

**BRIGHTON & HOVE CITY COUNCIL**

**PLANNING COMMITTEE**

**2.00pm – 1 OCTOBER 2008**

**COUNCIL CHAMBER  
HOVE TOWN HALL**

**MINUTES**

Present: Councillor Hyde (Chairman)); Councillors Barnett, Carden (OS), Davey, Hamilton, McCaffery, Mrs A Norman, K Norman, Randall, Smart, Steedman and Wells (Deputy Chairman)

Co-opted Members: Mr J Small, Conservation Advisory Group (CAG); Mr R Pennington, Brighton and Hove Federation of Disabled People.

**PART ONE**

**92A. PROCEDURAL BUSINESS**

92.1	<u>Councillor</u>	<u>For Councillor</u>
	Mrs A Norman	Mrs Theobald
	Randall	Kennedy

**92B. Declarations of Interest**

92.2 There were none.

**92C. Exclusion of Press and Public**

92.3 The Committee considered whether the press and public should be excluded from the meeting during the consideration of any items contained in the agenda, having regard to the nature of the business to be transacted and the nature of the proceedings and the likelihood as to whether, if members of the press and public were present, there would be disclosure to them of confidential or exempt information as defined in Section 100A (3) or 100 (1) of the Local Government Act 1972.

92.4 **RESOLVED** - That the press and public not be excluded from the meeting during the consideration of any items on the agenda.

**93. MINUTES OF THE MEETING HELD ON 10 SEPTEMBER 2008**

- 93.1 Councillor Mrs Norman stated that her declaration of interest relative to application BH2008/01744 should refer to her Membership of South Downs Health Committee. Councillor Carden wished to place on record his thanks for the efficient manner in which Councillor Wells , the Deputy Chairman, had chaired the previous meeting , the first which he had been required to Chair. This view was echoed by other Members of the Committee
- 93.2 **RESOLVED** - That subject to the amendment set out above the minutes of the meeting held on 10 September 2008 be approved and signed by the Chairman.

#### **94. CHAIRMAN'S COMMUNICATIONS**

##### **"Softlaunch" of Committees' Proceedings**

- 94.2 The Chairman explained that at the meeting of the Governance Committee at its meeting on 23 September 2008 it had been agreed to web cast a number of meetings from 9 October. Full Council, Cabinet and Planning Committee had all been identified as meetings which would form the pilot web-casting project which would run until June 2009 .
- 94.3 In view of the decision of the Governance Committee a "soft" launch was to be created of that day's proceedings and it was possible that this would be repeated at the following meeting on 22 October 2008. It was intended that this film would only be used by Members (including the Committee's two co-opted Members) to evaluate the web-casting process and to identify any problems, and would not be made publicly available. It was however , the Council's intention to "go live" with web-casting Planning Committee meetings at the earliest opportunity and , as soon as the Committee had agreed to any new protocols which would be required in order to introduce the new technology. A Member of the public queried whether / how not making this information available would impact on the access to information rights of the public . He was requested to submit a written request under the Access to Information Act to which a formal written response would then be provided .

##### **Blue Badge Holders Scheme**

- 94.4 The Chairman referred to the fact that the Committee received and welcomed comments from Mr Pennington on behalf of the Brighton & Hove Federation of Disabled People. On a number of occasions these related to the issue of parking provision for blue badge holders in association with applications for housing schemes without off- street parking and Traffic Regulation Orders. Each application had always been discussed and decided upon on its merits and the advice of the relevant officers taken into account when those decisions were made.

94.5 The Chairman went on to state however that this matter clearly remained an area of concern for the Federation . Given that the administration of the Council had a clearly stated priority of “reducing inequality by increasing opportunity” and had a commitment to delivering “equalities and inclusion” she was of the view that this now warranted some further consideration in terms of providing further alternatives and choices for people. She therefore recommended that the Cabinet Member for Environment be requested to review the relevant policy / policies in the terms set out below .

94.6 A vote was taken and Members voted unanimously that this matter be carried forward in the manner suggested by the Chairman.

