

**BRIGHTON & HOVE CITY COUNCIL**

**PLANNING COMMITTEE**

**2.00pm 6 JUNE 2018**

**COUNCIL CHAMBER, HOVE TOWN HALL**

**MINUTES**

**Present:** Councillors Cattell (Chair), Gilbey (Deputy Chair), C Theobald (Opposition Spokesperson), Mac Cafferty (Group Spokesperson), Hyde, Littman, Miller, Morgan, Morris and O'Quinn

**Officers in attendance:** Liz Hobden, Head of Planning; Nicola Hurley, Planning Manager (Applications); Jonathan Puplett, Principal Planning Officer; Stewart Glassar, Principal Planning Officer; Luke Austin, Planning Officer, David Farnham, Development and Transport Assessment Manager; Hilary Woodward, Senior Solicitor and Penny Jennings, Democratic Services Officer

**PART ONE**

**1 PROCEDURAL BUSINESS**

**1a Declarations of substitutes**

1.1 There were none, however apologies had been received from Councillors Bennett and Ikpın-Leissner.

**1b Declarations of interests**

1.2 Councillor O'Quinn referred to application A, BH2017/03566, Brighton, Hove and Sussex Sixth Form College 215 Dyke Road, Hove. Her letter of objection submitted prior to her appointment to the Committee was appended to the Committee report and Councillor O'Quinn stated that it was her intention to speak in her capacity as a neighbouring Ward Councillor after which she would withdraw from the meeting and take no part in the debate or decision making process.

1.3 Councillor Morgan also made reference to application A, BH2017/03566, Brighton, Hove and Sussex Sixth Form College 215 Dyke Road, Hove explaining that in his previous capacity as Leader of the Council he had been signatory to a letter to the Secretary of State for Environment in response to objections received from Wealden District Council expressing this council's view that their objections had taken too narrow a view on the relevant legislation. The comments made did not relate to the detail of the application, he remained of a neutral mind and would therefore remain present and take part in the discussion and decision making process.

- 1.4 Councillor Cattell, the Chair stated that she had received e mail correspondence in respect of several applications before the Committee that day but had not responded in respect of any of them and remained of a neutral mind.
- 1.5 Councillor Mac Cafferty referred to applications D & E, BH2018/00469 and BH2018/01123, Hove Central Library, 182-186 Church Road, Hove stating that he had attended a public meeting in respect of these applications on 31 May 2018 and at that meeting he had asked questions of the applicant. He had however, expressed no view in respect of either application, remained of a neutral mind and would therefore remain present and take part in the discussion and decision making process in respect of both applications.
- 1.6 Councillor Morgan also referred to applications D & E BH20018/00469 and BH2018/01123, Hove Central Library, 182-186 Church Road, Hove. Councillor Morgan explained that in his past capacity as Leader of the Council and Chair of the Economic Development and Culture Committee he had been at the forefront of a political debate on the future of the Library and had supported a move to another site and disposal of the building in that capacity. He not no predisposition however, in respect of either of the applications before Committee that day and remained of a neutral mind and intended to remain present at the meeting during the debate and decision making.

**1c Exclusion of the press and public**

- 1.7 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.
- 1.8 **RESOLVED** - That the public are not excluded from any item of business on the agenda.

**1d Use of mobile phones and tablets**

- 1.9 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 ‘airplane mode’.

**2 MINUTES OF THE PREVIOUS MEETING**

- 2.1 **RESOLVED** – That the Chair be authorised to sign the minutes of the meeting held on 9 May 2018 as a correct record.

**3 CHAIR'S COMMUNICATIONS**

- 3.1 The Chair welcomed Councillors Morgan and O’Quinn as newly appointed members of the Committee noting that both had attended meetings of the Committee as substitute members in the past.

**4 PUBLIC QUESTIONS****5 TO AGREE THOSE APPLICATIONS TO BE THE SUBJECT OF SITE VISITS**

5.1 There were none.

**6 TO CONSIDER AND DETERMINE PLANNING APPLICATIONS****A BH2017/03566, Brighton Hove and Sussex Sixth Form College, 205 Dyke Road, Brighton - Full Planning**

Erection of a 4no storey teaching block replacing existing temporary modular classrooms and incorporating general teaching spaces, flexible student study, learning areas, resource areas and performance spaces with associated hard and soft landscaping and relocated car parking.

**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, Jonathan Puplett, introduced the report and gave a presentation by reference to plans, elevational drawings, photographs and floor plans.
- (3) It was noted that the main considerations in determining the application related to the principle of the development to include the loss of the existing open space and outdoor space and the provision of new educational facilities, the design of the proposed teaching block in respect of scale and appearance in addition to the associated hard and soft landscaping and new car parking area, whether the development would have a detrimental impact on neighbouring amenity and whether the proposal was acceptable with regard to sustainable transport issues.
- (4) The proposed development would provide much needed specialist classrooms and would enhance the existing educational facilities of the college. The proposed external performance space would also provide an additional teaching resource and an area for occasional evening and weekend events. The proposed form of development was considered to be acceptable in transport, sustainability and ecological terms and conditions and s106 requirements were recommended as set out in the report. In order to accommodate the new teaching block the existing car park would be relocated onto part of an existing playing field, which would result in loss of some circulation space and would therefore represent a negative impact. Overall however it was considered that the scheme would deliver substantial benefits and that the negative impacts identified did not warrant refusal in this case. Approval was therefore recommended subject to the conditions and s106 requirements set out. Proposed amendments to the conditions as set out in the Additional/Late Representation List were also referred to.

