

**BRIGHTON & HOVE CITY COUNCIL****PLANNING COMMITTEE****1.00pm 14 DECEMBER 2016****COUNCIL CHAMBER, HOVE TOWN HALL, NORTON ROAD, HOVE, BN3 3BQ****MINUTES**

**Present:** Councillors Cattell (Chair), Gilbey (Deputy Chair), C Theobald (Group Spokesperson), Mac Cafferty (Group Spokesperson), Bennett, Hyde, Littman, Miller, Moonan, Morris, Russell-Moyle and Yates

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

**Officers in attendance:** Nicola Hurley, Planning Manager, Applications; Sarah Collins, Principal Planning Officer; Kate Brocklebank; Principal Planning Officer; Maria Seale, Principal Planning Officer; Steven Shaw, Development and Transport Assessment Manager; Helen Gregory, Principal Planning Officer; Sandra Rogers, Principal Planning Officer; Sam Smith, Lead City Regeneration Programme Manager; Emma Kumar, Empty Property Officer; Sarah Potter, Operational Manager, Housing Adaptations, Richard Bradley, Assistant Director City Environmental Management; Hilary Woodward, Senior Solicitor and Penny Jennings, Democratic Services Officer

**PART ONE****76 PROCEDURAL BUSINESS****76a Declarations of substitutes**

76.1 Councillor Yates was in attendance in substitution for Councillor Inkpin-Leissner.

**76b Declarations of interests**

76.2 Councillor Yates declared a personal and prejudicial interest in application C, BH2016/02756, 133 Kingsway (Former Texaco Garage) & 22 Victoria Terrace, Hove. He had been part of Co-Operative Team which had agreed on disposal of the site and relating to the Co-operative store on site he confirmed that he would withdraw from the meeting during consideration of the application and would take no part in its discussion or the decision making process. Councillor Yates also declared a prejudicial interest in applications F, BH2016/02229, 34 Walmer Crescent, Brighton and H, BH2016/02810,

57 Hornby Road, Brighton by virtue of the fact that he had submitted letters of objection in respect of both applications in his capacity as a Local Ward Councillor. He confirmed that he would withdraw from the meeting during consideration of the application and would take no part in their discussion or the decision making process.

- 76.3 Councillor Russell-Moyle also declared an interest application F, BH2016/02229, 34 Walmer Crescent, Brighton. He had sat on the Loan Recommendation Panel which had agreed to the purchase of 38 Walmer Crescent and considered that any decision relating to this application might impact on that; the Planning Officer confirmed that was not the case and that he did not appear to have a conflict of interest. However, in view of the close proximity of the two sites and being mindful of potential public perception of the matter Councillor Russell-Moyle stated that he would leave the meeting during its consideration and would take no part in the discussion or decision making thereon.
- 76.4 Councillor Mac Cafferty confirmed that he had attended a meeting of the South East Area Design Panel in respect of application B, BH2016/02499, Anston House (137-139) and land adjoining Preston Road Brighton with the Chair and Councillor C Theobald. Officers had also been in attendance and all three Members confirmed that they had not expressed a view, remained of a neutral mind and would therefore remain present during and take part in the discussion and decision making process. Councillor Littman confirmed that he also attended briefing sessions in respect of this application which was located in his ward. He had also not expressed an opinion, remained of a neutral mind and would remain present and take part in the discussion and voting thereon.
- 76.5 Councillor Moonan referred to application C, BH2016/02756, 133 Kingsway, (Former Texaco Garage), & 22 Victoria Terrace, Hove. The site was located in her ward and although she had attended a public consultation event in respect of it she had not predetermined the application, remained of a neutral mind and would remain present during and take part in the discussion and decision making thereon.
- 76.6 The Chair, Councillor Cattell, declared a prejudicial interest in application E, BH2016/01879, Diplock's Yard, Land to rear of 73 North Road, Brighton. The architect for the scheme was known to her and she had worked as a planning agent on the site in the recent past. The Chair explained that she would vacate the Chair which would be taken by the Deputy Chair, Councillor Gilbey, would leave the meeting during consideration of the application and would take no part in the discussion or voting thereon.
- 76.7 The Legal Adviser to the Committee, Hilary Wodward, declared an officer interest in application C, BH2016/02756, 133 Kingsway (Former Texaco Garage), & 22 Victoria Terrace, Hove. She was acquainted with one of those speaking as an objector to the proposed scheme, but had no direct input or involvement with the application, had not discussed the application with the individual concerned, nor would this have any bearing on any legal advice she might be required to give.

**76c Exclusion of the press and public**

76.8 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.

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

**76d Use of mobile phones and tablets**

76.10 The Chair requested Members ensure that their mobile phones were switched off, and where Members were using tablets to access agenda papers electronically ensure that these were switched to ‘aeroplane mode’.

**77 MINUTES OF THE MEETING HELD ON 12 OCTOBER**

77.1 **RESOLVED** – That the Chair be authorised to sign the minutes of the meeting held on 12 October 2016 as a correct record.

**78 MINUTES OF THE PREVIOUS MEETING**

78.1 In relation to Item B Councillor Mac Cafferty stated that he had sought clarification regarding the status of and need to record any of the on-site archaeology. It had been confirmed that the County Archaeologist had advised that he did not require a watching brief for the site. Councillor Mac Cafferty had also enquired regarding measures being undertaken to deal with graffiti, requesting that the minutes be amended to more accurately reflect his comments.

78.2 **RESOLVED** – That subject to the amendment set out above the Chair be authorised to sign the minutes of the meeting held on 9 November 2016 as a correct record.

**79 CHAIR'S COMMUNICATIONS**

79.1 The Chair, Councillor Cattell, wished to place on record her congratulations to Liz Hobden on her recent appointment as Head of Planning. Given Liz’s deep and wide ranging knowledge and experience of planning The Chair was looking forward to meeting regularly and working with her in the New Year.

**80 PUBLIC QUESTIONS**

80.1 There were none.

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

81.1 **RESOLVED** – That the following site visits be undertaken by the Committee prior to determination of the applications :

Application:	Requested by:
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BH2016/02377, 11 Coombe Vale, Saltdean	Councillor Hyde
BH2016/00448, 11 Radinden Drive, Hove	<b>Councillor Bennett</b>

**82 121-123 DAVIDGOR ROAD, HOVE- REQUEST TO VARY THE HEADS OF TERMS OF SECTION 106 AGREEMENT IN CONNECTION WITH PLANNING PERMISSION BH2015/02917 FOR A MIXED USE BUILDING COMPRISING 47 RESIDENTIAL UNITS AND D1 COMMUNITY SPACE**

- 82.1 The Committee considered a report of the Director, Economy, Environment and Culture requesting that the Committee consider a request to vary the terms of the Section 106 Agreement in respect of planning permission BH2015/02917, 121-123 Davigdor Road, Hove. It was noted that this variation request had been presented to Planning Committee on 9 November 2016 when consideration had been deferred in order to allow the Housing Team to comment on the request to vary the s1s06 and to answer questions raised by the Committee.
- 82.2 Following the original planning permission, granted in February 2015 on completion of a s106 agreement, the developer had advised that due in part to government rent caps for affordable rent accommodation and partly due to the nature of the development itself the possible Registered Social Landlord (RSL) had pulled out of their agreed deal to purchase the affordable units within the development and their under bidder had also withdrawn their interest. The developer had advised that in consequence they had received no viable offers for the affordable housing element of the scheme. Following discussions with the Housing Strategy team it had been agreed that an option whereby the affordable housing would be delivered by way of a commuted sum rather than on-site provision had been considered to represent the best way to meet the affordable housing brief and to secure affordable rent units.
- 82.3 Emma Kumar was in attendance representing the Housing Team. It was explained in response to Member questions that although the possibility of such units being purchased and managed by the Council could be pursued in the longer term, currently no mechanisms existed which enabled the Council to buy such units and to provide on-site provision if Registered Providers were unable to purchase them. The proposal to vary the existing Heads of Terms represented the most appropriate solution in the circumstances.
- 82.4 Councillor Russell-Moyle stated that the explanation given regarding the current position was enlightening and helpful. He was firmly of the view however that for the future means by which the Council could purchase such units should be pursued and that commuted sums should be set aside rather than placed into any general fund. The Chair, Councillor Cattell, noted what had been said explaining that although this matter fell outside the remit of the Planning Committee she was aware that it was being looked at by the Policy, Resources & Growth Committee. Councillor Russell-Moyle also asked and was advised of the schemes this money would be spent on.
- 82.5 Councillor C Theobald stated that she pleased that the application had been deferred in order for Members to receive the additional information requested. On the basis of the information provided she considered that the proposed variation to the existing

Heads of Terms was acceptable. Whilst it was preferable for 40% on-site provision to be given, each application needed to be considered on its individual merits and in this instance she considered that a sufficiently compelling case had been made.

