

<b><u>No:</u></b>	<b>BH2017/04139</b>	<b><u>Ward:</u></b>	<b>Goldsmid Ward</b>
<b><u>App Type:</u></b>	<b>Full Planning</b>		
<b><u>Address:</u></b>	<b>9 The Upper Drive Hove BN3 6GR</b>		
<b><u>Proposal:</u></b>	<b>Creation of additional storeys to existing block D to provide an enlarged two bedroom flat at first floor level and 2no additional flats at second and third floor level.</b>		
<b><u>Officer:</u></b>	Sonia Gillam, tel: 292265	<b><u>Valid Date:</u></b>	15.12.2017
<b><u>Con Area:</u></b>		<b><u>Expiry Date:</u></b>	09.02.2018
<b><u>Listed Building Grade:</u></b>		<b><u>EOT:</u></b>	
<b><u>Agent:</u></b>	DowsettMayhew Planning Partnership 63A Ship Street Brighton BN1 1AE		
<b><u>Applicant:</u></b>	Copsemill Properties Ltd C/o DowsettMayhew Planning Partnership 63A Ship Street Brighton BN1 1AE		

**This application has been deferred from the Planning Committee meeting of 4 April 2018 pending a site visit.**

## **1. RECOMMENDATION**

- 1.1 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 following Conditions and Informatives:

Conditions:

1. 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.

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Existing Floor Plans	01		15 December 2017
Existing Floor Plans	02		15 December 2017
Existing Floor Plans	03		15 December 2017
Existing Floor Plans	04		15 December 2017
Existing Floor Plans	05	Roof plan	15 December 2017
Existing Elevations	06		15 December 2017
Existing Elevations	07		15 December 2017
Existing Elevations	08		15 December 2017
Existing Elevations	09		15 December 2017
Floor Plans Proposed	11		15 December 2017
Floor Plans Proposed	12		15 December 2017
Floor Plans Proposed	13		15 December 2017

Floor Plans Proposed	14		15 December 2017
Floor Plans Proposed	15		15 December 2017
Elevations Proposed	16		15 December 2017
Elevations Proposed	17		15 December 2017
Elevations Proposed	18		15 December 2017
Elevations Proposed	19		15 December 2017
Roof Plan Proposed	20		15 December 2017
Site Layout Plan	21		15 December 2017
Location Plan	23		15 December 2017
Streetscene elevation proposed	22		15 December 2017
Site Layout Plan	09		15 eceember 2017

2. The development hereby permitted shall be commenced before the expiration of three years from the date of this permission.  
**Reason:** To ensure that the Local Planning Authority retains the right to review unimplemented permissions.
3. The external finishes of the development hereby permitted shall match in material, colour, style, bonding and texture those of the existing building.  
**Reason:** To ensure a satisfactory appearance to the development in the interests of the visual amenities of the area and to comply with policies QD14 of the Brighton & Hove Local Plan and CP12 of the Brighton & Hove City Plan Part One.
4. The three windows in the eastern elevation of the development hereby permitted shall be obscure glazed and non-opening, unless the parts of the windows which can be opened are more than 1.7 metres above the floor of the room in which the window is installed, and thereafter permanently retained as such.  
**Reason:** To safeguard the privacy of the occupiers of the adjoining property and to comply with policies QD14 and QD27 of the Brighton & Hove Local Plan.
5. Access to the flat roof area to the rear of the gated third floor roof terrace (indicated on drawing no. 15 received on 15 December 2017) hereby approved shall be for maintenance or emergency purposes only and the flat roof shall not be used as a roof garden, terrace, patio or similar amenity area.  
**Reason:** In order to protect adjoining properties from overlooking and noise disturbance and to comply with policies QD14 and QD27 of the Brighton & Hove Local Plan.
6. The vehicle parking area shown on the approved plans shall not be used otherwise than for the parking of private motor vehicles and motorcycles belonging to the occupants of and visitors to the development hereby approved.  
**Reason:** To ensure that adequate parking provision is retained and to comply with policy CP9 of the Brighton & Hove City Plan Part One.
7. The development hereby approved shall not be occupied until the refuse and recycling storage facilities indicated on the approved plans have been made available for use. These facilities shall thereafter be retained for use at all times.

**Reason:** To ensure the provision of satisfactory facilities for the storage of refuse and recycling and to comply with policy QD27 of the Brighton & Hove Local Plan.