94.7 **RESOLVED** - That the Committee requests that the Environment Cabinet Member reviews the policy or policies related to the allocation of resident parking permits for blue badge holders in association with housing without off- street parking, and how this is incorporated into Traffic Regulation Orders.”

#### **95. PETITIONS**

95.1 There were none.

#### **96. PUBLIC QUESTIONS**

96.1 There were none.

#### **97. DEPUTATIONS**

97.1 There were none.

#### **98. WRITTEN QUESTIONS FROM COUNCILLORS**

98.1 There were none.

#### **99. LETTERS FROM COUNCILLORS**

99.1 There were none.

#### **100. NOTICES OF MOTION REFERRED FROM COUNCIL**

100.1 There were none.

#### **101. TO CONSIDER THOSE APPLICATIONS TO BE THE SUBJECT OF SITE VISITS**

101.1 **RESOLVED** - That the following site visits be undertaken by the Committee prior to determination :

BH2008/01953, 1 – 2 Regent Street - Councillor Davey ;

BH200- /-----, 112 - 113 Lewes Road - Development Control Manager

## 102. PLANS LIST APPLICATIONS, 1 OCTOBER 2008

### (I) TREES

- 102.1 **RESOLVED** – (1) That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in Paragraph 7 and resolves to refuse consent to fell the trees which form the subject of the application subject to the conditions set out in the report :

BH2008/02801, Pinewood Close, Brighton ;

(2) That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in Paragraph 7 of the report and resolves to refuse consent for the permission to fell the tree for the reasons set out in the report :

BH2008/02511, Kemp Court, Church Place, Brighton

(3) That consideration of the following application is deferred.

BH2008/02703, Mill House, Overhill Drive.

- 102.2 **Application BH2008/02516, 2a Croft Road, Brighton** - to fell 1 X Ilex aquifolium, 1 Fagus sylvatica, 1 X Acer pseudoplatanus, all covered by Tree Order (N023) 2004 (Area Order)

- 102.3 Councillor K Norman stated that he was unable to support the proposal. He considered that it was unclear as to the number of trees which would be replaced on removal of the proposed trees. He did not consider that a compelling case had been made for removal of the trees as he considered that remedial action could be taken without the need to fell any of the trees. Action could be taken to cut the sycamore and yews back without the need for their removal. He did not consider that holly leaves falling into the garden presented a health and safety issue of such significance that warranted the removal of the tree. In respect of the Beech tree he considered that the crown could be cut back which would reduce its size by up to 30 % as had been proposed in respect of Application BH2008/02511 referred to above. This would obviate the need to remove the tree.

- 102.4 Other Members concurred in that view and it was proposed by Councillor K Norman and seconded by Councillor Wells that the trees be retained and permission for removal of the trees be refused. A vote was taken and on a vote of 10 with 2 abstentions permission to remove trees which formed the subject of the TPO be refused.

102.5 **RESOLVED** - That permission to fell the trees forming part of the application and referred to in the report be refused on the grounds that they be retained as they formed an integral part of the amenity of the neighbourhood and it had been stated that no loss or damage would be likely to occur if felling of the trees were to be refused .

[ **Note 1** : Councillor Norman proposed that permission to fell the trees included within the TPO be refused . This was seconded by Councillor Wells].

[ **Note 2** : A vote was taken and Councillors Barnett, Davey, Hamilton, McCaffery, A Norman, K Norman Randall, Smart, Steedman and Wells voted that the application be refused . Councillors Hyde (Chairman) and Carden abstained. Therefore on a vote of 10 with 2 abstentions permission to fell the trees was refused].

**(ii) SUBSTANTIAL OR CONTROVERSIAL APPLICATIONS OR APPLICATIONS DEPARTING FROM COUNCIL POLICY : 1 OCTOBER 2008**

102.6 **Application BH2007/00710, Land at New Barn Farm, Foredown Road, Portslade** – visual and noise screening bund on grazing land adjacent to A27.

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

102.8 The Area Planning Manager, West gave a detailed presentation setting out the constituent elements of the bund and explaining its purpose which was for noise reduction, and screening purposes . The position of the existing bund relative to the proposals was explained and photographs indicating “before” and “after” views from various points in the immediate locality were shown Overall it was considered that the proposals would provide visual continuity and would visually enhance the visual and landscape quality of the AONB and , in terms of noise abatement, would enhance enjoyment of the area.