- 82.6 Councillor Littman stated that he was deeply concerned that notwithstanding the circumstances in this instance, accepting a significantly lower level of affordable units compromised the Council’s policies. The rationale for this set out in the report did not relieve his concerns.
- 82.7 Councillor Moonan stated that whilst she was in agreement that the Council’s policies should be upheld and that acceptance of a commuted sum should only be considered as an exception, it was appropriate in this instance.
- 82.8 A vote was taken and on a vote of 11 with 1 abstention variations to the Head of Terms as set out in the report and below were agreed.
- 82.9 **RESOLVED** – That the proposed variations to the Head of Terms be agreed to require the developer to provide a financial contribution of £1,218,000 to provide off-site affordable housing.

**83 TO CONSIDER AND DETERMINE PLANNING APPLICATIONS**

**MAJOR APPLICATIONS**

**A BH2016/05493- Land at Station Street/Blackman Street/Cheapside, Brighton - Full Planning**

Erection of 7 storey office building (B1) plus basement with associated car and cycle parking and landscaping. New vehicular access off Blackman Street.

- (1) It was noted that this application had been the subject of a site visit prior to the meeting.

**Officer Introduction**

- (2) The Principal Planning Officer, Maria Seale, gave a presentation detailing the scheme by reference to plans, elevational drawings proposed block plans and photographs. It was explained that the site which was vacant was located to the East of Brighton Station and was bordered on three sides, on the corner of Station Street, Blackman Street and Cheapside, opposite the south end of Fleet Street. The character of the area was mixed commercial/residential and there were tall buildings to the south and west, a residential block to the north (Sharpthorne Court) and low rise commercial buildings to the east.
- (3) It was noted that the site plan circulated with the Committee papers was slightly inaccurate as it did not include part of the public highway next to Fleet Street which the proposed entrance canopy would project over. A corrected version had been circulated with the “Additional Representations List”.
- (4) The delivery of modern office floor space was particularly welcomed in this location and, in line with the NPPF, considerable weight had been given to the significant economic benefits of the proposal. In view of all of the above, there was no objection to the

proposed single use. The proposal was welcomed by both the council's City Regeneration and Planning Policy Teams, who had confirmed that the benefits of the proposal should be afforded significant weight and that there were strong planning benefits to an office only scheme on this site. The land east of Brighton Station had been identified as a focus for tall buildings (over 18m/6+ storey) in SPGBH15 and the site had also been identified as suitable for tall buildings in SPD10 in principle; minded to grant approval was therefore recommended.

### Questions for Officers

- (5) Councillor Miller enquired whether it would have been possible to apply the S 106 monies elsewhere in the vicinity. It was explained that the traffic arrangements had been assessed very carefully in this instance and that would not have been appropriate. Councillor Miller also raised the issue of one of the streets becoming a one way street.
- (6) Councillor Morris asked for clarification of the width of Blackman Street which he considered was a very narrow highway.
- (7) Councillor C Theobald inquired regarding any potential impact on buildings located opposite the site.

### Debate and Decision Making Process

- (8) Councillor Mac Cafferty referred to paragraph 8.28 of the Officer report stating querying that the methodology in this instance. He stated he had concerns about the appearance of the brickwork proposed requesting that materials be agreed at the Chairs meeting and it was agreed that would be appropriate.
- (9) Councillor C Theobald stated that she supported the proposal which would provide good quality office space.
- (10) Councillor Miller concurred stating that in his view the case for office rather than a mixed use development had been made in this instance.
- (11) Councillor Morris supported the scheme which he considered had been well designed.
- (12) Councillor Littman stated that he considered the scheme was appropriate and of a good design, although he would have preferred it to be a mixed use development.
- (13) A vote was taken and on members voted unanimously that minded to grant planning approval be granted.

83.1 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in the report and resolves that it is **MINDED TO GRANT** planning permission subject to a s106 agreement and to the conditions and informatives also set out in the report and the amendments set out below:

**Amend** Condition 8 (i) to read: Details of the feature decorative ventilation grilles to basement car park facing Blackman Street which shall incorporate an artistic influence.

Condition 10 should read as part of condition 9.

**B BH20116/02499- Anston House (137-139) and Land Adjoining, Preston Road, Brighton - Full Planning**

Demolition of existing building and erection of a new building of varying heights up to 13 and 15 storeys to provide 229, residential units (C3), flexible commercial/café space (B1/A3) use at ground level, car parking at ground and basement level, cycle parking, storage lockers, two new vehicular accesses, landscaping and amenity areas, refuse stores and associated plant.

**Officer Introduction**

- (1) It was noted that this application had been the subject of a site visit prior to the meeting.
- (2) The Principal Planning Officer, Sarah Collins gave a presentation delineating the proposed scheme by reference to site plans, elevational drawings and photographs showing of the site and impressions of the completed scheme. Minor amendments were to the conditions were proposed as set out in the Additional Representations List. Additional representations received were also referred to. Details were shown in relation to the previously refused scheme and the current one.
- (3) The application site related to the existing Anston House building and vacant site adjacent to Anston House, 137-147 Preston Road. The plot was rectangular in shape measuring approximately 91m x 65m. The existing building Anston House, was 9 storeys in height to the road frontage and stepped down to 7 storeys to the rear. The property had been vacant for approximately 30 years and was in a poor state of repair. The site is owned by One Preston Park LLP, a joint venture between First Base Ltd and Hyde Housing Group.
- (4) The surrounding area comprised a mix of uses. The site was bounded by Preston Road to the north east with Preston Park beyond. To the south east of the site was Telecom House, a purpose built office block which stood at 10 storeys in height, beyond which was a traditional row of terraced residential properties. To the north west were predominantly office buildings set within generous plots varying between 6 - 10 storeys in height. To the south west were 3-4 storey residential terraced properties which fronted onto Dyke Road Drive. These properties were generally set at a higher level than the site by more than 5m, with the gardens sloping down to the boundary with the application site. Beyond these terraced properties was the main railway line leading into Brighton Station.
- (5) The proposed scheme had evolved over the course of the past year through pre-application consultation with planning officers and had been scrutinised by the South East Review Panel three times. The design had been revised significantly from the previous scheme. The amount of development to the rear of the site had been reduced and had been relocated towards the site frontage set across three towers. Anston House would be demolished and a mixed use development comprising commercial

space on the ground floor with residential flats above set across three towers of 13, 14 and 15 storeys and within two 6 storey (read as 5 storeys at the back of the site) rearward projections and a 4 storey podium connecting the north and central towers. There would be two levels of parking at ground and basement level, accessed from a new two-way access at the northern end of the frontage. There would also be a one-way access for drop offs and deliveries at the front of the site which would connect to the main access via which all vehicles could access the site. The commercial floorspace would cover 1,663sqm of which 250sqm would be dedicated to an A3 café use. The current application which had been significantly amended and which had been informed by an extensive pre-application presentation was recommended minded to grant subject to the Conditions and Informatives set out in the report and as amended.

### **Public Speakers**

- (6) Ms Dadka and Mr Shaw spoke in objection to the scheme setting out their objections and those of neighbouring residents. Whilst recognising the desperate need for housing across the city, the scheme as put forward represented over development of the site and by virtue of its scale and bulk would set a damaging precedent, it would also be detrimental to the setting of Preston Park.
- (7) Councillor Allen spoke in his capacity as a Local Ward Councillor setting out his objections to the scheme. He considered that the proposed development was still too tall and overbearing especially in the context of Dyke Road Drive to the rear. The towers proposed were too high and would be more at home in Manhattan, New York than in the Preston Park area. The weight of public opinion was firmly against the scheme and that should be taken account of.
- (8) Mr Lipton spoke on behalf of the applicants in support of their application. The application before the Committee had undergone significant work in order make best use of the site whilst respecting neighbouring development and the setting of Preston Park which was opposite the site. The tower blocks had been provided across the site in order to break up the building line. In addition to providing much needed housing the proposed form of development would also provide 1,300 jobs and make a significant contribution to the local economy.

### **Questions for Officers**

- (9) Councillor Russell- Moyle sought detailed information in relation to the viability of the scheme and the assessment made in relation to the affordable housing element. He was very concerned that it was important to ensure that the Council's commitment to 40% affordable housing was met and was pursued robustly, otherwise the policy became compromised. Councillor Russell-Moyle asked whether it was possible for the details of those considerations to be released to Members, referring a recent case in Southwark. It appeared in this instance that the profit ratio for the scheme would be 25% whereas the usual requirement was for 15%. The Legal Adviser to the Committee, Hilary Woodward, explained that there was a procedure to be followed in relation to the disclosure of information which was considered to be confidential. Whether or not such information should be disclosed depended on the relevant facts pertaining to the information in question.