**Public Speakers**

- (5) Councillor O'Quinn spoke in her capacity as a neighbouring Ward Councillor. Councillor O'Quinn stated that whilst she had some concerns regarding the proposed scheme, that she had been approached by a number of residents living in the immediate vicinity who also had concerns. The main issues related to increased traffic flow, the four storey height of the building and its proximity to the boundary with Old Shoreham Road and the proposed outdoor performing area which could generate both additional noise and traffic flow. Councillor O'Quinn was of the view that these issues needed to be addressed by way of robust conditions being added to any permission granted. Having spoken on this matter Councillor O'Quinn withdrew from the meeting and took no part in the debate or decision making thereon.
- (6) Ms Smith spoke on behalf of the applicants in support of their application. Ms Smith explained that the proposed scheme had been designed to upgrade the existing teaching facilities available on site. Whilst the scheme would enhance and improve some of the existing teaching space it would not result in a loss of parking, nor would there be an increase in the number of students.

### Questions of the Planning Officer

- (7) In answer to questions by Councillor C Theobald, the Principal Planning Officer, Jonathan Puplett, explained that no trees would be removed. Clarification was also given regarding the design and materials to be used for the roof treatment. It was confirmed that an amended condition could be added in respect of the materials to be used and location/screening of plant located at roof level.
- (8) It was explained in answer to further questions that parking currently available on site would not be displaced. Additional information had been provided by the Applicant indicating that in order to address any loss to the existing sports pitches, in addition to retention of the existing marked out sports pitches, sufficient circulation space would also be retained in line with the guidance provided by Sport England who had not raised any objection to the proposed development.

### Debate and Decision Making Process

- (9) Councillor Gilbey stated that she was happy to support the scheme which would complement the existing buildings on site.
- (10) Councillors C Theobald, Hyde and Miller concurred in that view considering that the proposed colour palette had been carefully chosen and that the scheme overall was acceptable.
- (11) Councillor Cattell, the Chair, commended the scheme, in particular, the "copper" building, stating that she was happy to support the officer recommendation.
- (12) A vote was taken and the 9 Members present voted unanimously that minded to grant planning permission be granted.
- 1.1 **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 to the additional/amended conditions set out below:

Additional Condition:

- Further details of the plant enclosure;
- Car parking to be laid out first before work starts on the building.

**Note:** Having spoken in respect of the above application Councillor O'Quinn withdrew from the meeting and took no part in the discussion or voting thereon.

## **B BH2016/05312, 65 Orchard Gardens, Hove - Full Planning**

Demolition of existing buildings and erection of a 5no storey building and basement comprising a mixed use development of offices (B1) on the ground floor and 23no one, two and three bedroom flats (C3) on the upper floors, 23 no car parking spaces (including 3 Disability Spaces), cycle storage and associated landscaping.

### **Officer Presentation**

- (1) The Principal Planning Officer, Jonathan Puplett, explained that at their meeting held on 21 June 2017 the Committee had considered an application seeking consent for demolition of the existing buildings and erection of a five storey building with basement comprising a mixed use development of offices and 23one, two and three bedroom flats. Members approved the proposed scheme subject to completion of a s106 Legal Agreement in the terms set out in the report. Since that time the Local Planning Authority had sought to progress the Legal Agreement to completion but unfortunately in this case the applicant had not been able to complete the Legal Agreement. There had been extended periods of inactivity and no clear reasons for the lengthy delay had been provided. As the Local Planning Authority was unable to keep an application under consideration indefinitely the application had been returned back to committee.
- (2) In the absence of a Legal Agreement to secure necessary measures in regard to affordable housing, sustainable transport infrastructure, the Local Employment Scheme, education provision, the open space provision and an appropriate artistic component, the proposed development did not comply with local Planning Policies and would not mitigate the impact resulting from the development and refusal was therefore recommended.

### **Public Speakers**

- (3) Mr Burgess spoke on behalf of the applicants and explained the reasons that delays had occurred in completing the s106 agreement, explaining that these had not occurred due to inactivity or unwillingness by the applicant. Also advising however that matters were now moving forward, could now be facilitated and that it was anticipated that the agreement could be completed in the near future.

