitate enlargement of studio apartment to two bedroom apartment and associated works.

- (1) This application was originally due to be considered by the Planning Committee on 18 July 2018 but was deferred to allow Members to visit the site. Prior to the site visit the application was withdrawn by the applicant.

D BH2017/03648 - 7 Howard Terrace, Brighton - Full Planning

Change of use and part demolition of existing storage buildings (B8) to form of 1x one bed flat, 1x two bed flat, 2x three bedroom houses, cycle storage and associated works.

- (1) This application was deferred from the Committee meeting on 18 July 2018 to allow Members to visit the site.

Officer Introduction

- (2) The Principal Planning Officer, Gareth Giles, introduced the application and gave a presentation by reference to plans, elevational drawings, photographs and floor plans. He stated that the main considerations in determining the application related to: the principle of the change of use, the impact on the character and appearance of the area, impact on neighbour amenity, standard of accommodation provided, highways and sustainability issues. 15 letters objecting to the proposal and one letter supporting the proposal had been received.

Debate and decision making process

- (3) The Committee unanimously voted to grant planning permission.

31.4 **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 detailed in the report.

E BH2018/00081 - 51 Woodland Avenue, Hove - Householder Planning Consent

Demolition of single storey rear extension. Erection of a part one part two storey rear extension, single storey side extension and associated works.

- (1) This application was deferred from the Committee meeting on 18 July 2018 to allow Members to visit the site and neighbouring properties.

Officer Introduction

- (2) The Committee did not wish to have a presentation for this item.

Debate and decision making process

- (3) On a vote of 8 for and 2 against the Committee agreed to grant Householder Planning Consent.
- 31.5 **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** householder planning consent subject to the Conditions and Informatives detailed in the report.

F BH2017/00574 - 80A Stoneham Road Hove - Full Planning

Formation of third floor to form 2no bedroom flat incorporating terrace and associated works.

Officer Introduction

- (1) The Principal Planning Officer, Gareth Giles, introduced the application and gave a presentation by reference to plans, elevational drawings, photographs and floor plans. He stated that the main considerations in determining the application related to: the impact of the additional storey on the character and appearance of the building, adjacent locally listed factory building, the wider streetscene, the effect on the amenity of neighbouring residential occupiers, the standard of proposed accommodation, and transport and sustainability issues. The application had been deferred from the Committee meeting on 12 July 2017 to allow officers to clarify the position in respect of previous refusals and appeal decision. Officers had reconsidered the history of the site and negotiated amendments to the scheme.
- (2) The Planning Officer also stated that a letter from Peter Kyle MP had been received requesting that residents' concerns regarding: the character of the area, privacy and the impact of the proposal on the locally listed sweet factory be taken into account. The Highways Authority also recommended that an additional permit free condition should be added to the planning permission should permission be granted.

Public speakers

- (3) Councillor Nemeth spoke in his capacity as a Wish Ward Councillor and stated that the application had failed to address the issues with previous refused applications and residents had raised many of the same concerns. The existing building was already too large and did not suit the character of the area, bulk and height had been mentioned in the previous refusals. The application before the Committee today had been deferred by Committee in 2017 so that the applicant could produce additional images showing how the building would fit within the area which they had failed to do. The neighbouring building was a former Maynard's factory which had been converted into residential units and was locally listed. The proposed addition of a fourth floor would be overbearing to the heritage asset and would cause significant harm to the streetscene.
- (4) In response to Councillor Marsh, Councillor Nemeth stated that he and Councillor Pelzer Dunn had canvassed residents' opinions on the scheme through door knocking and several meetings and they had found significant opposition to the scheme.