- (10) Councillor Morris stated that it was important for Members to feel that they were in possession on sufficient information to feel assured that the affordable housing/viability issues had been fully assessed.
- (11) The Chair stated that she considered that in her view it would be appropriate for members to receive training on viability issues , however in this instance she considered that the assessment of the District Valuer should be accepted in determining the application.
- (12) Councillor Hyde sought clarification regarding the consultation process and whether residents and others had been consulted regarding the height of the towers on site, also regarding the proposed materials and finishes proposed; the red tiles proposed appeared to be bright red.
- (13) Councillor Miller also sought confirmation as to whether materials would be brought back to committee for approval, or at least for approval by the Chair, Deputy Chair and Opposition spokespersons.
- (12) Councillor Yates also enquired how the palette of materials of materials was selected; also the balance between housing and other uses. It was explained that it was a matter of balance and on balance the mix of uses recommended was considered acceptable.
- (14) Councillor Gilbey sought clarification of the access/egress arrangements for the site and this was illustrated by reference to the appropriate plans.
- (15) Mr Gowans, CAG requested to see plans indicating how the proposed towers sat across the site in order to ascertain what the coherent building line was.
- (16) Councillor Moonan sought clarification regarding the height of the buildings in the context of the neighbouring tall blocks. It was confirmed that the methodology for tall buildings was referred to in the report and the development did comply with policies.
- (17) Councillor C Theobald asked for confirmation of the number of on site parking spaces and arrangements to protect any on site trees remaining or to provide screening.

**Debate and Decision Making Process**

- (18) Councillor Littman stated that he considered that the assessment of the District Valuer could be accepted and that did not impede the Committee in reaching its decision.
- (19) Councillor Hyde agreed considering that the Committee needed to determine the application as submitted. She considered the scheme was acceptable although the level of affordable housing was not 40% the scheme would provide much needed housing on a derelict site along with the mixed uses proposed.
- (20) Councillor Mac Cafferty welcomed the scheme but considered that the opportunity should have been taken to press for solar panels and sought clarification regarding the sustainable elements of the scheme and in relation to the cycle access arrangements.

- (21) Councillor Miller stated that any scheme approved for the site needed to be the “right” one. He liked the design and was mindful that the site had been empty for so long, although some elements of scheme were tall he considered it would be very difficult to address all of the concerns expressed. On balance he was able to support the scheme.
- (22) Councillor C Theobald stated that she would have preferred it had the development been lower but on balance considered it was acceptable.
- (23) Councillor Bennet concurred stating that she was disappointed that the scheme was so high but considered that it represented an improvement on what was there.
- (24) Councillor Mac Cafferty stated that he supported the scheme which would effect significant improvements and represented a bold response to the challenges of the site.
- (25) Councillor Russell-Moyle considered that it was very important to push for more affordable housing on sites across the city, however although he considered that this represented a visionary scheme he was unable to say whether the percentage of affordable housing was realistic.
- (26) Councillor Moonan stated that although she shared the concerns expressed on balance she supported the officer recommendation.
- (27) Councillor Gilbey stated that whilst torn on the issue ultimately she shared the concerns expressed by objectors in relation to the height and overbearing nature of the proposals and would therefore be voting against the application.
- (28) The Chair, Councillor Cattell, stated that having heard all that had been said on balance she supported the proposed scheme and considered that it would be very difficult to sustain reasons for refusal.
- (29) A vote was taken and on a vote of 9 to 3 minded to grant planning approval was given.

83.2 **RESOLVED** – That the committee has taken into consideration and agrees with the reasons for the recommendation set out in the report and resolves that it is **MINDED TO GRANT** planning permission subject to a s106 agreement and to the Conditions and Informatives also set out in the report and the amendments and corrections set out below.

**Amend the following conditions:**

7 i): ‘Demolition aside” to be inserted at the beginning.

8: ‘Demolition aside’ to be inserted at the beginning. Amend 2<sup>nd</sup> sentence: ‘The development shall subsequently be carried out’

12: Re-word to read: No development above basement car park level of any part of the development hereby permitted shall take place until a scheme has been submitted to and approved in writing by the Local Planning Authority to provide that the residents of the development, other than those residents with disabilities who are Blue Badge Holders, have no entitlement to a resident's parking permit. The scheme should include

the registered address of the completed development; an invitation to the Council as Highway Authority (copied to the Council's Parking Team) to amend the Traffic Regulation Order; and details of arrangements to notify potential purchasers, purchasers and occupiers that the development is 'street permit free'.

24: Re-word to read: Within 6 months of first occupation of the development hereby approved, a Post Completion Preliminary Assessment confirming that the non-residential development built has achieved a minimum BREEAM New Construction rating of 'Excellent', shall be submitted to, and approved in writing by, the Local Planning Authority.

41: Re-word to read: A minimum 5% of the residential units (12 units) shall be wheelchair accessible (in compliance with Building Regulations Optional Requirement M4(3)(2b) or wheelchair adaptable (in compliance with part M4(3)2a. 3 of these units shall be provided for the affordable rented units and these shall be wheelchair accessible. The wheelchair accessible/adaptable dwellings shall be completed prior to first occupation and shall be retained as such thereafter. All other dwellings hereby permitted shall be completed in compliance with Building Regulations Optional Requirement M4(2) (accessible and adaptable dwellings) prior to first occupation and shall be retained as such thereafter.

43 and 44: Delete – not required as condition 10e requires these details.

**To insert into end of paragraph 8.65 in the report:**

'The applicant reassessed the daylight levels and found that the number of rooms that would either meet the BRE guidance or have a negligible impact would increase from 557 to 571, which is considered to be a significant improvement.'

**Correction to paragraph 8.13 of the report:**

'local heritage assets' should be replaced with 'nearby designated heritage assets' and 'principle of' should be replaced with 'development substantially'.

**C BH2016/02756-133 Kingsway, (Former Texaco Garage), & 22 Victoria Terrace, Hove - Full Planning**

Proposed demolition of the former Texaco garage and shop and demolition of outbuilding to the rear of the former Alibi public house. Proposed erection of 55 No. residential apartments and 375 sq.m of retail floorspace (A1 Use Class) in a new building of between 2 and 9 storeys together with associated parking and landscaping; a change of use of the ground floor of the former Alibi public house to an A1 café and conversion of the first, second and third floors to provide 3No dwellings.

**Officer Introduction**

- (1) It was noted that this application had been the subject of a site visit prior to the meeting.
- (2) The Principal Planning Officer, Kate Brocklebank introduced the application by reference to site plans, elevational drawings, floor plans and photographs of the site in the context of the neighbouring street scene and the boundaries of the neighbouring

conservation area. The site itself fell partly within the Cliftonville Conservation Area. Reference was made to the amended conditions set out in the Additional Representations List. It was noted that 12 additional letters of objection had been received.

- (3) The application site was located on the corner of Kingsway and St Aubyns South adjacent to the King Alfred Leisure Centre on an island of development bordered to the east by Sussex Row and to the south by King's Esplanade. The site was comprised of two portions, both were currently vacant, the main site to the west was until 2015 occupied by a Texaco garage and shop whilst the eastern portion was occupied by the locally listed former Alibi public house, at 22 Victoria Terrace. The character of the surrounding area was a mix of residential and various commercial uses including cafes, restaurants and retail. The surrounding form was a mix of terraced and purpose built flatted development, the scale of which was varied with the adjacent Victoria Terrace representing the smallest scale at only 2 storeys in height, whilst the nearby Bath Court represented the tallest development in the island at 7 storeys.
- (4) The main considerations in determining the application related to the principle of development, design and impacts on heritage assets, along with impacts on amenity, transport and sustainability. Whilst reference had been made to a restrictive covenant on the site this was a private legal issue and was not a material planning consideration. Issues relating to the potential impact on amenity, daylighting, diffused daylighting and overlooking were addressed in the report. It was considered that the amendment to remove a storey from the new build to the rear of the Alibi rear projection would improve impacts on daylighting to the worse effected property at 21 Victoria Terrace and would also result in a more open aspect and would maintain the same separation distance at the rear.
- (5) Overall the development had sought to maximise the use of the site and represented a scale which challenged the traditional scale and form of the surrounding locality and in order to address the scale of adjacent development would result in the building stepping up considerably from east to west. The scheme was considered to be of an acceptable form, scale and design and with conditions to control the detailed elements of the design would have a positive impact on the character of the area particularly given the inclusion of improvements to the former Alibi and minded to grant approval was therefore recommended.