102.9 Councillors Randall and Wells queried the fact that the Environment Agency would not require a waste management licence and it was explained that the main issues in considering the application were the need for it and the potential visual impact. Although the works would entail a form of land raising involving inert waste , as the application did not primarily relate to the disposal of waste the Environment Agency did not require a waste management licence. Conditions were recommended which would control the works during the period to completion and to ensure that approved details were complied with .

102.10 Councillor Smart sought confirmation relative to proposed access /

egress from the site and regarding controls which would be put into place to ensure that the works were constructed to an appropriate standard and to ensure that contaminated materials were not used during the construction process. Councillor Randall echoed Councillor Smart's concerns that proper measures needed to be put into place to ensure that contamination of the site or local water supply did not occur. The Development Control Manager stated that a number of rigorous conditions were proposed which required submission by the applicants of significant details prior to work commencing.

- 102.11 Councillor Smart stated that he would have liked to be assured that mechanisms were in place which would ensure that regular checks on the backfill materials on the site took place. Councillor Randall enquired as to whether as owner of the land the Council would receive income from or the tipping taking place. Councillors Smart and McCaffery sought confirmation regarding the main beneficiaries from the scheme and regarding who would bear the costs thereof. The Development Control Manager confirmed that whilst not a relevant planning consideration the cost would be borne principally by the owners of the farm itself and in part by the golf course which would also obtain some benefit. Overall it was considered the scheme would improve the visual aspect of the area.
- 102.12 Councillor Carden stated that he concurred with the concerns expressed by Councillor Smart and that he remained to be convinced that sufficiently tight controls / monitoring during the works could be achieved. He also remained to be convinced that noise would not reflect back from the bund and onto other neighbouring properties. Councillor Barnett also had concerns regarding potential conflict and potential hazard resulting from movements into the site during periods of the day when children were making their way to school and regarding potential noise which could be generated as a result of the works.
- 102.13 The Chairman stated that for those Members who had been able to attend the site visit the previous afternoon, this had been beneficial. Having visited the site she had no concerns regarding the proposed development. Councillors Mrs A and K Norman concurred in that view. Councillor Hamilton stated that although unable to attend the site visit, he knew the area well and did not consider that sound "reflection" problems would be likely to occur.
- 102.14 A vote was taken and on a vote of 6 to 5 with 1 abstention Members voted that it was minded to grant planning permission on the grounds set out below.
- 102.15 **RESOLVED** - (1) That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in paragraph 8 of the report and resolves that it is minded to grant planning permission subject to :

i receipt of no further letters of representation raising new material considerations relevant to the application;

ii the completion of a Section 106 Agreement to ensure construction works do not exceed one year, with a bind entered into to ensure completion ; and

iii to the conditions and informatives set out in the report

**(iii) DECISIONS ON MINOR APPLICATIONS WHICH VARY FROM THE RECOMMENDATIONS OF THE DIRECTOR OF ENVIRONMENT AS SET OUT IN THE PLANS LIST (MINOR APPLICATIONS) DATED 10 SEPTEMBER 2008**

- 102.16 **Application BH 2008/02762, Adjacent to Recreation Ground, Patcham By Pass, Brighton** - Installation of a 10 metre high, slim line monopole design telecommunications base station incorporating 3 shrouded antennas, radio equipment housing and development ancillary thereto.
- 102.16 The Area Planning Manager, East referred to site plans and photographs indicating the location of the proposed mast and associated equipment and in answer to questions the distance from the nearest properties 45m and from Patcham House School, 100m. A valid ICNIRP certificate and other supporting paperwork had been submitted.
- 102.17 Mr Lothian spoke on behalf of neighbouring residents setting out their concerns relative to perceived potential health risks in view of the close proximity of the mast to a local recreation ground which was well used by many local children, the proximity of dwelling houses and the fact that Patcham House School for disabled children and those with learning difficulties was located nearby as was a local nursery . Whilst the equipment itself and functions it was required to perform had grown ever more powerful government guidance had not kept pace with this and did not reflect the potential damage to health that such apparatus could present .
- 102.18 Councillor Pidgeon spoke in his capacity as a Local Ward Councillor stating that he fully supported the concerns expressed by Mr Lothian and a number of local residents who had contacted him relative to this and previous applications . He was also concerned that the associated boxes would present a hazard to those with sight problems
- 102.19 In answer to questions the Solicitor to the Committee explained that government guidance indicated that a precautionary approach be adopted and that perceived health considerations could represent a material planning consideration although they had to be weighted against other factors. In this instance a valid ICNIRP certificate had been provided indicating that the proposed equipment met government guidelines for such equipment .