### **Questions of Officers**

- (4) Councillor Mac Cafferty sought clarification regarding the protocol for consideration of this matter as he had not encountered this previously. Clarification was sought

regarding what the outcome/options should the motion not be carried and whether it would be appropriate for the matter to be deferred for determination by officers. Councillor C Theobald also sought clarification in respect of this matter. The Legal Adviser to the Committee, Hilary Woodward, confirmed that the Committee could refuse or defer consideration and to allow a specified period for the completion of the outstanding s106 agreement following which the matter could either be brought back before the committee or alternatively officers could be given the discretion to refuse the application.

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

- (5) In answer to questions, officers confirmed that notwithstanding the further matters to be resolved in order to complete the s106 that to allow until 7 August to allow for completion would be a reasonable timeframe.
  - (6) A vote was taken and Members voted on a vote of 8 with 2 abstentions against the Officer recommendation that planning permission be refused. Councillor Hyde proposed an alternative recommendation that a decision on the application be deferred in order to enable the s106 agreement to be completed such that if not completed by 7 August 2018 the application be refused. Councillor Miller seconded that.
  - (7) A further vote was taken in respect of the alternative recommendation proposed by Councillor Hyde and seconded by Councillor Miller. The 10 Members who were present voted unanimously that a decision on the application be deferred in order to allow the S106 agreement to be concluded. If completed by 7 August 2018 officers could issue planning consent under their delegated powers. In the event that the s106 had not been concluded by that date authority was given to the Head of Planning to refuse the application.
- 1.2 **RESOLVED** – That the above application be deferred in order enable the outstanding s106 Agreement to be completed in the terms set out above.

### **C BH2015/04536, Preston Park Hotel, 216 Preston Road, Brighton - Full Planning**

Change of use of hotel (C1) to residential (C3) comprising conversion of main hotel and demolition and redevelopment of north wing, to provide 13no self-contained open market flats and 9no affordable flats, alterations to front façade, retention of 27 car parking spaces and provision of new cycle and refuse facilities.

### **Officer Presentation**

- (1) The Principal Planning Officer, Jonathan Puplett, explained that at their meeting held on 12 October 2016 the Committee had considered an application seeking consent for change of use of a hotel to self-contained residential units including redevelopment of the northern wing of the hotel. The development would have provided 13 market housing flats and 9 affordable flats Members approved the proposed scheme subject to completion of a s106 Legal Agreement in the terms set out in the report. Since that time the Local Planning Authority had sought to progress the Legal Agreement forward to completion but unfortunately in this case the applicant had not been able to complete the Legal Agreement. There had been extended periods of inactivity and no

clear reasons for the lengthy delay incurred had been provided. As the Local Planning Authority was unable to keep an application under consideration indefinitely the application had been returned back to committee.

- (2) In the absence of a Legal Agreement to secure necessary measures in regard to affordable housing, sustainable transport infrastructure, the Local Employment Scheme, education provision, the open space provision and an appropriate artistic component, the proposed development did not comply with local planning policies and would not mitigate from the impact resulting from the development and refusal was therefore recommended. An update was given in respect of the existing position and it was noted that this application was closer to completion than the preceding one referred to above. Confirmation had been received that morning from those acting on behalf of the applicant that documents relating to the title for the site had been provided and the s106 was now lodged with the appropriate parties and was awaiting signature and return. On that basis Members might be minded to vote directly to defer further consideration of the application pending completion of the s106.

### **Public Speakers**

- (3) Mr Bareham spoke on behalf of the applicants confirming that processing of the s106 was now far advanced following an unavoidable delay by the Land Registry. Completion was now imminent.

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

- (4) A vote was taken and the 10 Members who were present voted unanimously that consideration of the application be deferred in order to allow the S106 agreement to be concluded. If completed by 7 August 2018 officers could issue planning consent under their delegated powers. In the event that the s106 had not been concluded by that date authority was granted to the Head of Planning to refuse the application.

- 1.3 **RESOLVED** – That the above application be deferred in order enable the outstanding s106 Agreement to be completed in the terms set out above.

### **D BH2018/00469, Hove Central Library, 182-186 Church Road, Hove - Listed Building Consent**

Internal alterations to lower ground floor and external alterations to rear ground floor including construction of new wall with balustrade, landscaping and associated works to facilitate the conversion to children's day nursery.

### **Officer Presentation**

- (1) It was noted that this application had been the subject of a site visit prior to the meeting.
- (2) The Principal Planning Officer, Stewart Glasser, introduced the application and gave a presentation by reference to site plans, elevational drawings, photographs and floor plans. It was explained that the main considerations in determining this application related to whether the proposed alterations would have a detrimental impact on the

character, architectural setting and significance of the grade II listed building. The proposal would involve external alterations to create an outdoor play area including the erection of a new wall at the edge of the footpath with a metal balustrade which would form a decked play area at the upper level. The existing metal fire escape would be screened with a 1.5m timber fence/gate, the installation of a bike rack and buggy store was also proposed. The proposed surfacing and other materials were considered acceptable and there was therefore no objection to the proposals for the rear outside space. It was noted that both the Listed Building and Planning Applications would be considered together but that they would be voted on separately.