- (5) In response to Councillor Miller, Councillor Nemeth stated that he did not feel that the gap between the proposed fourth storey and the sweet factory sufficiently softened its impact. The third floor of 80a was higher than the roof line of the sweet factory and so dominated it in the streetscene. Any addition to this would only exacerbate the issue.
- (6) Mr Michael Pirrie spoke on behalf of the applicant as the architect for the scheme and clarified that Yelo Architects Ltd had not been involved in previous applications for the site. The previous applications were refused due to the Committee's concerns around the loss of daylight and privacy for neighbours. The revised design now included obscured glazing on all windows overlooking neighbours and setting the fourth floor back from the street so as to make it less visible. He stated that as the proposal was only for the creation of a single new dwelling there would not be a significant impact on parking which was view supported by the transport officer in their comments.
- (7) In response to Councillor Wares, Mr Pirrie stated that there would be a slopping roof at the rear of the flat and residents would not be able to use it as a balcony. There was an existing terrace at the front of the building which was currently accessible and used as an emergency escape route.
- (8) In response to Councillor Miller, Mr Pirrie stated that he felt the proposed fourth storey was set far enough back from the street that it would not be visible from the ground and that a high fire wall on the roof of the sweet factory would also conceal it. The impact on the sweet factory and the wider street scene was thus very limited. Mr Pirrie also stated that he had not been aware of the request for the additional image showing the proposal in the wider context of the streetscene and would have been able to provide it.
- (9) In response to the Chair, Officers confirmed that the firewall on the roof of the sweet factory was taller than the proposed fourth storey.

Questions to the Planning Officer

- (10) In response to Councillor Miller, the Planning Manager clarified that a formal letter of objection had not been received from Councillor Nemeth and what was referenced in the report was an email he had sent stating his intention to object.
- (11) In response to Councillor Miller, the Planning Officer confirmed that the side window to one of the bedrooms would be blanked off subject to the final design for the neighbouring School Road site being submitted. The room would still be served by two windows to the rear.
- (12) In response to Councillor Wares, the Planning Officer stated that there would be space on the roof that could be used as a balcony but the condition restricting which part of the roof could be used as a balcony was legally binding. The Council would be able to take enforcement action if the roof was used as a balcony.
- (13) In response to Councillor Wares, the Transport Officer confirmed that he had recommended an additional permit free condition to the Committee.

- (14) In response to Councillor O'Quinn, Officers stated that the Council had not currently adopted local space standards but that it was being considered as part of the City Plan Part Two. Policy did state that a reasonable space standard should be achieved in order to protect the amenity of future residents.
- (15) In response to Councillor Inkpin-Leissner, Officers stated that 1.8m was the standard height for a privacy screen but they conceded that some people would still be able to see over the top and stated that members could require a higher screen be installed.
- (16) In response to Councillor Gilbey, the Planning Manger confirmed that the heritage officers had not commented on the application. She stated that this could be because the design had been deemed acceptable by the Planning Inspector at appeal for a previous application although the overall appeal was dismissed.
- (17) In response to Councillor Littman, the Planning Manager stated that it was open for Members to go against previous decisions if they felt there had been a substantial change in policy since those decisions had been taken.

Debate and decision making process

- (18) Councillor Miller stated that he was not comfortable with the application as he felt it would have a negative impact upon the existing residents in the building. He also had concerns about the relationship between the proposal and the approved development on School Road.
- (19) Councillor Littman felt that the proposal did meet the expectations set by CP12 Urban Design in the City Plan Part One that new developments should raise the standard of architecture in the area and establish a strong sense of place.
- (20) Councillor O'Quinn echoed the previous comments and stated that she could not see how the proposal would improve the area especially when keeping in mind the neighbouring locally listed building.
- (21) Councillor Wares stated he did not feel that the application was a meaningful improvement to the previously refused one and that it would not improve the area.
- (22) Councillor Inkpin-Leissner stated that while he was pleased that the applicant had taken steps to work with officers to improve the application he felt it was still contrary to Council Policy and would dominate the neighbouring locally listed heritage asset.
- (23) The Chair stated that she was not convinced the applicant had successfully addressed the issues with previous applications.
- (24) On a vote of 1 For and 9 Against with no abstentions the Committee refused planning permission.
- (25) Councillor Littman proposed that the application be refused on the following grounds:
 - 1. That the application failed to follow CP 12 in not establishing a strong sense of place or raising the standard of architecture and design in the city.