- 102.20 Councillors K Norman , Randall, Smart and Wells concurred with the concerns expressed on behalf of objectors. Councillor Randall was of the view that the standards set in this country were very low.
- 102.21 Councillors Carden and Hamilton considered that as government guidelines had been met the proposals were acceptable and did not require prior approval .
- 102.22 A vote was taken and on a vote of 8 to 2 with 2 abstentions Members voted that prior approval was required in order to erect the proposed equipment. A further vote was then taken relative to the substantive proposals and on a vote of 8 to 2 with 2 abstentions consent was refused on the grounds set out below.
- 102.23 **RESOLVED** - That approval to erect the proposed telecommunication equipment and ancillary development thereto be refused on the grounds that it is considered to constitute an unacceptable perceived health and safety risk in view of its close proximity to a recreation ground which is heavily used by children and young people and its close proximity to a school for children with special physical and educational needs. The location of the proposed base station box equipment is also considered to constitute a potential hazard for those with sight or other disabilities in view of its proposed location on the pavement .

[ **Note 1** : A vote was taken and on a vote of 8 to 2 with 2 abstentions Members voted that prior approval was required in order to erect the proposed equipment ].

[ **Note 2** : Councillor Wells proposed that approval to erect the proposed equipment be refused on the grounds set out above . This was seconded by Councillor Barnett. Councillors Barnett, Davey, A Norman , K Norman, Randall, Smart and Wells voted that permission be refused. Councillors Carden and Hamilton voted that permission be granted. Councillors Hyde (Chairman) and Steedman abstained. Therefore on a vote of 8 to 2 with 2 abstentions permission was refused.

#### **(iv) OTHER APPLICATIONS**

- 102.24 **Application BH2008/01953, 1 - 2 Regent Street, Brighton** – Existing building (1 – 2 Regent Street be demolished. Erection of a new four storey building to include retail space on ground floor with five flats above.
- 102.25 Members considered that it would be appropriate to carry out a site visit prior to determining the application .
- 102.26 **RESOLVED** - That consideration of the above application be deferred pending a site visit.
- 102.27 **Application BH2008/01542, 26 Braybon Avenue, Brighton** – New



conservatory to rear.

- 102.28 It was noted that this application had formed the subject of a site visit prior to the meeting.
- 102.29 The Area Planning Manager (East) showed elevational drawings showing the orientation of the site and referred to works which had commenced on site relative to planning permissions which had already been granted. Whilst noting the concerns of neighbours at number 28 and from Councillor Pidgeon relative to the proposed patio to the rear it was noted that such works would not usually require planning permission and this element was not considered to be significant .
- 102.30 Councillors K Norman and Wells stated that having visited the site the previous day they had noted that the patio would be situated well below the dividing fence with the neighbouring property and that they considered that both the proposed conservatory and patio would be acceptable .
- 102.31 A vote was taken and Members voted unanimously that planning permission be granted in the terms set out below .
- 102.32 **RESOLVED** - That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in Paragraph 8 and resolves that to grant planning permission subject to the conditions and informatives set out in the report .
- 102.33 **Application BH2008/02071, 129 – 130 St James’ Street, Brighton** - Variation of opening hours granted by planning permission ref BH2004/02465/FP to : Tuesday - Thursday 10.00 – 02.30 (the following day) and Friday 10.00 to Tuesday 02.30 (continuous).
- 102.34 The Area Planning Manager (West) displayed a photograph indicating the location of the nightclub which was situated at basement level and its relationship to the adjoining buildings. Whilst it was noted that neither the Police nor Environmental Health had raised objections , the Planning Committee could consider such matters as amenity of local residents, which gave its consideration a broader scope than meeting the Licensing Objectives . there was clear evidence of complaints to the Environmental Health Team and letters of objection received as part of the application demonstrated that noise was a strong concern of residents and as such could be afforded weight in determining the application.
- 102.35 Ms Leeding spoke on behalf of the applicant in support of their application detailing measures which were and would continue to put in to place to ensure that noise nuisance did not result . ms Leeding explained that the applicants did not require a 24 hour licence but would like the flexibility to stay open until 5.00am on Friday and Saturday nights . Their premises represented a niche in LGBT community and by having staggered closing hours it would