- (3) It was noted that internally the proposed partitioning followed the existing conventions, retaining the cell arrangement outside and that the only intrusion to the central space would be the proposed steps and handrail which were required for building regulation purposes to provide appropriate access to the toilets. The necessary works to the screen to the WCs would retain the existing framework and only sought to add reversible cladding on the WC side, which was considered acceptable. The only new floor coverings identified would be the replacement of the lino in the new WC facilities which was also considered acceptable. The Heritage Team had requested additional information regarding details and reversibility of the new internal stairs, proposed drainage and ventilation of the new facilities and details of the existing landscaping and materials. This information had been provided by the applicant subsequently and was also considered acceptable. Overall therefore, it was considered that the proposed works would not harm the historic character or appearance of the grade II listed building or wider conservation area and approval was recommended subject to the Conditions and Informatives set out in the report.

### **Public Speakers**

- (4) Ms V Paynter spoke on behalf of local residents setting out their concerns and objections in relation to the proposed scheme. Ms Paynter stated that noise had been considered when applications in the vicinity had been considered for refusal, yet the significant noise issues which could arise from this application did not, contrary to normal practice appear to have been considered and no noise mitigation measures or sound readings had been taken in respect of this application. No information had been given regarding potential numbers of children expected to use the basement or yard. Both applications referred to use of this area as play space notwithstanding that the applicant's had stated at the meeting the previous week that this area would not be used as play space. This required clarification. It had been stated at the same meeting that 38 could be accommodated in the basement area and that it was planned to have 16-32 children and to encourage parents and grandparents to attend which could result in use by far in excess of that number. It appeared clear that in addition to use of the basement and yard that in practice, the applicants intended to use the building at will. It was considered that these factors should have been assessed before recommending approval of this application. The application also gave rise to safety implications as there were concerns regarding who would be liable if an emergency occurred and nursery children were elsewhere in the Library rather than in the garden or basement.
- (5) The Library was in regular use by those studying for exams, or to use its quiet facilities to research when they did not have quiet space or were unable to afford wifi at home and relied on use of the computer room and downstairs bank of machines. It was



considered that Hove Library was being unfairly disadvantaged as the PFI project under which the Central Jubilee Library had been built in Brighton was taking 2.5m of the overall budget and the conversion of the library to a mainly commercial site in order to reduce the overall financial burden was unfair to Hove Library users. There were a number of cafes and nursery schools in the immediate area, there were a number of application deficiencies and objectors considered that in the absence of scrutiny by Policy Resources & Growth Committee of the business plan that the application should be refused or deferred.

- (6) Neither the Listed Building nor planning applications gave information regarding the number of children expected to use the basement or yard. Both applications referred to use of this area as play space notwithstanding that the applicant had stated at the meeting the previous week that this area would not be used as play space, this required clarification. It had been stated at the same meeting that 38 could be accommodated in the basement area and that it was planned to have 16-32 children there at any given time who would also have access to the entire building which accompanying adults, the noise and disturbance would be detrimental to other users who wished to use the library as a quiet study space.
- (7) In answer to questions regarding conditions which could be attached to any permission in respect of hours of operation etc., the Legal Adviser to the Committee, Hilary Woodward, confirmed that this would not be possible as planning permission was not required for change of the use as this fell within the same use class as the current use, as such additional conditions could not be applied. Consideration needed to be given to the works applied for but not to the use itself.

### **Questions for Officers**

- (8) Councillor C Theobald sought clarification regarding access arrangements to the building and it was confirmed that there would be separate access arrangements to the side of the building and from the basement area into the garden area. Arrangements for use of the lift within the building itself would need to be agreed with the library. In response to further questions it was confirmed that soundproofing measures could not be considered as part of this application.
- (9) Councillor Miller whilst understanding that noise control measures fell outside this application he was of the view that indications regarding the controls to be put into place would have been useful as would more precise details regarding the number of children to be accommodated. It was explained that permission was required only in respect of the physical alterations to the building, not in relation to the proposed use. Councillor Gilbey also sought confirmation in respect of this matter.
- (10) Councillor Mac Cafferty stated that he had attended the recent public consultation meeting and had asked questions which in his view had not been satisfactorily answered regarding the disproportionate funding arrangements between Brighton Central Library and Hove. He was also of the view that policies HE1, and HE3, the latter of which related to the need to respect the setting of a Listed Building were pertinent and needed to be considered. In his view it was clear that the policy related to physical alterations and or changes of use to the fabric of a Listed Building. The Head

of Planning Liz Hobden, stated that the Heritage had researched this matter thoroughly and had advised this was not relevant in relation to consideration of this application.

- (11) Councillor Littman asked whether conditions could be attached in respect of use of the external staircase, but the Legal Adviser to the Committee, Hilary Woodward advised that this would not be appropriate as it could not be considered reasonable.
- (12) Councillor Morris referred to works required to the pipework seeking confirmation as to whether conditions could be added relating to drainage/ventilation and it was confirmed that they could not and that details had been provided by the applicant and that it was considered that appropriate arrangements were in place.
- (13) Councillor C Theobald enquired whether a proportion of the income arising from the nursery use could be used towards costs of running the library. It was confirmed that was not germane to consideration of either of the applications before Committee.