### **Public Speakers**

- (6) Ms Paynter and Dr Cory accompanied by Ms Bidwell spoke on behalf of local objectors setting out their objections to the scheme. In their view the scheme was full of compliance failures and sought to cram too much onto a constrained site. There would be severe overshadowing and loss of light from a building which would be too tall, the design was out of character with the surrounding street scene. There would also be a detrimental and potentially dangerous impact in consequence on the access arrangements proposed which would be exacerbated by the additional number of vehicular movements which would be generated, particularly in relation to the St Aubyns South vehicle access (raised footway/vehicle crossover).

- (7) Councillor Cobb spoke on behalf of Councillor Wealls setting out his objections to the scheme. Councillor Cobb referred to Councillor Wealls letter which was attached to the officer report which set out his concerns and objections and those of neighbouring residents in detail. Whilst proposals to develop this unsightly and derelict site were welcomed, the specific aspects of the proposal itself gave cause for concern. The development was too tall, there was insufficient parking; it would have a detrimental impact on the conservation area, access to light and amenity of adjacent buildings. Vehicle movements and delivery arrangements to the retail premises gave rise to concern. In addition to the arrangements for vehicles exiting from St Aubyns South onto the Kingsway there were additional concerns relating to vehicle volume and dangerous driving in Sussex Road. Vehicles already mounted the pavement there in order to pass parked vehicles on the eastern side of the road. It was critical that any development of such scale did not increase pressure on this very narrow road. The dearth of affordable housing was also considered unacceptable on a site which had such high massing and density.
- (8) Mr James spoke on behalf of the applicants in support of the scheme. He explained that the application had been subject to an extensive pre-application process and consultation and had sought to address objections and concerns whilst delivering a viable scheme. The scheme was in accordance with the Council's policies and would deliver much needed housing and a retail element to a currently derelict site.

#### **Questions for Officers**

- (9) Councillor Russell-Moyle referred to the proposed access/egress arrangements and sought confirmation of the considerations which had been taken. The Development and Transport Assessment Manager, Steven Shaw, ran through the access arrangements for the site including those for the proposed Co-op store. It was envisaged that further potential crossing arrangements could be effected to the Kingsway in future in connection with the King Alfred Leisure Centre. The arrangements proposed were considered adequate including the arrangements in relation to St Aubyns Road South. All final details would need to be submitted and approved in writing prior to occupation of the development.
- (10) Councillor Russell-Moyle also enquired regarding the reduced level of S106 contributions and it was explained that the levels for this had been arrived at following a detailed consultation process. The viability of the scheme had also been assessed by the District Valuer. Councillor Russell-Moyle stated that information regarding the formula used by the District Valuer and on viability issues generally as part of Member training would be beneficial.
- (11) Councillor Moonan sought clarification regarding the assessment which had been made regarding the tall buildings policy and whether or not the site was located within the tall buildings corridor. Confirmation was also requested regarding the consultation process and arrangements made to ensure advertisement of the scheme, as a number of local residents had indicated that they had been unaware of it.
- (12) Councillor Miller asked whether it was possible to seek to ensure (by condition) that Co-op customers could use only that area set aside for that use and whether it would be possible to ensure that other areas of the car park could not be sold-off in future.

The Principal Planning Officer explained that a condition could be added. Once the planning conditions had been discharged any future changes including those in respect of parking could not be changed without an application being made to vary them.

- (13) Councillor Hyde referred to the fact that a number of Members were Members of the Labour and Co-operative party and asked whether the Co-op made funding donations either centrally or locally. Councillor Russell-Moyle confirmed that was not the case and the Legal Adviser to the Committee confirmed that this issue had been raised in the past and it had been established that there was no conflict of interest.
- (14) Councillor Hyde also sought confirmation of the distance between the development and St Aubyns and sought clarification whether the balconies would be obscure glazed and it was confirmed that they would.
- (15) Councillor C Theobald sought confirmation of the hours of operation of the Co-op store and details of the times during which deliveries would be permitted to take place.

### **Debate and Decision Making Process**

- (16) Councillor C Theobald stated that whilst welcoming the additional housing the site would provide she considered that the development would be too high, would result in overlooking and loss of light to neighbouring developments, was of a poor design and provided insufficient parking.
- (17) Councillor Miller stated that whilst he had some concerns about parking and road safety he considered that these could largely be addressed by condition.
- (18) Councillor Hyde stated that she would have preferred to see more parking on site but noted and accepted the rationale of the District Valuer in relation to viability. Whilst she did not like the design of the corner block she considered that overall the materials proposed appeared to be of a very high quality.
- (19) Councillor Russell-Moyle stated that whilst he liked the design he was unhappy at the lack of affordable housing provision. He was concerned that the existing policy on affordable housing was often too lenient. If developers were permitted to provide less than 40% this served to weaken the policy. The Chair stated that the scheme had been brought forward following detailed consideration. In the event of refusal the views expressed by the District Valuer would be taken account of by the Planning Inspectorate.
- (20) Councillor Littman stated that in his view whilst welcoming the housing proposed, he considered the scheme was too tall, would result in overlooking and loss of daylight. Cumulatively there were a lot of negatives and he did not feel able to support the scheme. Councillor Morris stated that he shared Councillor Littman's concerns but liked the design so was torn.
- (21) Councillor Moonan stated that she considered there was a lot to be welcome but considered the corner block would be too tall.
- (22) Councillor Gilbey stated that she considered the application to be acceptable.

- (23) The Chair, Councillor Cattell stated that in her view the development was of a good design, would provide much needed housing and would result in good use of a brownfield site which was currently derelict.
- (24) A vote was taken and of the 11 Members present when the vote was taken, on a vote of 5 to 4 with 2 abstentions members voted that **MINDED TO GRANT** planning approval be given to include an additional condition to ensure that parking for Coop customers was only permitted in the area identified for the store, the final wording of which was to be agreed in consultation with the Chair.

83.3 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in the report and resolves that it is **MINDED TO GRANT** planning permission subject to a s106 agreement and to the Conditions and Informatives in the report and the amendments set out below:

**Additional Condition:** Parking for Co-op customers only in the area identified for the store.

**Amend the following conditions:**

8: Amend timing to ‘ground floor slab level’ rather than pre-commencement.

9: Correct numbering subsection ‘5’ should be ‘1’.

21: Reason updated to read:

Reason: To ensure that measures to make the development sustainable and efficient in the use of energy, water and materials are included in the development and to comply with policy SU2 of the Brighton & Hove Local Plan and to comply with policy SA1 of the Brighton & Hove City Plan Part One.

22: Should specifically refer to the *new build* retail unit only.

29: Reference to policy TR7 be removed from the reason for the condition.

31: Restriction on vehicles servicing the development to a maximum of 12m in length rather than 8.5m.

42: Delete.

**Additional condition:** Requiring Construction Environmental Management Plan

**Amend S106 Heads of Terms:** Delete requirement for Construction Environmental Management Plan

**Note:** Having declared a personal and prejudicial interest in the above application, Councillor Yates left the meeting and was not present during any aspect of its consideration or the voting thereon.

**D BH2016/05369 - Hollingdean Waste Transfer Station, Hollingdean Lane, Brighton -Variation of Condition**

Application for temporary variation of conditions 3, 4 & 5 of BH2013/02219 (original application BH2006/00900) to allow the operation of the Waste Transfer Station (WTS) and the Materials Recycling Facility (MRF) and the importation and export of waste on the 26th December 2016.

### Officer Introduction

- (1) The Principal Planning Officer, Maria Seale, gave a presentation detailing the application by reference to plans, drawings and photographs of the site. It was explained that variation of the conditions would allow for operational changes to the site to enable the City Council as Waste Authority to have greater flexibility in terms of collecting waste to allow operations to take place on 26 December 2016.
- (2) It was considered that the proposed temporary variation of conditions would not result in significant impact on the amenity of adjacent properties or highways safety and congestion. The variation would also allow the site to continue operating in an efficient and effective manner in accordance with local plan policies in respect of a city wide approach to waste management. Members were requested to note that proposed amended conditions were set out in the circulated Additional Representations List and that these now represented the substantive recommendations.

### Questions for Officers

- (3) Councillor Mac Cafferty enquired why permission was being requested this year. He was anxious to avoid nuisance to neighbouring residents and wanted to seek to ensure that if permission was given it was conditioned to ensure that this did not become a permanent arrangement. It was confirmed that the request was being made to minimise disruption to waste collection services due to the fact that the Christmas bank holiday fell over two weekends. Any future requests would need to come back to the Committee.

### Debate and Decision Making

- (4) Councillor C Theobald proposed that the hours during which operations could take place be limited to 9 00am and 5.00pm. This was seconded by Councillor Littman and Members then voted on this as one of the substantive report recommendations.
- (5) A vote was taken and members voted unanimously that a temporary variation of conditions 3, 4 and 5 be agreed as set out in the report to include a condition that the hours during which operations could take place be limited to between 9.00am and 5.00pm.