2. That the proposed structure was of an inappropriate height, scale, bulk and design and would be overbearing to a locally listed building.
3. That the application would have a negative impact on the visual amenity of neighbours.

(26) Councillor Miller seconded the motion.

(27) The Chair called a vote on the proposed alternative recommendations. This was carried with Councillors Gilbey, Inkpin-Leissner, Littman, Marsh, Miller, O'Quinn, Taylor, Wares and Cattell voting For and Councillor Page voting Against.

18.6 **RESOLVED** – That the Committee has taken into consideration the recommendation laid out in the report but resolves to **REFUSE** planning permission on the grounds proposed by Councillor Littman detailed in paragraph (25) above.

G BH2018/00329 - 67 Falmer Road, Rottingdean - Removal or Variation of Condition

Application for variation of condition 2 of application BH2017/00994 (Application for variation of condition 2 of application BH2015/02049 allowed on appeal (Demolition of existing house and garage and erection of 9no four bedroom houses) to allow amendments to the approved drawings too permit amendments to the approved drawings including landscaping, elevations and boundary treatments.

Officer introduction

- (1) The Principal Planning Officer, Gareth Giles, introduced the application and gave a presentation by reference to plans, elevational drawings, photographs and floor plans. A previous application for demolition of the existing house and garage and erection of 9 no. four bedroom houses had been allowed on appeal after initially being refused. He stated that the main considerations in determining the application related to whether circumstances, policy or practice had changed sufficiently enough for the extant permission and the Inspector's comments on the prevailing character, design and neighbour amenity to no longer apply. Four letters of objection had been received and Councillor Mears had objected to the scheme in her capacity as a Local Ward Councillor.
- (2) The Planning Officer stated that an additional late representation had been received objecting to the development and that the County Ecologist's had raised no objection to the application but their comments had been omitted from the report in error.

Public speakers

- (3) Mr Duncan Howie spoke in his capacity as a local resident objecting to the application. He stated that the developer had built plans outside of the permission already having failed to obscurely glaze front facing windows which overlooked neighbours and had been originally shown as obscurely glazed. The developers had stated that the need to vary the application was to accommodate disabled access something which according to the Developer the original proposal already allowed. The developer had either breached or not yet shown compliance with any of the conditions attached to the extant permission. He called on the Committee to refuse the application and stated that the

Planning Inspector had placed conditions on the permission for a reason and the Developer should not be allowed to pick and choose which to comply with.

- (4) Councillor Mears submitted a written representation objecting to the application:

“As a ward councillor for Rottingdean Coastal I wish to object to the above planning application for the following reasons:

“The original planning application on this site was refused and was subsequently won on appeal. The inspector was very clear with her reasons why she added the conditions. Partially Condition 12 in relation to the screening of trees and hedges to afford neighbours some privacy.

“I do not support the developer’s request to amend the existing granted application to enable the developer to cram too many properties on this site.

“This was always going to be a difficult site to develop, trying to build the number of units in such a small area, the original drawings showed this, now as the site is being developed, it’s even clearer.”

Questions to the Planning Officer

- (5) In response to Councillor Wares, the Planning Officer confirmed that condition 12 referenced the protection of trees and hedges at the site during construction. Officers also confirmed that some trees which should have been protected were not and had sustained damage although were not thought to be at risk of being lost.
- (6) In response to Councillor Wares, the Planning Officer confirmed that the application was now retrospective but was not at the time that it was made. The position or number of the dwellings had not changed and the application followed several enforcement visits.
- (7) Councillor Wares asked that in light of the developer’s apparent disregard for conditions in the past how could the Committee have any confidence that any new conditions would be complied with.
- (8) The Planning Officer responded that Members and officers could only make a decision on the application in front of them and had to do so with an open mind. The Council had a Planning Enforcement Team and it was up to them to take action should a developer not comply with conditions.
- (9) In response to the Chair, the Legal Adviser stated that the Council could use an enforcement notice to require compliance with a condition or could serve a breach of condition notice. Non-compliance with a breach of condition notice was a criminal offence and would be a swifter remedy than an enforcement notice to enforce conditions.
- (10) Councillor Miller stated that he would be keen for the Council to exercise its powers to enforce conditions more robustly in the future. He asked officers to confirm what aspects of the landscaping had changed.