avoid the need for those attending their premises to come into contact and potential conflict with those leaving other clubs in the vicinity during the early hours of the morning . The applicants would also be happy for any permission granted to be for a six month trial period .

- 102.36 Councillor Wells enquired whether those who had sent e. mail's in support of the application where local residents or patrons of the club. The Development Control Manager explained that these communications had formed the subject of e. mail correspondence which had not included postal addresses.
- 102.37 Councillors Davey and Steedman sought confirmation whether or not amendments could be made to the application as presented in line with the changes suggested by the applicant . Councillor McCaffery enquired whether it would be appropriate to defer consideration of the application in order to enable the applicant to submit a fresh application in the terms indicated by the speaker. The development Control Manager stated that the Committee had sufficient supporting information in order to form a view and that the application needed to be considered as submitted in the report before Members that day. If the application were to be refused the applicant would be free to submit a further application within a 12 month period without incurring any additional cost. Councillors Hamilton , K Norman and Steedman stated that whilst they considered (without fettering any future decision making), that a later closing time on Friday and Saturday nights might be appropriate that they could not support the application as it stood and that it should therefore be refused .
- 102.38 A vote was taken and Members and on a vote of 11 with 1 abstention Members voted that the application be refused on the grounds set out below .
- 102.39 **RESOLVED** - That the committee has taken into consideration and agrees with the reasons for the recommendation set out in Paragraph 8 of the report and resolves to refuse planning permission for the following reason :
- A. Refuse** 1.this premises are located in close proximity of residential dwellings. The increase in opening hours would result in a significant increase in the level of noise and disturbance to adjacent residential properties to the detriment of their amenity, contrary to policies SU9, SU10 and QD27 of the Brighton & Hove Local Plan ; and
- B.** That this matter is referred to the Planning Investigations Team to investigate the current opening hours of the premises .
- 102.40 **Application BH2008/01597, Plot 4, Royles Close, and Brighton –** Erection of 1 detached dwelling house.

- 102.41 A vote was taken and Members voted unanimously that that planning permission be granted on the grounds set out below.
- 102.42 **RESOLVED-** That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in Paragraph 8 of the report and resolves to grant planning permission subject to the conditions and informatives set out in the report.
- 102.43 **Application BH2008/02139, 12 Welesmere Road, Rottingdean –** Roof conversion including new rooflights to the front, side and rear roof and alterations to the roof profile which include a new side wall with hipped roof over and front pitched gable. Installation of one window to front elevation.
- 102.44 A vote was taken and Members voted unanimously that planning minded to grant planning permission be approved on the grounds set out below..
- 102.45 **RESOLVED -** That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in Paragraph 8 of the report and resolves to grant minded to grant planning permission subject to the conditions and informatives set out in the report and to no material representations being received by 1 October 2008 .
- 102.46 **Application BH2008/02113, 36A Dyke Road Avenue, Brighton –** Demolition of existing residential building of 4 x 2 bedroom apartments and 1x1 bedroom apartment, 5 parking spaces, bicycle store for 10 bicycles and refuse / recycling store.
- 102.47 The Area Planning Manager, West gave a presentation detailing the proposals including elevational drawings relative to the constituent elements of the scheme . Notwithstanding that it was within the recently extended Tongdean Conservation Area the existing building was considered to be of little architectural merit and was not worthy of retention and that the proposed building to replace it would improve the visual amenity of the conservation area .
- 102.48 Whilst not averse to demolition of the existing building Councillor K Norman considered that whilst welcoming the proposed off - street parking, the proposed building to represent a complicated and over cluttered design which sought to mirror disparate architectural styles, none of which mirrored any of the architectural styles to be found in the vicinity he result was a building. Councillors McCaffery, Mrs Norman Smart and Steedman concurred in that view. Mr Small CAG was in agreement and referred to the comments of the CAG which were set out in the report . The Chairman, Councillor Hyde and Councillor Wells considered the proposal to be of an acceptable design . Councillor Randall concurred in that view.