- 83.4 **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 set out in the report, Additional Representations List as amended or with the additional condition below.

**Additional Condition:** To ensure that operating times be restricted to 9am – 5.00pm or the conditions to be amended to restrict operating times.



1. The materials recovery facility and waste transfer station hereby permitted shall not exceed a combined recyclable materials and waste throughput capacity of more than 160,000 tonnes per annum and annual monitoring evidence shall be submitted to demonstrate this, and to demonstrate that the associated vehicular trips do not exceed the total stated in the Transport Assessment as approved by the Local Planning Authority under Planning reference BH2006/00900 dated 19/06/2006.

**Reason:** The Environmental Statement submitted with the application is based on this throughput and the Local Planning Authority would wish to maintain control over future operation of the site in the interests of amenity and traffic management, to comply with policies QD27 of the Brighton & Hove Local Plan, CP9 of the Brighton & Hove City Plan Part One and WMP18, WMP25 and WMP26 of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan.

2 Upon first arrival at the waste transfer station building, residual waste stored within the building shall not be stored for a period of longer than 72 hours unless otherwise first agreed in writing by the Local Planning Authority.

**Reason:** In the interests of amenity, to comply with policy QD27 of the Brighton & Hove Local Plan and WMP25 of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan.

3. The processing of recyclable materials within the Materials Recovery Facility building shall only occur between the hours of 0700 to 2200 Monday to Sunday including Bank Holidays. No operations shall take place on Christmas or Boxing Day except 26.12.16 unless first agreed in writing by the Local Planning Authority. Internal start-up and shut-down operations within the Materials Recovery Facility building shall not extend beyond 30 minutes either side of these hours

**Reason:** To protect the amenity of the occupiers of nearby residential properties and the amenity of the locality in general, to comply with policies QD27 and SU10 of the Brighton & Hove Local Plan and WMP25 of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan.

4. Operations or activities authorised by the permission and associated with the operation of the waste transfer station shall only carried out between the hours of 0700 – 2200 Monday to Sunday including Bank Holidays. The only operations that will take place on Christmas or Boxing Day except 26.12.16 are the tipping of waste from street cleansing and litter collection. No other operations shall take place on Christmas Day or except Boxing Day 26.12.16 unless first agreed in writing by the Local Planning Authority.

**Reason:** To protect the amenity of the occupiers of nearby residential properties and the amenity of the locality in general, to comply with policies QD27 and SU10 of the Brighton & Hove Local Plan and WMP25 of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan.

5. Unless first agreed by the Local Planning Authority all HGV movements for the importation or export of waste and recyclable materials shall only be carried out between the following hours: 0630 – 2200 Monday to Sunday including Bank Holidays

The following further restrictions shall apply:

- (i) Street cleansing waste and litter will only be tipped between the hours of 2200 and 0630 where required to meet operational needs for major events and festivals, and only with prior written consent from the Local Planning Authority.
- (ii) Between the hours of 1900 – 2200 Monday to Sunday only a maximum of 8 HGVs per day shall visit the site
- (iii) There shall be no HGV movements for the importation or export of waste and recyclable materials on Christmas and Boxing Day except 26.12.15 (with the exception of waste from street cleansing and litter collection).

**Reason:** To protect the amenity of the occupiers of nearby residential properties and the amenity of the locality in general, to comply with policies QD27 and SU10 of the Brighton & Hove Local Plan and WMP18, WMP25 and WMP26 of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan.

6. Noise associated with fixed plant and machinery incorporated within the development shall be controlled such that the Rating Level, measured or calculated at 1m from the façade of the nearest existing noise sensitive premises, shall not exceed a level 5 dB(A) below the existing  $L_{A90}$  background noise level. Rating Level and existing background noise levels to be determined as per the guidance provided in BS 4142:1997.

**Reason:** To protect the amenity of the occupiers of nearby residential properties and the amenity of the locality in general, to comply with policies QD27 and SU10 of the Brighton & Hove Local Plan and WMP25 of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan.

7. No vehicles or machinery required for the operation of facilities in control of the operator of the development shall be used on site unless fitted with silencers maintained in accordance with the manufacturers' recommendations and specification.

**Reason:** To protect the amenity of the occupiers of nearby residential properties and the amenity of the locality in general, to comply with policies QD27 and SU10 of the Brighton & Hove Local Plan and WLP1 and WMP25 of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan.

8. All vehicle access doors to the Waste Transfer Station and Materials Recovery Facility shall remain closed except to enable the ingress and egress of vehicles.

**Reason:** To protect the amenity of the occupiers of nearby residential properties and the amenity of the locality in general, to comply with policies QD27, SU9 and SU10 of the Brighton & Hove Local Plan and WMP25 of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan.

9 No materials shall be burnt on site.

**Reason:** To protect the amenity of the occupiers of nearby residential properties and the amenity of the locality in general, to comply with policies QD27 and SU9 of the Brighton & Hove Local Plan and WMP25 of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan.

10. All loading, unloading, sorting and bulking activities shall occur within the Waste Transfer Station and Materials Recovery Facility buildings and no waste

material shall be stored or tipped on to the ground for storage purposes, sorting or loading onto skips outside the buildings.

**Reason:** To protect the amenity of the occupiers of nearby residential properties and the amenity of the locality in general, including visual amenity, to comply with policies QD27, SU9, SU10 of the Brighton & Hove Local Plan, CP12 of the Brighton & Hove City Plan Part One and WMP25 of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan.

11. Unless otherwise agreed in writing, the scheme for the suppression of dust and odour from the operations shall be carried out in accordance with the details approved by Local Planning Authority by letter dated 18 February 2008 and retained as such thereafter.

**Reason:** To protect the amenity of the occupiers of nearby residential properties and the amenity of the locality in general, to comply with policies QD27 and SU9 of the Brighton & Hove Local Plan and WMP25 of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan.

12. Not used.

13. No trees, shrubs or hedges within the site, in accordance with the details as approved by the Local Planning Authority under Application reference BH2006/00900 dated 19 June 2006, which are shown as being retained, shall be felled, uprooted, wilfully damaged or destroyed, cut back in any way or removed without the prior written consent of the Local Planning Authority. Any trees, shrubs or hedges removed without such consent, or which die or become severely damaged or seriously diseased within 5 years from the completion of the development hereby permitted shall be replaced with trees, shrubs or hedge plants of similar size and species unless the Local Planning Authority gives written consent to any variation.

**Reason:** To ensure there is satisfactory landscaping to serve the development in the interests of visual amenity and to enhance ecology, to comply with policies QD15 and QD16 of the Brighton & Hove Local Plan, CP10 and CP12 of the Brighton & Hove City Plan Part One and WMP23a, WMP25 and WMP27 of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan.

14. Not used.

15. Not used.

16. The public art display shall be permanently retained as such thereafter.

**Reason:** To give visual interest and soften the appearance of the development and to partly meet the demand for public art within the scheme, in accordance with policy QD5 of the Brighton & Hove Local Plan, CP5, CP12 and CP13 of the Brighton & Hove City Plan Part One and WLP35, WLP39 and WLP40 of the East Sussex and Brighton & Hove Waste Local Plan.

17. All areas where waste is stored, handled or transferred shall be underlain by impervious hard standing with dedicated drainage to a foul sewer or sealed tank.

**Reason:** To prevent pollution of the water environment to comply with policy SU3 of the Brighton & Hove Local Plan and WMP23a, WMP25 and WMP28b of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan.

18. Prior to being discharged into any watercourse, surface water sewer or soakaway all surface water drainage shall be passed through an oil bypass interceptor designed and constructed to have a capacity compatible with the site being drained. Roof water shall not pass through the interceptor.

**Reason:** To prevent pollution of the water environment and reduce flood risk to comply with policy SU3 of the Brighton & Hove Local Plan and WMP23a, WMP25 and WMP28b of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan.

19. No soakaway shall be constructed in contaminated ground.

**Reason:** To prevent pollution of groundwater to comply with policy SU3 of the Brighton & Hove Local Plan and WMP23a, WMP25 and WMP28b of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan.