- (11) The Planning Manager stated that part of the enforcement process was negotiating with developers and seeking to regularise a breach with an application to vary permission. If a developer continues work before a variation is granted they do so at their own risk.
- (12) The Planning Officer confirmed which existing trees the developer proposed to retain and where new trees would be planted. Two hedges which should have been retained were removed and the landscaping plan proposed to reinstate them in addition to erecting acoustic fencing along the vehicle access.
- (13) In response to Councillor Miller, the Planning Officer stated that he could not confirm all of the changes to the landscaping plan from the one approved by the Planning Inspector and stated that an additional condition could be added requiring the submission of a more detailed landscaping plan.
- (14) In response to Councillor Marsh, Officers stated that they would not recommend a condition that was not enforceable. If conditions were breached the Planning Enforcement Team would take appropriate action.
- (15) In response to Councillor Marsh, the Legal Adviser clarified that previous breaches of conditions was not a ground on which an application could be refused.
- (16) In response to Councillor Littman, the Planning Officer stated that the Planning Inspector's condition only protected trees during construction and not in perpetuity. Officers also confirmed that any differences between the original landscaping plan and the new one had already been actioned. Officers suggested that the Committee may want to request that the applicant produce a more detailed tree plan.
- (17) The Chair also responded to Councillor Littman that as the provision of a bin store was conditioned but not shown on the site plan this condition could be strengthened so that the site could not be occupied until developers had confirmed how this would be achieved.
- (18) In response to Councillor Gilbey, Officers stated that the trees at the back of the site had been removed and that officers would look to secure mature trees to replace them rather than saplings.
- (19) In response to Councillor Wares, the Planning Officer stated that the changes to the exterior of the houses resulted from the developer rearranging the interior which may have been to better accommodate individuals with mobility difficulties.
- (20) The Chair reminded the Committee that the question they were considering was whether the application in front of them was acceptable.

Debate and decision making process

- (21) Councillor Miller stated that he would not be supporting the officer's recommendation. He stated that he had no issues with the change to the elevations but that the changes to landscaping and the removal of previous retained fully grown trees would have a negative impact upon the neighbours' amenity.

- (22) Councillor Inkpin-Leissner stated that he was displeased by the Developer's actions and felt the Council should have been stronger in its enforcement of the conditions.
- (23) Councillor Littman stated that while the application appeared straightforward he was concerned that the committee was rubber stamping vandalism of the ecology on the site and that he was not convinced that the Committee had enough information on which to base a decision. He understood his colleagues' desire to vote against the application as the Council did not want to encourage this behaviour from applicants but was concerned that refusal would prove difficult to defend.
- (24) Councillor Page stated that robust conditions had been suggested which built on good work by the Planning Enforcement Officers. He agreed with Councillor Littman about the seriousness of breaches of condition but stated that the variations were relatively minor and he would be supporting the officer's recommendation.
- (25) Councillor O'Quinn stated that the two trees had already been lost and that they would be replaced by mature trees. She did not feel the change in design was a concern.
- (26) Councillor Gilbey stated that she would be supporting the officer's recommendation and requested that a condition be added to obscurely glaze the two new side windows.
- (27) The Chair stated that the Committee could not punish applicants and must make a judgement on the application before them.
- (28) On a vote of 4 For, 5 Against with one abstention the committee refused permission.
- (29) Councillor Miller proposed that the application be refused on the following grounds:
1. That the change to the landscaping plan was overbearing and resulted in overlooking into neighbouring gardens.
- (30) Officers stated that the Planning Inspector had not conditioned that the trees on the boundary be retained and that it may be difficult to argue this as a ground for refusal should the applicant appeal. Officers also stated that the Planning Inspector would consider whether grounds for refusal could have been reasonably remedied through an additional condition which would have allowed for permission to be granted such as conditioning that mature trees be planted on the boundary.
- (31) Councillor Miller stated that he disagreed with the officers and believed that his motion provided adequate grounds on which to refuse the application.
- (32) Councillor Wares seconded the motion.
- (33) The Chair called a vote on the proposed alternative recommendations. This was carried with Councillors Inkpin-Leissner, Marsh, Miller, Taylor and Wares voting For, Councillors Gilbey, O'Quinn, Page and Cattell voting Against with Councillor Littman abstaining.
- 31.7 **RESOLVED** - That the Committee has taken into consideration the recommendation laid out in the report but resolves to **REFUSE** planning permission on the grounds proposed by Councillor Miller detailed in paragraph (29) above.