8. The development hereby permitted shall not be occupied until the cycle parking facilities shown on the approved plans have been fully implemented and made available for use. The cycle parking facilities shall thereafter be retained for use by the occupants of, and visitors to, the development at all times.  
**Reason:** To ensure that satisfactory facilities for the parking of cycles are provided and to encourage travel by means other than private motor vehicles and to comply with policy TR14 of the Brighton & Hove Local Plan.
9. None of the new residential units hereby approved shall be occupied until each residential unit built has achieved a water efficiency standard using not more than 110 litres per person per day maximum indoor water consumption.  
**Reason:** To ensure that the development is sustainable and makes efficient use of water to comply with policy CP8 of the Brighton & Hove City Plan Part One.
10. None of the new residential units hereby approved shall be occupied until each residential unit built has achieved an energy efficiency standard of a minimum of 19% CO2 improvement over Building Regulations requirements Part L 2013 (TER Baseline).  
**Reason:** To ensure that the development is sustainable and makes efficient use of energy to comply with policy CP8 of the Brighton & Hove City Plan Part One.
11. Prior to first occupation of the development hereby permitted, pedestrian crossing improvements (dropped kerbs with paving and tactile paving) shall have been installed at the junction of and across Caisters Close with The Upper Drive.  
**Reason:** To ensure that suitable footway provision is provided to and from the development and to comply with policies TR7, TR11 and TR12 of the Brighton & Hove Local Plan and CP9 of the Brighton & Hove City Plan Part One.

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. The applicant is advised that accredited energy assessors are those licensed under accreditation schemes approved by the Secretary of State (see Gov.uk website); two bodies currently operate in England: National Energy Services Ltd; and Northgate Public Services. The production of this information is a requirement under Part L1A 2013, paragraph 2.13.
3. The water efficiency standard required is the 'optional requirement' detailed in Building Regulations Part G Approved Document (AD) Building Regulations (2015), at Appendix A paragraph A1. The applicant is advised this standard can be achieved through either: (a) using the 'fittings approach' where water fittings are installed as per the table at 2.2, page 7, with a maximum specification of

4/2.6 litre dual flush WC; 8L/min shower, 17L bath, 5L/min basin taps, 6L/min sink taps, 1.25L/place setting dishwasher, 8.17 L/kg washing machine; or (b) using the water efficiency calculation methodology detailed in the AD Part G Appendix A.

4. The applicant is advised to contact the Council's Streetworks team (permit.admin@brighton-hove.gov.uk 01273 293366) and obtain all necessary highway approval from the Highway Authority prior to any works commencing on the adopted highway to satisfy the requirements of condition 12.

## **2. SITE LOCATION & APPLICATION DESCRIPTION**

- 2.1 The application relates to a part two, part three storey block of 4no. two-bed flats and 1no. one-bed flat on the northern side of The Upper Drive. The block is one of 5 similar blocks on a wider site providing a total of 41 flats. The existing blocks vary in height between three and four storeys. The three blocks to the west of the application site are finished in a mix of render and timber cladding. The application building is finished in mainly painted render with some minor timber clad detailing.
- 2.2 This stretch of The Upper Drive has been developed to the extent that the prevailing character on this section of the northern side is flatted development with fewer traditional dwellinghouses remaining.
- 2.3 The application seeks permission for the creation of additional storeys to existing block D to provide an enlarged two bedroom flat at first floor level, 1 no. two bed flat at second floor level, and 1 no. three-bed flat at third floor level, with off-street car and cycle parking.

## **3. RELEVANT HISTORY**

### **3.1 9 and 11 The Upper Drive**

**BH2004/01708/FP** 41 New residential apartments within 5 blocks with undercroft parking. Approved 04.04.2005.

**BH2003/02082/FP** Demolition of 9 and 11 The Upper Drive and development of 4 blocks of 25 private flats and 1 block providing 16 affordable homes. Single access drive from The Upper Drive and four pedestrian gates. Refused 13.04.2004

### **3.2 13 The Upper Drive**

**BH2011/00455** Application to extend time limit for previous approval

**BH2008/00278** for demolition of existing house and erection of no. 7 self contained flats. Approved 07.04.2011

**BH2008/00278** Demolition of existing house and erection of no. 7 self contained flats. Approved 07.05.2008.

### 3.3 15 The Upper Drive

**BH2016/01393** Demolition of existing dwelling and erection of 3no one bedroom flats, 2no two bedroom flats and 1no three bedroom flat (C3). Minded to Grant pending s106 legal agreement.

**BH2015/03228** Demolition of existing dwelling and erection of 4no one bedroom flats and 4no two bedroom flats (C3). Refused 11.11.2015.