20. The development hereby permitted shall be carried out in accordance with the approved drawings listed below.

**Reason:** For the avoidance of doubt and in the interests of proper planning.

Plan Type	Reference	Version	Date Received
Site Location Plan	LP1		20/03/2006
Red Line Plan	RL1		20/03/2006
Site Plan	51115_Holl_MRFWTS (01)	3	20/03/2006
MRF Elevations & Sections	051115_Holl_MRFWTS (02-01)	0	20/03/2006
WTS Elevations & Sections	1115_Holl_MRFWTS (02-02)	0	20/03/2006
Office/Education Centre Building Floor plans Facades	051115_Hol_Offices (03)	4	02/06/2006
Gatehouse	051115_Holl_MRFWTS (04)	3	20/03/2006
Construction Typical Details	051115_Details(05)	3	20/03/2006
MRF Drive Through	051115_MRF (06)	3	20/03/2006
WTS HGV Circulation Path	051122_Holl_Circulation (07)	0	20/03/2006
MRF HGV Circulation Path	051122_Holl_Circulation (08)	0	20/03/2006
Sections through western embankment	51123_elev_land (11)	0	20/03/2006
Sections through Hollingdean lane cottage	051126_Holl_cottage (12)	0	20/03/2006
Schematic Drainage Layout	11650_ENV_001 Rev C		20/03/2006

Tree Removal Plan	157812M/LA/SK/003 Rev B		20/03/2006
Planting Plan	157812M/LA/SK/004 Rev C		20/03/2006
ACM Dragonfly Section detail	LD1		19/10/2011
Red Line Plan	RL1		05/07/2013

Informatives:

1. In accordance with the National Planning Policy Framework and Policy SS1 of the Brighton & Hove City Plan Part One the approach to making a decision on this planning application has been to apply the presumption in favour of sustainable development. The Local Planning Authority seeks to approve planning applications which are for sustainable development where possible.

2. This decision to grant Planning Permission has been taken:

(i) having regard to the policies and proposals in the National Planning Policy Framework and the Development Plan, including Supplementary Planning Guidance and Supplementary Planning Documents:  
(full list see section 7 of the report); and

(ii) for the following reasons:-

The proposed variation of the conditions will not result in a significant impact on the amenity of adjacent properties or highways safety and congestion. The variation will also allow the site to continue operating in an efficient and effective manner in accordance with local plan policies in respect of a city wide approach to waste management.

**MINOR APPLICATIONS**

**E BH2016/01879-73 North Road, Brighton (Land to Rear of 73 North Road - Full Planning**

Erection of part single, part two storey building to provide 8no office units (B1) (amended plans).

Councillor Gilbey, Deputy Chair, in the Chair.

(1) It was noted that this application had been deferred at the meeting of the Committee held on 9 November in order to provide the opportunity for one of the Ward Councillors to address the Committee.

**Officer Introduction**

(2) The Principal Planning Officer, Maria Seale, introduced the application and gave a presentation by reference to site plans drawings, elevational drawings and photographs. Reference was also made to the earlier application BH2015/00445 which had been refused by Committee and dismissed subsequently at appeal as the

Inspector had determined that the proposal would significantly harm the living conditions and outlook of the occupiers of Nos 40-43 Queens Gardens. The current application had been revised in order to seek to address the earlier reasons for refusal. The main considerations related to the principle of the change of use, the impact of the proposed building on neighbouring amenity, and transport and sustainability impacts.

- (3) Investigations carried out had indicated that the existing flea market, bric-a-brack stalls and café use had been intermittent over a period of time and the current uses and associated structures were unauthorised. Site coverage of the building, its position within the site, its access and use of render had been established by previous Appeal Inspector decisions. On balance, the proposed development was now considered to be of an appropriate design which would not harm the character or appearance of the surrounding North Laine Conservation Area. The amended plans received showed a more traditional mansard roof, the height of the roof would also be lower than the previously proposed barrel roof and traditional pitched roof.
- (4) The proposed building would sit within the remaining flint walls on the western side boundary and would ensure those historic boundary treatments. To the front, the existing undercroft timber gates were to be retained with a side door adjacent removed and infilled to match the adjacent wall. No harm had been identified with this element of the proposal. Likewise the provision of cycle and refuse stores within the undercroft was not considered to be of harm and approval was therefore recommended.

### **Public Speakers**

- (5) Councillor Deane spoke in her capacity as a Local Ward Councillor setting out her objections to the scheme. Councillor Deane stated that in her view the current application differed very little from the application which had been refused in August 2015. The site represented a hidden gem which reflected the unique character of the North Laine. Social historian Dr Geoffrey Mead of the University of Sussex supported its retention and she considered it would be a sad loss if this piece of local history was lost irrevocably.
- (6) Ms Petrykow spoke on behalf of the applicants in support of their application. Ms Petrykow stated that the current application included amendments in response to the previous refusals and objections including those relating to the design of the roof. It was important to note that Diplock's Yard in use between 1915 and 1975 as a site from which barrows could be hired for use by the rag and bone trade had never been authorised for use as a market site and had never been a public space.

### **Debate and Decision Making Process**

- (7) Councillor Russell-Moyle stated that he supported the application, considering that the proposed changes would significantly improve the existing roof scape and outlook from neighbouring properties which currently looked out on a tin shack shanty town.
- (8) Councillor Miller stated that he also supported the application which would provide a greater number of jobs above than the current use.

- (9) Councillor Littman stated that he considered that the changes to be effected to the roof line in concert with the other amendments proposed would address the previous reasons for refusal.
- (10) Councillor Mac Cafferty stated that in his view very little had changed from the previously refused application, the roof had been lowered by 0.7m, which was very little and would still result in a detrimental outlook and harmful impact to the neighbouring residential dwellings and site itself. Councillor Morris concurred in that view stating that he shared Councillor Mac Cafferty's concerns.
- (11) Councillor Gilbey stated that although she had voted that the previous application be refused, she considered that the grounds for refusal had been addressed and considered that the current application was acceptable and would be voting that planning permission be granted.
- (12) A vote was taken and of the 10 Members present at the meeting when the vote was taken, planning permission was granted on a vote of 8 to 2.

83.5 **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** planning permission subject to the Conditions and Informatives also set out in the report.

**Note:** Having declared a personal and prejudicial interest in the above application the Chair, Councillor Cattell, withdrew from the meeting during its consideration and took no part in the decision making process. Councillor C Theobald was not present during consideration of the application.

**F BH2016/02229- 34 Walmer Crescent, Brighton - Full Planning**

Change of use from single dwelling house (C3) to four bedroom small house to four bedroom small house in multiple occupation.

**Officer Presentation**

- (1) The Principal Planning Officer, Stewart Glasser, stated that the application had been deferred at the meeting of the Committee held on 12 October 2016 in order to enable investigations to be carried out regarding a possible HMO use at no 38 Walmer Crescent. It had been confirmed in writing that the owners of no 38 were a housing co-operative with 7 tenants in that property. As they did not have planning permission for that Sui Generis use an enforcement case had been opened and in the interim a planning application had been submitted to regularise that use.
- (2) The recent application in respect of 38 Walmer Crescent to regularise its use would be considered in the light of its own planning history and to the extant permission at no 34. The extant planning permission in respect of no 34 had been in place prior to use of no 38 coming to light and as a Class C4 use was already established in respect of no 34 it would be unreasonable to refuse this application and it was therefore recommended for grant.

**Debate and Decision Making Process**

- (3) Councillor Miller stated that the additional information given was welcomed as it set the application in context, on the basis of the information given he considered it was acceptable and felt that he could support it.
- (4) Councillor Miller proposed that an additional condition be added to any permission granted that permitted development rights be removed. This was seconded by Councillor Hyde and was voted on as the substantive recommendation.
- (5) A vote was taken and the 8 members present when the vote was taken voted unanimously that planning permission be granted on a vote of 7 with 1 abstention to include a condition that that permitted development rights be removed.

83.5 **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** planning permission subject to the Conditions and Informatives also set out in the report and to an additional condition removing permitted development rights.

**Note:** Having declared a prejudicial interest in the above application, Councillor Yates left the meeting during its consideration and took no part in the discussion or voting thereon. Councillors Bennett, Mac Cafferty and Russell-Moyle were also not present during the discussion or voting.

**G BH2016/02431- East Street Bastion, Grand Junction Road, Brighton - Full Planning**

Erection of refreshment kiosk formerly located above the West Street shelter hall with A5 use.

**Officer Presentation**

- (1) The Principal Planning Officer, Maria Seale introduced the application and gave a presentation in respect of it, by reference to plans and photographs. It was explained that the kiosk had been relocated from its original location at the bottom of East Street in consequence of the demolition and replacement of the existing shelter hall and external steps at that location. The kiosk had been removed in order to facilitate its repair, restoration and relocation to East Street Bastion and removal of a section of seafront railings (approved 31/3/2016). The principal of relocation had been accepted during consideration of the previous application.
- (2) Over the years the kiosk had incorporated a number of unsympathetic additions and alterations and the proposal would result in a much improved appearance which was welcomed. The proposal was considered to comply with relevant local policies and to improve and enhance the special character and appearance of the Conservation Areas and the setting of the listed buildings, approval was therefore recommended.