H BH2018/00972 - Wickenden Garage, Scott Road, Hove - Full Planning

Formation of 1no two bedroom flat (C3) on top of existing garage (B1)

Officer introduction

- (1) The Committee did not wish officers to give an introduction.

Debate and decision making process

- (2) The Chair called a vote and the Committee unanimously voted to refuse planning permission.

31.8 **RESOLVED:** That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in the report and resolves to **REFUSE** planning permission for the reasons detailed in the report.

I BH2018/01545 - Land adjacent 7 Belle Vue Cottages, Brighton - Outline Application All Matters Reserved

Outline application with all matters reserved for the erection of 1no two storey dwelling (C3) to adjoin existing dwelling at 7 Belle Vue Cottages.

Officer introduction

- (1) The Principal Planning Officer, Gareth Giles, introduced the application and gave a presentation by reference to location plans, indicative elevational drawings, indicative floorplans and photographs. He stated that all matters were reserved and therefore the main consideration in the determination of the application related to the principle of the development of a 1 no. two storey dwelling (C3) at the site. Nine representations had been received objecting to the scheme.

Questions to the Planning Officer

- (2) Councillor Miller noted that other buildings appeared to be being extended on the road which suggested the principle of building between plots in the area had been established and asked what schemes had been given permission on the road.
- (3) The Planning Officer stated that they had no record of any applications being made on the road apart from BH2018/01545 and that if work was being done it either did not need permission or was being done without permission. Officers suggested the Planning Enforcement would need to investigate.
- (4) Councillor Miller noted that a window was being lost and asked what this served.
- (5) The Planning Officer stated that the window was from the donor house and so the applicant had accepted the loss.

Debate and decision making process

- (6) Councillor Wares stated that he was concerned about the precedent which was being set by the application and understood the fears neighbours had raised in their objections. For this reason he would not be supporting the Officer's recommendation.
- (7) Councillor Page stated that it was an unusual site and the application represented a logical use of space to provide more housing in the city. He did not feel that the application would significantly change the character of an area.
- (8) On of vote of 8 For and 2 Against the Committee agreed to grant planning permission.

31.9 **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 detailed in the report.

J BH2018/01445 - Hove Rugby Football Club, Hove Recreation Ground, Shirley Drive - Full Planning

Erection of single storey side and rear extension incorporating formation of first floor side balcony

- (1) The Chair noted that a request to speak had been received after the 5pm Friday deadline. The Chair also noted the requests to defer consideration of the application which had been made by a neighbour and the public questioner earlier. The Chair called a vote to defer the application. The Chair then asked those Members who had indicated that they wished to defer consideration of the application to suggest a ground on which the application could be deferred. When no grounds were proposed the Chair suggested that the Principle Planning Officer give a presentation.

Officer Introduction

- (2) The Principal Planning Officer, Gareth Giles, introduced the application and gave a presentation by reference to plans, elevational drawings, photographs and floor plans. He stated that the main considerations in determining the application related to: the impact of the proposed development on the appearance and character of the building, surrounding streetscene and wider area, and the amenities of the neighbouring properties. 14 letters of objection were received objecting to the proposal.