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

- (14) Councillor Mac Cafferty stated that he did not consider that sufficient account had been taken of the heritage assessments which needed to be made and considered, or where/how income generated would be spent. Proper consideration needed to be given to how the library could be conserved appropriately which included consideration of the radial shelving. He did not consider that had been done and did not therefore support the proposals.
- (15) Councillor Littman concurred in that view, he also had concerns in respect of potential noise nuisance which could occur and for that reason agreed that he was unable to support either application.
- (16) Councillors C Theobald and Hyde considered it regrettable that the fabric of the library was very dilapidated in some areas, on balance however, they supported the officer recommendation as did Councillor Miller who considered that Ofsted requirements would regulate the nursery use and that control use of the use of the library by young children and those supporting them should be encouraged.
- (17) Councillor O'Quinn expressed her support for the proposal as did Councillor Gilbey, who did not consider that the proposed use would generate unacceptable noise levels, or noise which would extend beyond very early evening. As use of the outside garden area would also be controlled (only a specified number of children using it at any one time), she did not consider that would result in potential noise nuisance either.
- (18) Councillor Morgan supported the application and was of the view that it was positive to encourage children to use the library from a very young age, this use could help to encourage that. Councillor Morris also supported the application which in his view complimented the community uses favoured by Carnegie himself.
- (19) A vote was taken and the 10 Members who were present at the meeting voted on a vote of 8 to 2 that Listed Building Consent be granted.

6.4 **RESOLVED** - That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in the report and resolves to **GRANT** Listed Building Consent subject to the Conditions and Informatives also set out in the report.

**E BH2018/01123, Hove Central Library, 182-186 Church Road, Hove - Full Planning**

Alterations to rear garden area incorporating new steps, handrail and landing and addition of insulation and plasterboard to existing screen of w.c. window for use by children's day nursery.

**Officer Presentation**

- (1) It was noted that this application had been the subject of a site visit prior to the meeting.
- (2) The Principal Planning Officer, Stewart Glassar, gave a presentation by reference to plans, elevational drawings, photographs and floor plans. It was explained that the main considerations in determining this application related to whether the proposed alterations would have a detrimental impact on the amenity, character, architectural setting and significance of the grade II listed building and the wider Old Hove Conservation Area. The application proposed alterations to the rear garden area incorporating new steps, handrail and landing. It was noted that both the Listed Building and Planning Application had been presented on together but were voted on separately.
- (3) The lower ground floor of the library currently served as ancillary office space, staff and storage space. The proposed alterations were proposed in order to facilitate use of the lower ground floor and rear garden area as a children's day nursery. The external space would be used as a learning garden where small groups of children (no more than 4-8 at any one time), would engage in focussed activities. The garden was unlikely to be used before 9/9.30am or after 5pm. Although a number of objections had been received relating to the proposed nursery use the library and the nursery were in the same use class (D1), as such there was no material change to the use of the building and only physical works to the building should be considered in determining the application as the nursery use in itself did not require planning permission in this instance. Overall, it was considered that the proposed alterations were acceptable and would not harm the historic character or appearance of the grade II listed building or wider conservation area and were in accordance with the relevant policies contained in the "Brighton and Hove City Plan Part One"; approval was therefore recommended subject to the Conditions and Informatives set out in the report.

**Public Speakers**

- (4) Ms V Paynter had spoken on behalf of those who had concerns and objections in respect of the proposed scheme, setting out the nature of those objections (These are referred to at item D above).

**Debate and Decision Making Process**

(5) A vote was taken and the 10 Members who were present voted on a vote of 8 to 2 that planning permission be granted.

1.5 **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.

**F BH2018/00854, Land to Rear of 62-64 Preston Road- Full Planning**

Excavation and erection of three storey building comprising 3no. residential units (C3) with associated alterations.

**Officer Presentation**

(1) The Principal Planning Officer, Stewart Glassar, introduced the proposed scheme and gave a presentation by reference to plans, elevational drawings, photographs and floor plans. It was noted that the application site was located in the yard to the rear of 62-64 Preston Road which was located on the corner with Ditchling Rise and related to a three storey building with a basement which had a shop within the basement and ground floor with residential accommodation on the upper floors and was similar to the adjoining building at 60 Preston Road.

(2) The main considerations in determining this application related to the effect on the street scene as well as to the impact on the host building, the residential amenity of the neighbouring residents, the residents within the proposed development and the well-being of the residents in the host buildings upper levels. Three similar schemes had been considered by the Committee 1 March 2018, November 2017 and April 2017. Whilst the principle of development was not rejected when these applications had been determined, there had been concerns regarding the appearance of the development and the impact on amenity of existing and future residents.