- 102.49 Councillor Davey requested that condition 14 be amended to ensure that the details of the proposed hard surface were submitted and that this would be constructed of a permeable material . The Committee agreed .
- 102.50 A vote was taken and on a vote of 9 to 3 Members voted that planning permission be granted on the grounds set out below
- 102.51 **RESOLVED** - That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in paragraph 8 of the report and resolves to grant planning permission subject to the Conditions and Informatives set out in the report and to the amendment of Condition 14 to ensure that details of the new hard standing surface were submitted and that it was permeable .
- 102.52 **Application BH2008/02415, 36A Dyke Road Avenue, Brighton –** Conservation area consent for demolition of existing residential dwelling.
- 102.53 A vote was taken and on a vote of 8 to 3 with 1 abstention Members voted that planning permission be granted on the grounds set out below.
- 102.54 **RESOLVED** - That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in Paragraph 8 of the report and resolves to grant conservation area consent subject to the conditions and informatives set out in the report.

**(v) DECISIONS ON APPLICATIONS DELEGATED TO THE DIRECTOR OF ENVIRONMENT**

- 102.55 **RESOLVED** – Those details of the applications determined by the Director of Environment under delegated powers be noted.

[**Note 1:** All decisions recorded in this minute are subject to certain conditions and reasons recorded in the Planning Register maintained by the Director of Environment. The register complies with the legislative requirements].

[**Note 2 :** A list of representations, received by the Council after the Plans List reports had been submitted for printing, had been circulated to Members on the Friday preceding the meeting. (For copy see minute book). Where representations were received after that time they would be reported to the Chairman and Deputy Chairman and it would be at their discretion whether these should (in exceptional cases), be reported to the Committee. This in accordance with resolution 147.2 of the then, Sub Committee held on 23 February 2005].

**103. DETERMINED APPLICATIONS**

- 103.1 The Committee noted those applications determined by Officers during the period covered by the report. Councillor Smart sought information regarding Application Bh2008/01379, Unit 2, Saxon Works change of use from B1 (Light Industrial) to B2 (General Industrial) to provide MOT testing . It was agreed that a copy of the report would be provided to him .

#### **104. SITE VISITS**

- 104.1 Councillor McCaffery stated that she found it impossible to attend site visits on the afternoon for which they were currently arranged and enquired whether it would be possible to change the day / time of them . The Chairman stated that it was difficult to move the a timing which appeared convenient to the majority of Members and to find a day / time everyone could make . However it was noted that Members attendances were recorded and if at the end of the current municipal year it appeared that the current arrangements presented a problem they could be revisited .
- 104.2 **RESOLVED** - That the following site visits be undertaken by the Committee prior to determination :

BH2008/01953, 1 -2 Regent Street, Brighton - Councillor Davey  
BH2008/---- , 112 - 113 Road, Brighton - Development Control  
Manager .

#### **105. APPEAL DECISIONS**

- 105.1 The Committee noted letters received from the Planning Inspectorate advising on the results of planning appeals which had been lodged as set out on the agenda.

#### **106. APPEALS LODGED**

- 106.1 The Committee noted the list of Planning Appeals, which had been lodged as set out in the agenda.

#### **107. INFORMATION ON INFORMAL HEARINGS / PUBLIC INQUIRIES**

- 107.1 The Committee noted the information set out in the agenda relating to information on Informal Hearings and Public Inquiries.

The meeting concluded at 5.00 pm

Signed      Chairman

Dated this    day of 2008