## 4. REPRESENTATIONS

4.1 Sixteen (16) letters has been received objecting to the proposed development. The main grounds for objection are as follows:

- Height
- Overdevelopment of site
- Design out of keeping with houses
- Boxy design
- Change in character of area
- Loss of privacy
- Loss of light
- Overshadowing
- Parking issues
- Increased traffic and congestion
- Highway safety concerns
- Increased noise and disturbance
- Building work noise, dust, pollution detrimental to health
- Building works affect driveway
- Buildings unfinished and remedial work required
- Previous developer left suppliers in debt
- Impact on property values
- Set a precedent for further development
- Potential impact on wildlife
- No investment in infrastructure to support more housing
- Previous scheme prohibited building above second floor
- Discrimination against disabled person
- Original planning permission conditions not complied with
- No affordable housing proposed
- Misleading statements in submission documents
- Timing of the application submission

4.2 **Hove Civic Society:** Objects to the proposal on the grounds of overdevelopment of the site and impact upon the adjacent property.

## 5. CONSULTATIONS

5.1 **Sustainable Transport:** No objection. Given the likely increase in child, adult

and visually impaired pedestrian movements that the development will generate, and in the interests of ensuring that it is accessible to all, we request a Grampian condition (plus informative) requiring dropped kerbs and blister tactile paving to be added to either side of Caisters Close at its junction with The Upper Drive.

**5.2 Environmental Health:** No comment received.

**5.3 Private Sector Housing:** No comment received.

## **6. MATERIAL CONSIDERATIONS**

6.1 In accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, this decision has been taken having regard to the policies and proposals in the National Planning Policy Framework, the Development Plan, and all other material planning considerations identified in the "Considerations and Assessment" section of the report

6.2 The development plan is:  
Brighton & Hove City Plan Part One (adopted March 2016);  
Brighton & Hove Local Plan 2005 (retained policies March 2016);  
East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (adopted February 2013);  
East Sussex, South Downs and Brighton & Hove Waste and Minerals Sites Plan (adopted February 2017);

6.3 Due weight has been given to the relevant retained policies in the Brighton & Hove Local Plan 2005 according to their degree of consistency with the NPPF.

## **7. POLICIES**

### The National Planning Policy Framework (NPPF)

#### Brighton & Hove City Plan Part One

SS1 Presumption in Favour of Sustainable Development  
CP1 Housing delivery  
CP8 Sustainable buildings  
CP9 Sustainable transport  
CP12 Urban design  
CP14 Housing density  
CP19 Housing mix

#### Brighton & Hove Local Plan (retained policies March 2016):

TR7 Safe Development  
TR14 Cycle access and parking  
SU9 Pollution and nuisance control  
SU10 Noise Nuisance  
QD5 Design - street frontages  
QD14 Extensions and alterations  
QD15 Landscape design  
QD27 Protection of amenity  
HO5 Provision of private amenity space in residential development

HO13 Accessible housing and lifetime homes

Supplementary Planning Guidance:  
SPGBH4 Parking Standards

Supplementary Planning Documents:  
SPD03 Construction & Demolition Waste  
SPD12 Design Guide for Extensions and Alterations  
SPD14 Parking Standards

## **8. CONSIDERATIONS & ASSESSMENT**

- 8.1 The main considerations in the determination of this application relate to the impact of the development on the character and appearance of the existing building, site and streetscene, the impact on residential amenity, the standard of accommodation provided and highways and sustainability issues.
- 8.2 Matters relating to the timing of the submission of the application, impact on property values, potential inconvenience to nearby residents during the build and the behaviour of the previous developers towards suppliers are not material planning considerations.
- 8.3 The City Plan Part 1 Inspector's Report was received in February 2016. The Inspector's conclusions on housing were to agree the target of 13,200 new homes for the city until 2030 as a minimum requirement. It is against this minimum housing requirement that the City's five year housing land supply position is assessed annually. The most recent land supply position was published in the 2016 SHLAA Update (February 2017) which demonstrates a 5.6 year supply position. The Council can therefore demonstrate an up to date housing supply position in accordance with the NPPF.
- 8.4 Design and Appearance:**  
The proposed new units would be sited on Block D to the far east of the wider site; this block is currently lower in height than the two neighbouring blocks to the west. The reason for this part of the building being lower was due to potential concerns regarding neighbouring amenity rather than there being an objection to the visual amenity of the street of there being a taller building.
- 8.5 The proposed extensions to accommodate the additional two units would result in a block which would now be almost identical in terms of scale and appearance to the adjoining blocks to the west. Given the distances between the application site and its neighbours, it is considered that the increased height of the block would not appear out of context with the neighbouring properties or within the prevailing streetscene. It is noted that in recent years this stretch of the Upper Drive has been developed to such an extent that most of the properties on this section of the northern side are flatted development with fewer traditional dwellinghouses remaining.
- 8.6 The proposed works would match the design and appearance of Block D and a condition is recommended to ensure that the proposed materials match the existing property.