(3) The scheme had undergone a number of incremental revisions throughout the previous applications, which whilst they had been considered improvements to the overall design, had still failed to address the underlying concerns. The current amendment involved reduction in the height of the extension by the removal of the "pod" level and was considered to represent an improvement as it removed some of the bulk and mass as well as the inappropriate roof form and had improved the relationship of the extension to the main property. Whilst the extension was still of a substantial scale, the Planning Committee had previously expressed the view that removal of the roof level would address their concerns. It was noted that as the objector registered to address the meeting had advised that they were now longer able to do so, no public speaking would now be permitted. Objectors had indicated, however, that they remained of the view that they considered that local residents concerns had not been taken into account. The residents facing the development on Ditchling Rise would be overshadowed, would lose natural light, would be overlooked and would lose their privacy due to the height and width of the proposed build despite the roof level being reduced.

(4) On balance, given the revisions made and taking account of the advice provided by Members previously, it was not considered that the impact of the scheme would be

sufficient to warrant refusal in this instance and approval was therefore recommended subject to the Conditions and Informatives set out in the report.

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

- (4) The Chair noted that the applicant had sought to address the concerns raised by Members previously and to the proposed scheme in order to take them on board.
  - (5) Councillor C Theobald stated that she considered the scheme as amended was acceptable and that she was now happy to support it. Councillors Littman and Morris concurred in that view considering that the concerns raised previously had now been addressed.
  - (6) Councillor Miller stated that he had considered the previous schemes acceptable and was therefore happy to support this amended application.
  - (7) A vote was taken and the 10 Members of the Committee who were present voted unanimously that planning permission be granted.
- 1.6 **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.

### **G BH2017/03651, Brighton Square and Units 12, 13, 14, 15 and 16, Brighton- Full Planning**

Erection of pavilion structure to Brighton Square for the creation of additional restaurant space (A3). Alterations to dolphin fountain including new plinth and increased height of fountain. Installation of new shopfronts to 12, 13, 14, 15 and 16 Brighton Square.

### **Officer Presentation**

- (1) The Planning Officer, Luke Austin, introduced the application and gave a presentation by reference to plans, elevational drawings, photographs and floor plans. It was noted that the site formed the north/north-eastern frontage of Brighton Square in addition to the central section of the Square within the Old Town Conservation Area and part of the South Lanes. The site was formed of a ground floor parade of shops with two storeys of residential accommodation above in addition to the central square area which included planters and a water fountain feature.
- (2) The main considerations in determining the application related to the principle of the development, the proposed design, the impact of the proposed use on the amenity of neighbouring occupiers and consideration of the wider conservation area. The proposal sought consent for the erection of an external seating area to be used in conjunction with the adjacent restaurant within units 12-16 Brighton Square. External alterations were also proposed to the shopfront of the restaurant. The site fell within the area identified within city Plan Policy SA2 as Central Brighton and was located outside of the prime retail frontage. The site was also designated open space within the built up area, which was protected under City Plan Policy CP16.

- (3) The site formed a civic space and was located within a built up area within the Regency Ward. The proposed development would facilitate additional seating which would retain an element of the existing usage of the site as an informal seating area. It would however, result in a loss of a large proportion of the open space within the square by privatising and enclosing the central section. The square itself was unique in its character and created a welcome open and light environment in contrast to the tight high density of the South Lanes and surrounding area. The proposed seating area would comprise a laminated timber framed pod glazed in a mixture of polycarbonate panels in order to allow access. The roof would be finished in sliding polycarbonate panels in addition to pre-tensioned fabric section. The structure would be set centrally in the square and would create a new fountain base integrating the sculpture from the existing fountain. Internally, the structure would include a number of seating areas with tables centralised around the fountain.
- (4) In isolation, the proposal represented a high standard of design which would be welcome in other more open areas of the city. The structure would, however, cover a substantial proportion of the square leaving narrow sections on either side for pedestrian traffic and public usage. The structure would enclose and restrict the existing open space which was one of the key definitive characteristics of the site. The proposed structure would obscure the site and views across it and would therefore impede pedestrian orientation and legibility. Exits from the square would be obscured and desire lines would be blocked undermining the positive intention of the development to attract pedestrian footfall.
- (5) It was considered that any development within the square should take account of the scale and proportions of the square itself and should leave the majority of the area open. This proposed development would cover the entire central section within the square, leaving only the narrow areas to the perimeter to allow for pedestrian movement around and through the site. The scale of the development was considered excessive in relation to the modest scale of the square. There was no objection to the removal of the existing shop fronts and the new shop fronts were considered to be acceptable provided that the existing flint-faced pilasters were retained as existing and were not over-clad; that could be controlled by condition. Given the central location and existence of other commercial units within the square the level of harm was considered acceptable as neighbouring occupiers could not expect the same levels of noise and activity that would be experienced within a predominantly residential area.
- (6) It was acknowledged that there would be benefits from the proposal including improving the economic vibrancy by encouraging activity and customers into the square year round which was likely to benefit the surrounding commercial units and the character of the area. However, overall it was not considered that the benefits identified were sufficient to outweigh the fundamental concerns that existed relating to the scale of the proposed development and the impact the structure would have on the character of the open space. Refusal was therefore recommended for the reasons set out in the report.