Questions to the Planning Officer

- (3) In response to Councillor Gilbey, the Planning Officer stated that the application would not impact on any of the existing facilities at the club.
- (4) In response to Councillor Miller, Officers stated that the usual process for the public to make a representation at Committee was for them to contact the Clerk to the Committee to register by 5pm the Friday before the meeting. Objectors were only advised that an application was coming to committee if they had stated that they wished to address the Committee in their objection. Otherwise objectors were not contacted prior to an application being considered by Committee. Officers confirmed that the processed had been followed.

- (5) In response to Councillor Page, the Planning Officer confirmed that condition 2 referred to all usage of the balcony licensable or otherwise.
- (6) In response to Councillor O'Quinn, the Planning Officer stated that the balcony was around 60m² and additional conditions could be added to restrict the brightness of any lighting.
- (7) The Transport Officer stated in response to Councillor O'Quinn that there was a lack of information about traffic impact in the application. However there was agreement that the area would come under a controlled parking zone following the first stage of consultation. The form of the parking controls was not yet known but it was proposed that the free street parking which ran alongside Hove Recreation Ground was to be retained. In this context the Planning Officer concluded that while the balcony may attract more visitors the impact on traffic was not likely to be severe.
- (8) Officers suggested that an additional condition requiring the applicant to put in place measures to restrict unsupervised access to the balcony in response to Councillor O'Quinn's and Councillor Miller's concerns about the potential of it attracting anti-social behaviour.
- (9) In response to Councillor Inkipin-Leissner, the Planning Officer stated that there was no proposed wheelchair access to the balcony.

Debate and decision making process

- (10) Councillor Miller stated that the proposal would provide a good facility for the rugby club and may encourage more participation in sport. The club house was a significant distance from the neighbouring properties and he felt that there would not be a significant additional impact on them. He stated that living next to a park was a privilege and it was unreasonable to expect it not to be used.
- (11) Councillor O'Quinn stated that while she did not object to the proposed extension to the interior of the club house she did not support the addition of the terrace.
- (12) Councillor Taylor stated that it was regrettable the impact the application would have on the neighbours and that it was regrettable that they had not been able to address the Committee.
- (13) Councillor Page stated that Hove Rugby Football Club was a popular club which should be supported. The clubhouse was a long way from neighbours especially when compared to other areas of the city and if there were noise complaints these should be dealt with through the appropriate Council team.
- (14) Officers confirmed that additional conditions requiring additional security to prevent access to the balcony and to limit the brightness of lighting would be added should permission be granted.
- (15) On a vote of 9 For with one abstention planning permission was granted.

31.10 **RESOLVED:** That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in the report below and resolves to **GRANT** planning permission subject to the Conditions and Informatives detailed in the report.

K BH2018/01645 - 7 Marine Close, Saltdean - Householder Planning Consent

Erection of two storey side extension and single storey rear extension. Roof alterations including relocating dormer and installation of rooflights and revised fenestration.

Officer introduction

(1) The Committee did not wish officers to give an introduction

Debate and decision making process

(2) On a vote of 9 For Committee agreed to grant planning permission.

31.11 **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 detailed in the report.

Councillor Miller was not present for the consideration of BH2018/01645

L BH2018/00316 - 15 Twyford Road, Brighton - Full Planning

Change of Use from 3 bedroom single dwelling (C3) to a single dwelling or a 6 bedroom House in Multiple Occupation (C3/C4) with alterations to fenestration.

Officer introduction

(1) The Principal Planning Officer, Gareth Giles, introduced the application and gave a presentation by reference to plans, elevational drawings, photographs and floor plans. He stated that the main considerations in determining the application related to: the principle of the change of use, the design of the external works, the standard of accommodation which the use would provide, impact upon neighbouring amenity and transport issues. 53 letters objecting to the scheme had been received and Councillors Hill and Inkpin-Leissner had also objected in their capacity as Local Ward Councillors. One further letter of objection had been received following the re-advertisement of the proposal. One representation had also been received which reported that work had already commenced.

Public Speakers

(2) Councillor Hill provided a written representation:

“I’ve received complaints from residents of Twyford Road about the application and the fact that work started on the property before the decision has been made. As detailed in the committee paper, there have been over 50 objections to this application, demonstrating the increasingly strong feelings about HMO proliferation in Coldean. A

large number of objections were also made to a similar application at 12 Twyford Road which was approved at last month's planning committee.