**Public Speakers**



- (3) Councillor Druitt spoke in his capacity as a Local Ward Councillor setting out his concerns in respect of the proposal and those of local residents. He stated that whilst supportive of the scheme in principle both he and local residents had concerns that the proposals had not been consulted on as widely as they should, nor had their concerns regarding the siting of the kiosk which they considered would impede access by emergency vehicles been heeded. There were also concerns the proposed location would result in problems to local traffic flow, and could give rise to noise and disorderly behaviour in the light of the late terminal hour in the context of its location in close proximity to late night venues. It should be noted that the Police had given their support to a day time only operating schedule. In their opinion there had been a failure to engage with residents appropriately.
- (4) Councillor Mac Cafferty stated that he understood residents' concerns in relation to late night noise and disturbance and asked Councillor Druitt whether an earlier closing time for the premises would address that. Councillor Druitt responded that besides the hours of operation there were also concerns regarding the obstruction and obscured sight lines which would result from customers queuing to use the kiosk at the proposed location. The location of seating remained to be agreed and he considered that should be located well away from the kiosk itself.
- (5) In answer to questions by Councillor Yates, Councillor Druitt confirmed that he was also concerned that those queuing to use the kiosk at busy times would spill out onto the nearby cycle lane.

**Questions for Officers**

- (6) It was explained in answer to questions that it was understood that the Council's Seafront Office and East Sussex Fire and Rescue had been consulted on the proposals. The Seafront Office had raised no objections and had commented that emergency access would not be impeded by the proposed location.
- (7) Councillor Hyde enquired regarding the proposed access arrangements and the Development & Transport Assessment Manager, Steven Shaw, confirmed that only Junction Road itself was public highway. The arrangements put into place were considered adequate as in the event of an emergency it access by vehicles would not be impeded. The vicinity was recognised as having a high concentration of pedestrian traffic and it was not considered that the kiosk would have a detrimental impact.
- (8) Councillor Miller requested details of where pedestrian pinch points would occur in the vicinity of the kiosk, also in respect of the location of the extractor fan. It was confirmed that this would be sited as unobtrusively as possible.
- (9) Councillor Moonan sought clarification as to whether it was practicable to move the kiosk and it was explained that the proposed location was considered to be the most appropriate.
- (10) Councillor Morris sought confirmation regarding use of the adjacent patio area but it was confirmed that was not a planning matter.

**Debate and Decision Making Process**

- (11) Councillor Mac Cafferty stated that he had concerns regarding both the proposed terminal hour which he considered could give rise late night disturbance; he also considered that it was important to ensure that noise levels emanating from the premises were controlled and it was confirmed that Condition 4 could be amended to specify that no amplified music would be permitted.
- (12) Councillors Hyde and Littman stated that they supported the application and considered that the proposed location was appropriate and did not consider that access for emergency vehicles would present a problem.
- (13) Councillor Miller supported the application but agreed with Councillor Mac Cafferty that the terminal hour should be earlier than proposed; also that final agreement on materials should be by the Committee.
- (14) Councillor C Theobald supported the application stating that she was pleased that the kiosk would be renovated to the extent proposed.
- (15) Councillor Yates stated that he considered that the reference to highway in condition 11 was now superfluous and could be removed and the case officer confirmed that was so.
- (16) Councillor Mac Cafferty proposed that the terminal hour of operation of the kiosk be 11.00pm, this was seconded by Councillor Miller, was voted on, was carried and became the substantive recommendation. The hours of operation of the premises would therefore be 07.00am – 11.00pm.
- (17) A vote was taken and Members voted on a vote of 7 to 4 with 1 abstention that planning permission be granted as amended to require the premises to close by 11.00pm.

83.7 **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** planning permission subject to the conditions and Informatives also set out in the report and as amended below:

Condition 3: The kiosk hereby permitted shall not be open to customers except between the hours of 07:00am and 11.00pm;

Condition 4: no amplified music from the premises;

Condition 11: remove the reference to “facing the highway”.

**H BH2016/02810- 57 Hornby Road, Brighton - Full Planning**

Change of use from three bedroom single dwelling (C3) to three bedroom small house in multiple occupation (C4) (Retrospective).

**Officer Presentation**

- (1) The Principal Planning Officer, Stewart Glassar, gave a presentation delineating the scheme by reference to site plans drawings, floor plans and photographs showing the internal layout of the property, including the bedrooms, communal lounge/dining area and kitchen.
- (2) It was explained that occupancy of the property would be restricted to 4 unrelated persons residing within the property. It was not therefore considered that any increased impact to adjoining occupiers in terms of noise and disturbance would be of sufficient magnitude to warrant refusal of planning permission. The overall percentage of HMO's within a 50m radius of the application site was 3.03% which was within the 10% limit specified within policy CP21. As such, the cumulative impact of the proposed HMO on the area was not considered to cause harm to local amenity; approval was therefore recommended.

### Questions of Officers

- (3) Councillor Russell-Moyle stated that he noted that the lounge/diner for a HMO was expected to be of a size where all occupants could sit and relax together comfortably and sit around a table and eat. It was also noted that although there was a sofa, TV and dining table in this room that it was cramped. Notwithstanding that the bedrooms were considered to be of sufficient size and had good circulation space he queried whether the communal space met the national space standards required under the Housing Act, letting rooms at the property appeared to be of 9sqm when the national standard was 10sqm. Also, whether retrospective permission could be applied for an HMO?
  - (4) The Legal Adviser to the Committee, Hilary Woodward, stated that it was her understanding that legislation in respect of HMO's and the Housing Act were separate.
  - (5) Councillor Morris concurred with the views expressed by Councillor Russell-Moyle stating that he was also concerned regarding the number of letters of objection from other residents expressing concern regarding loss of amenity. In view of those concerns he considered that it was important to establish that all required standards were being met and that rooms particularly those intended for communal use were of sufficient size.
  - (6) In answer to questions by Councillor Miller it was explained that any potential impact on neighbouring amenity was not considered such that refusal could be sustained at appeal; the application also fell within the Council's own policy requirements.
  - (7) Councillor Russell-Moyle proposed that further consideration and determination of the application be deferred pending confirmation of the requirements to meet space standards.
- 83.8 **RESOLVED** – That consideration and determination of the above application be deferred for further information to be provided regarding any requirements in relation to space standards and dimensions of the individual rooms with particular reference to the shared lounge/dining room area.

**Note:** Having declared a prejudicial interest in the above application by virtue of his letter of objection which was appended to the officer report, Councillor Yates left the meeting during its consideration and took no part in any of the discussions thereon.

**I BH2016/05020 - 80 & 80A Crescent Drive South, Woodingdean - Full Planning**

Demolition of existing 2no storey houses and erection of 4 no three bedroom two storey houses.

It was noted that this application had formed the subject of a site visit prior to the meeting.

- (1) Members did not request a presentation and had no questions of officers in respect of the application and therefore moved directly to the vote.
- (2) A vote was taken and the 10 Members of the Committee who were present when the vote was taken voted unanimously that planning permission be granted.

83.9 **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 also set out in the report.

**Note:** Councillors Mac Cafferty and C Theobald were not present at the meeting when the vote was taken.

**J BH2016/00448-11 Radinden Drive, Hove - Full Planning**

Erection of replacement detached dwelling house (C3) with associated landscaping.

- (1) The Committee were of the view that it would be appropriate to defer consideration of the above application pending a site visit.

83.10 **RESOLVED** – That the above application be deferred in order to enable a site visit to take place.

**K BH2016/02586-37 Preston Drove, Brighton - Full Planning**

Application for variation of condition 3 of application BH2015/02881 (Variation of condition 2 of application BH2004/03648/FP (Change of use from house (C3) and Doctors Surgery (D1) to children’s nursery for 60 children and bedsit. Erection of part single storey/part two storey rear extension) to state the number of children using the day nursery at any time shall not exceed 80 without the prior approval of the Local Planning Authority) to permit the premises to be open between 07.00 hours and 19.00 hours on Monday to Fridays.

- (1) Members did not request a presentation and had no questions of officers in respect of the application and therefore moved directly to the vote.
- (2) A vote was taken and the 10 Members present when the vote was taken voted by 9 with 1 abstention that planning permission be granted.

83.11 **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 also set out in the report.

**Note:** Councillors Mac Cafferty and C Theobald were not present at the meeting when the vote was taken.

**L BH2016/05437- Media House, 26 North Road, Brighton - Full Planning**

Extensions and alterations to main building to facilitate the conversion from office/general industry (B1/B2) to form 4no residential dwellings (C3) and extension and alterations to secondary building (The Coach House) to provide additional office space (B1).