### **Public Speakers**

- (7) Councillor Druitt spoke in his capacity as a Local Ward Councillor in support of the proposed scheme. He stated that having visited the site and having gone through the plans with the applicant he had canvassed local traders for feedback including Brighton Lanes Traders. He considered that the plans would improve the area, making Brighton Square considerably more attractive and appealing to visitors. His one concern was that access through the square be maintained and disruption to businesses minimised during the course of any works carried out.
- (8) Mr Bareham and Mr Gripton spoke on behalf of the applicants in support of their application. They were aware of the full-scale re-development of the Lanes itself and in particular of the nearby Hannington Lane. Currently, this square was unappealing with a number of closed shops. The proposed scheme would help to regenerate the area and to make it a more attractive destination or cut through, which would complement the surrounding Lanes. The applicants would be happy to allow access through the square to continue notwithstanding that it was a private space. It was envisaged that it would provide a year round usable space which was not weather dependent.
- (9) Councillor Morgan sought clarification from the applicants regarding the materials to be used for creation of the proposed pods and arrangements which would be put into place. It was explained that a combination blue lamp timber, polycarbonates and clear vinyl would be used. These materials had been used for a similar development near to Tower Bridge in London and were both durable and easy to maintain, being able to withstand gale force winds.
- (10) Councillor Miller referred to the adjoining restaurant space which would be associated with the proposed use, seeking confirmation as to whether that use was contingent on this application being successful and it was confirmed that was the case. It was confirmed in answer to further questions that sliding doors would be fitted to the pods which would enable them to be fully enclosed in the event of inclement weather. Councillor Miller also sought confirmation regarding the width of the remaining walkway which would be available to pedestrians walking across the square and regarding the type of panelling proposed as the visuals provided seemed to indicate a heavy design. It was explained that the materials now proposed had been pared back and represented a simpler lighter design.
- (11) Councillor C Theobald enquired whether heaters would be used in cold weather and regarding the planting proposed. It was explained that artificial planting in pots was proposed and that arrangements for heating the space had yet to be determined.
- (12) Councillor Hyde enquired regarding the number of covers proposed and it was confirmed that would be 62 plus the additional areas provided by the pods. Councillor Hyde also asked for confirmation regarding the height of the pods and the distance between them at their highest point and the adjacent first floor balconies.
- (13) Councillor Mac Cafferty enquired regarding the applicants plans to encourage use of the space as a destination rather than as a cut-through. Councillor O'Quinn raised the same point stating that presently that part of the Lane's was well provided with cafes/bars but that there were a number of empty shops which did not of itself encourage use other than for those eating/drinking. It was explained that it was anticipated that as a result of the greater connectivity which would result from

completion of Hannington Lane that this would attract greater use as would provision of the all-weather pods which would provide protection in bad weather. The width of walkway provided would be wider than in some parts of the Lanes.

- (14) Councillor Miller referred to comments received from the Police and it was confirmed that the structure was considered to be suitably robust not to render it liable to vandalism or use by rough sleepers. It was intended that the pods would have a low level of internal illumination and would be locked outside of opening hours.

#### **Questions for Officers**

- (15) Councillor Morris asked whether the existing square was a privately owned open space and it was confirmed that it was. Also, in relation to the external awning which it was clarified would now be a lighter but of suitably strong construction. The flint faced pilasters in the square had been constructed in the 1960's and were not a heritage feature.
- (16) Councillor Miller referred to the amendments referred to by the applicant's representatives. The Chair, Councillor Cattell explained that these had been forwarded to Committee members a few days previously and did not represent formal amendments to the scheme on which officers had, had the opportunity to comment.

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

- (17) In answer to further questions by Councillors Gilbey and Miller regarding the status of the square it was confirmed that although the public were allowed access across the square it was not public highway, nor was it adopted. As it stood public access was given by the landowner. Councillor Morris referred to the Aquarium Terraces as an instance where after a suitable period of time it had been possible for a space to become adopted. The Legal Adviser to the Committee, Hilary Woodward, explained that that whilst an application could be made regarding any highway status of the square that had not been done to date and that the current position was as stated.
- (18) Councillor Gilbey stated that she considered the scheme as presented was confusing. Notwithstanding that there would be continued access to the square as much of it would be enclosed and would appear to subsidiary to the restaurant she considered that it could deter that use.
- (19) Councillor C Theobald stated that in her view the square was currently something of a white elephant, very few people went there and she considered that the proposed scheme would be an attraction and would complement the nearby Hannington Lane development, therefore she supported the scheme.
- (20) Councillor Miller whilst noting the vision and hard work which had gone into this scheme could not support it. He considered that it would enclose the existing square to too great an extent and would seriously damage its permeability. The dolphin sculpture would be lost as the focus of the square and the structures whilst imaginative would be too cumbersome. The restaurant use would take up one entire side of the square added to which the pods would also provide further covers. He considered that the number of covers proposed was too great.