"In addition to these, there are applications for infill development on either side of the entrance to Twyford Road, both of which are being made by HMO developers. And there are numerous other applications in the general area. One nearby property in particular has generated a great deal of frustration because although the application was only for 6 occupants, it was clear right at the beginning of the building works that there was an intention to house up to nine. Residents feel misled by these applications which do not accurately state the intentions of the developers.

"15 Twyford Road is a terraced house originally intended as a family home. If planning permission is given, there will be six people living there all leading independent lives, cooking separate meals and coming and going at separate hours. This will cause noise and disturbance to neighbours even if the occupants are not particularly noisy, because the house just isn't designed for this many independent people. While currently the 10% threshold has not been met, it is likely that it soon will be from the increased number of HMO developments Coldean is currently seeing. Aside from the threshold, the impact of a six-person HMO in this small road, alongside the other HMO which has just been approved, will be felt by residents.

"I hope the committee will take all these views into consideration."

Questions to the Planning Officer

- (3) In response to Councillor Marsh, Officers stated that proposals to change Council policy around Houses in Multiple Occupation were in the very early stages and it was not yet possible to say whether new policy would contraindicate the application.
- (4) In response to Councillor Marsh, Officers confirmed that two of the 43 dwellings within 50m of the site were Houses in Multiple Occupation.
- (5) In response to Councillor Marsh, Officers stated that applications were taken on a first come first serve basis and pending applications were not considered when calculating the number of Houses in Multiple Occupation in an area.
- (6) In response to Councillor Gilbey, Officers confirmed what bathroom facilities were proposed at the property.

Debate and decision making process

- (7) Councillor Page stated that he would like to pay tribute to Councillor Hill's work around Houses in Multiple Occupation and engaging community groups in a constructive way. The number of student properties in Coldean was impacting upon the viability of local schools and negatively impacting the community and was a warning for other areas of the city.
- (8) Councillor Taylor stated that he regretted the loss of a family home and the knock on effect this would have on the community and that it was unfortunate that planning policy did not offer many options to refuse the application.

- (9) Councillor O’Quinn echoed the previous comments. She stated that the Committee was compelled to agree the proposal by Council policy and that previous refusals had been allowed on appeal.
- (10) Councillor Gilbey stated that she would not be supporting the proposal as a similar application for 25 Wheatfield Way had been refused permission and the appeal had been dismissed on appeal. The Planning Inspector agreed that there would be significant harm to neighbouring amenity from increased occupancy despite the application meeting space requirements and being within policy.
- (11) Officers clarified that the application for 25 Whatefield Road was for a large House in Multiple Occupation with up to nine occupants where as BH2018/00316 would have a maximum of four occupants. Loss of neighbouring amenity due to increased occupation was a material planning consideration but was not often upheld by the Planning Inspector.
- (12) Councillor Marsh stated that she understood the constraints of the policy and that it was regrettable that work on the site had already commenced as this created a bad impression.
- (13) The Chair called a vote which was tied; 3 For, 3 Against with two abstentions. The Chair then used her casting vote to allow planning permission stating that she regretted the negative impact these applications had but that with current policy and the precedent set by previous decisions made by the Planning Inspectors she felt that refusal could not be defended at appeal.

31.12 **RESOLVED:** That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in the report and resolves to **GRANT** planning permission subject to the Conditions and Informatives detailed in the report.

Councillors Miller and Inkipin-Leissner were not present for the consideration of BH2018/00316

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

32.1 There were none

33 INFORMATION ON PRE APPLICATION PRESENTATIONS AND REQUESTS

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

34 LIST OF NEW APPEALS LODGED WITH THE PLANNING INSPECTORATE

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

35 INFORMATION ON INFORMAL HEARINGS/PUBLIC INQUIRIES

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

36 APPEAL DECISIONS

36.1 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 7.30pm

Signed

Chair

Dated this

day of