**Officer Presentation**

- (1) The Principal Planning Officer, Stewart Glassar, gave a presentation detailing the proposed scheme by reference to site plans, drawings and photographs which showed the existing and proposed schemes. The application site consisted of three buildings; the vacant three storey print workshop (ground floor) with offices above, a two storey work shop/store building and the Mission Hall, located to the east of the main building connected by an internal link extension. The latter was currently in residential use and no changes were proposed to that part of the site which had car parking located at the rear.
- (2) It was considered that the current scheme would result in a preferential outcome from previous approvals and the extant permission because it would increase the number of residential units and would provide employment space within the site to off-set any loss. It was also considered that the external alterations to the main building and coach house would result in heritage benefits to the scheme. On that basis the change of use from employment to residential was considered acceptable and approval was recommended.

**Public Speakers**

- (3) The Democratic Services Officer, Penny Jennings, read out a statement on behalf of objectors who were unable to be present. They were of the view that proposals would result in loss of amenity for neighbouring residents, notwithstanding amendments made to the current application.
- (4) Councillor A Norman spoke in her capacity as a Local Ward Councillor setting out her objections to the proposed scheme and those of her fellow Ward Councillors. She stated that she considered that the current application differed very little from the previously refused scheme and would impact detrimentally on neighbouring residential properties. Additionally, residents were concerned that these properties could be turned into flats for multiple occupation, if permission was to be granted it was requested that a condition be added to be prevent this.

- (5) Mr Dowsett spoke on behalf of the applicants in support of their application. He explained that the current scheme had undergone significant amendments in order to address the previous reasons for refusal and the objections of neighbouring residents.

**Questions of Officers**

- (6) Councillor Russell-Moyle sought confirmation regarding the number of proposed traffic movements which would be generated by residential as opposed to office use. Councillor Russell-Moyle stated that he was concerned that additional journeys could increase any detrimental impact on adjacent residential properties. It was confirmed that the office use had been redundant for some time; it was considered however that the proposal would not increase trips significantly above existing levels or above the previously approved application for three dwellings. Councillor Russell-Moyle also requested to see plans delineating the differences between the previously refused scheme and the current one.
- (7) Councillor Hyde enquired whether the new building to be provided on site had been reduced in height in order to address concerns expressed regarding the sense of enclosure which would result from the previously refused scheme. The Planning Officer explained that the amendments made to the scheme, including building heights had sought to address how the development would sit in the wider street scene.
- (8) Councillor Morris asked to see visuals of the east elevation in the context of neighbouring development.
- (9) Councillor Mac Cafferty sought clarification as to whether consideration had been given to issues raised in relation to potential drainage problems. It was confirmed that this had not been addressed specifically but that if the Committee were minded to do so an informative could be added to that effect.
- (10) Councillor Moonan sought clarification regarding the distance between the coach house and the boundary with the neighbouring development in the proposed and previously refused scheme.
- (11) Councillor Miller sought clarification whether the heritage team was satisfied with the proposed materials and it was confirmed that they were.
- (12) Councillor C Theobald sought clarification of the width and dimensions of the courtyard gardens which would be associated with the dwelling houses.
- (13) Councillor Yates referred to the concerns expressed by objectors regarding access arrangements and it was explained that access arrangements to the residential dwellings was separate from that for the Coach House.

**Debate and Decision Making Process**

- (14) Councillor Russell-Moyle stated that he considered the amended scheme including changes to the roof slope were more sympathetic to the site and the neighbouring street scene and that he was happy to support the scheme.

- (15) Councillor Littman concurred stating the current proposals represented an improvement which he supported.
- (16) Councillor Morris stated that he was in agreement that the design and appearance of the scheme had been improved upon and was now acceptable.
- (17) Councillor Miller stated that he had concerns regarding the loss of B1 floor space which he considered ran contrary to the Council's own policies.
- (18) Councillor C Theobald stated that whilst she was pleased that the height of the development had been reduced she very concerned that the "gap" between the development and the neighbouring boundary was very narrow.
- (19) A vote was taken and on a vote of 10 with 2 abstentions planning permission was granted.

83.12 **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 also set out in the report.

**M BH2016/02377- 11 Coombe Vale, Saltdean, Brighton- Full Planning**

Roof alterations incorporating hip to barn end roof extension, rear dormers, front rooflight and front and side windows and erection of front porch extension (amended plans)

- (1) The Committee were of the view that it would be appropriate to defer consideration of the above application pending a site visit.

83.13 **RESOLVED** – That the above application be deferred in order to enable a site visit to take place.

**N BH2016/01925- Canons, 27A Preston Park Avenue, Brighton -Full Planning**

Demolition of existing dwelling and erection of 1no two storey three bedroom dwelling (C3).

It was noted that this application had been the subject of a site visit prior to the meeting.

**Officer Presentation**

- (1) The Principal Planning Officer, Stewart Glassar, gave a presentation detailing the proposed scheme by reference to site plans, elevational drawings and photographs. It was explained that the submitted scheme sought to address the earlier refused scheme which had been dismissed at appeal by reducing the overall height by 1.2 m to match the height of the existing building, by the introduction of new screening to the boundary, the omission and amendment of several aspects of the fenestration to the southern side elevation and clarification regarding the proposed southern boundary and neighbouring buildings.

- (2) It was explained that particular areas of concern related to flats 1 and 6 Whistler Court in consequence of their close proximity to the development site and the relevant floor levels. Following amendments to the scheme at first floor level including the installation of louvred obscure glazing to the glazed link and erection of a 2m timber fence it was not considered that significant overlooking or loss of privacy would arise. Whilst substantial glazing was proposed to the main living area it was considered that the boundary treatment and differences in levels would restrict views. The internal area adjacent to the first floor rear window would accommodate a void for the staircase. As occupiers could not stand within that area views would be restricted further. It was therefore recommended that approval be given.

### **Public Speakers**

- (3) Ms Kumins/Mr Murdoch spoke on behalf of objectors setting out their objections to the scheme. Mr Murdoch stated that he was speaking on behalf of neighbouring occupiers of Park Court and Whistler Court respectively. He stated that the proposed scheme would have a far greater footprint than the existing building and would be very close to the boundary with Whistler Court. The impact on no 6 (his property), would be particularly detrimental; it would result in undue over-looking, loss of privacy and would be unneighbourly. The proposed fence would not address the loss of planting which would result.
- (4) Ms Moune spoke on behalf of the applicants in support of their application. Ms Moune explained that the current scheme had been carefully designed in order to address and mitigate concerns raised and to respect the neighbouring developments.

### **Questions of Officers**

- (5) Councillor Littman sought confirmation whether as the consultation period (7 December), had now expired, the application was now recommended for grant rather than minded to grant and it was confirmed that was so.
- (6) Councillor Russell-Moyle asked whether an additional condition could be added, or the existing condition expanded, in order to ensure that any vegetation removed would be replaced on a like for like basis. It was explained that this would not be practicable, however, the applicant had confirmed in writing that they would replace any vegetation lost in consequence of the building works, particularly in connection with the boundary with Whistler Court.
- (7) Councillor Morris sought confirmation of the number of bedrooms in the existing building and following completion of the proposed development.

### **Debate and Decision Making Process**

- (8) A vote was taken and the 10 Members present when the vote was taken voted unanimously that planning permission be granted.



83.15 **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 also set out in the report.

**Note:** Councillors Mac Cafferty and C Theobald were not present at the meeting during consideration of the above application.

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

84.1 **RESOLVED** – That the following site visits be undertaken by the Committee prior to determination of the application:

Application:	Requested by:
BH2016/02377, 11 Coombe Vale, Saltdean	Councillor Hyde
BH2016/00448, 11 Radinden Drive, Hove	Councillor Bennett

**85 INFORMATION ON PRE APPLICATION PRESENTATIONS AND REQUESTS**

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

**86 LIST OF APPLICATIONS DETERMINED UNDER DELEGATED POWERS OR IN IMPLEMENTATION OF A PREVIOUS COMMITTEE DECISION (INC. TREES MATTERS)**

86.1 That the Committee notes the details of applications determined by the Executive Director Economy, Environment & Culture under delegated powers.

[Note 1: All decisions recorded in this list are subject to certain conditions and reasons recorded in the planning register maintained by the Executive Director Economy, Environment & Culture. The register complies with legislative requirements.]

[Note 2: A list of representations received by the Council after the Plans List reports had been submitted for printing was circulated to Members on the Friday preceding the meeting. Where representations are received after that time they should be reported to the Chair and Deputy Chair and it would be at their discretion whether they should in exceptional circumstances be reported to the Committee. This is in accordance with Resolution 147.2 of the then Sub Committee on 23 February 2006.]

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

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

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

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

**89 APPEAL DECISIONS**

89.1 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 9.00pm

Signed

Chair

Dated this

day of