- (21) Councillor Hyde concurred in that view stating that she also considering that the hours of operation proposed 8.00am–11.00pm could be problematic in licensing terms although that fell under a different regulatory regime within the council. Councillor Hyde was agreement that the scheme was imaginative and had no doubt that it worked well in London, she did not however consider that it was appropriate in this location. It should also be borne in mind that there were also a number of residents living above the square at first floor level. The Chair, Councillor Cattell, agreed stating that the proposed scheme and potential number of covers could impact on residents' amenity and that should also be considered.
- (22) Councillor Morgan stated that he was in agreement that this area of the Lanes had declined over recent years and that it was not been as well used as it might have been. The proposed scheme would fit well within the context of the Hannington Lane element of the Lanes redevelopment and could encourage more shops and greater footfall than currently and could help to re-invigorate this square which was not a public space and which was currently dull and tired. The remaining pedestrian access was of a similar width to the rest of the Lanes and he considered that was acceptable. On balance he considered that the scheme was acceptable and would be voting that planning permission be granted.
- (23) Councillor Morris stated that when this square had first opened it had supported a variety of retail uses, including antique shops and jewellers, that was no longer the case. The position in relation to use of the space appeared to be potentially complicated and in his view it would be less welcoming as a space for use by the public, notwithstanding that they would still have access; he would therefore be voting in support of the officer recommendation that planning permission be refused.
- (24) Councillor O'Quinn stated that she shared Councillor Miller's concerns regarding the large number of covers proposed in conjunction with the restaurant which would be accommodated along one side of the square. The pods would dominate the square and there would not be a clear unimpeded pedestrian access across the site and they would take away from the existing square. The dolphin fountain and statute which currently formed the focal point of the square would be lost. Whilst a more modest scheme with different access arrangements could be acceptable the one before Committee was not.
- (25) Councillor MacCafferty was of the view that whilst potentially an imaginative scheme he did not feel it was appropriate in this location, he would therefore be voting in support of the officer recommendation.
- (26) Councillor Littman concurred, the space was a private square to which the public had access, however the proposed scheme was of an inappropriate size within the square and would significantly reduce it as an open space. In purely planning terms he considered that the scheme was unacceptable.
- (27) The Chair, Councillor Cattell, stated that she concurred with the concerns voiced by other members considering that the role of the square was important as the narrower surrounding Lanes opened into it and created space, the scheme put forward would be

detrimental to that rather than being place making, she supported the officer recommendation.

- (28) A vote was taken and the 10 Members present at the meeting voted on a vote of 7 to 3 that planning permission be refused.

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

#### **H BH2018/00095, 166 Heath Hill Avenue, Brighton - Full Planning**

Change of use from dwelling house (C3) to six bedroom small house in multiple occupation (C4) incorporating conversion of garage into habitable space,

#### **Officer Presentation**

- (1) The Principal Planning Officer, Stewart Glassar, introduced the application and gave a presentation by reference to plans, elevational drawings, photographs and floor plans. It was noted that the application related to a two storey terraced property situated in the Moulsecoomb and Bevendean Ward. The application proposed change of use from a three bedroom dwelling house (use class C3) to six bedroom small House in Multiple Occupation (HMO) (use class 4) including conversion of the existing side garage into habitable space with alterations. The ward within which the application site was situated had an Article 4 Direction in place which limited permitted development rights for the change of use from a single dwelling house (C3) to a small HMO (C4) and planning permission was therefore required for the proposed form of development. The proposals met the required standards, with two bath/shower rooms and a good sized communal area and would require minimal external works.
- (2) The main considerations in determining this application related to the principle of the change of use, impact upon neighbouring amenity, the standard of accommodation which the use would provide, transport issues and the impact upon the character and appearance of the property and the surrounding area. Overall the property met the necessary standards required to demonstrate an adequate standard of accommodation for six occupants in accordance with Policy QD27 of the Brighton and Hove Local Plan. A condition was recommended to restrict the number of occupants of the property to a maximum of 6. Whilst it was acknowledged that the change of use of the property to a six bedroom HMO would inevitably increase comings and goings from the plot, in this instance it was considered that the increased occupation to six individuals was unlikely to significantly increase noise and other nuisance to the extent that it would warrant refusal of the application. There were no other properties in use as HMO within a 50m radius therefore a mixed and balanced community would be retained and approval was recommended.

#### **Questions of Officers**

- (3) Councillor Miller asked to see views of the ground floor communal area. Councillor Morris asked for confirmation whether the applicants had applied for an HMO Licence.

Whilst, not relevant to this application the base line map was shown indicating that there were currently no HMO's in the vicinity.

(4) A vote was taken and on a vote of 9 with 1 abstention, the 10 members who present at the meeting voted that planning permission be granted.

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

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

7.1 There were none.

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

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

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

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

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

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

**11 APPEAL DECISIONS**

11.1 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 6.00pm

Signed

Chair

Dated this

day of