- 8.7 Accordingly, it is considered that the works are appropriate in terms of the impact upon the host building and the wider streetscene.
- 8.8 Standard of accommodation:**  
Policy QD27 seeks to ensure a good standard of amenity for future occupiers of the proposed development and this requirement is one of the core planning principles of the NPPF (para 17). The Council does not at present have an adopted policy to require minimum unit sizes. Government has however published room and unit sizes which they consider to represent the minimum acceptable size for rooms and units, in the form of their 'Technical housing standards - nationally described space standard', March 2015.
- 8.9 Whilst the Council does not seek to enforce these standards, they do clearly provide a useful and highly relevant reference point in assessing standard of accommodation in new residential units. Rooms and units which would provide cramped accommodation and sub-standard levels of amenity often fall below the minimum acceptable sizes set out by Government.
- 8.10 Apartment no. 23 on the first floor would be extended from a one-bed to a two-bed flat. As a point of reference, Government's minimum size for a two-bedroom four-person unit is 70m<sup>2</sup> and the proposed unit would measure 84m<sup>2</sup>, well in excess of this standard.
- 8.11 The proposed two-bed Apartment 26 on the second floor would measure 86m<sup>2</sup> and the proposed three bed Apartment 27 on the third floor would measure 139m<sup>2</sup>. Again the size of these units would be well in excess of Government's minimum size for a two-bedroom four-person unit of 70m<sup>2</sup> and for a three-bedroom six-person unit of 95m<sup>2</sup>. The individual bedrooms all meet the government's minimum standards too.
- 8.12 All three units would benefit from a good standard of light and circulation space and all have provision of private amenity space in the form of a front balcony. Unit 27 additionally has a good size outside terrace area which is considered appropriate for a three bed family unit.
- 8.13 The two new units would use the existing refuse/ recycling storage area which is located in adjacent Block C.
- 8.14 Impact on Amenity:**  
Policy QD27 of the Brighton & Hove Local Plan states that planning permission for any development or change of use will not be granted where it would cause material nuisance and loss of amenity to the proposed, existing and/or adjacent users, residents, occupiers or where it is liable to be detrimental to human health.
- 8.15 Impact on no. 13 The Upper Drive  
The property most likely to be affected by the development is no. 13 The Upper Drive to the east, a two storey traditional dwellinghouse. An objection has been raised that the proposed development would impact on the glazed conservatory

room to the rear, in terms of loss of privacy and light. This room is used as a therapy room for the objector's adult son who is mentally disabled. It was noted on site that the blinds to the western side elevation of the conservatory are in place and can be drawn.

8.16 It is acknowledged that the original approved design took account of the relationship with no. 13 and, at that time, a cautious approach was taken with regard to the height of the block, by virtue of the potential loss of amenity to the neighbouring property.

8.17 With the benefit of the development now being in situ, the relationship with this neighbour and the height of the proposed development has been re-evaluated as outlined below.

8.18 *Privacy and overlooking*

As verified on site, there are two small windows to the eastern side of the existing development; these are secondary windows that serve the kitchen areas of open plan living space, and give only the most oblique views into the side of the neighbouring conservatory. An additional three windows are proposed to the eastern elevation. It is considered that again these would only give very oblique views into the side windows of the conservatory.

8.19 No conditions relating to obscure glazing were deemed necessary to the original permission. However it is understood that there could certainly be a perception of increased overlooking; therefore it is recommended that, as the proposed windows serve kitchens and bathrooms, they should be obscure glazed.

8.20 The proposed windows to the rear would provide similar views of the garden at no. 13 as the existing windows. It is also noted that there is dense high level foliage in place between the properties, which is under the control of no.13, which would help to mitigate any increased overlooking.

8.21 A roof terrace is proposed to the third floor flat. The usable space of the terrace is to the front of the building. The flat roof area to the rear would be for repair and maintenance purposes only; this can be secured by condition. An etched glass 1.75 metre height privacy screen is proposed to the side elevation. This would protect the occupants of no. 13 from significant overlooking. Given the siting of the proposed terrace, it is not considered that there would be significant overlooking of the garden of no. 13. Additionally given its height, there would be no adverse overlooking of the side windows of the conservatory at no. 13, or significant noise and disturbance issues.

8.22 *Light*

In terms of light to the conservatory, as mentioned previously, it is noted that the blinds to the western window can be drawn to protect privacy. The objector has advised that the blinds impact on light to the room. With regard to potential loss of light a 'Daylight Statement' has been submitted with the application with assesses the impact of the development on the lights levels of the neighbouring conservatory, utilising the methods outlined in the BRE publication "Site Layout

Planning for Daylight & Sunlight - A guide to good practice" Second Edition published in 2011 (the "BRE Guide").

- 8.23 The report concludes that excellent levels of daylight within the room will be maintained for daylight distribution and that the room will also remain a 'well daylit space'. Whilst it is evident that Vertical Sky Component (VSC) reduction exceeds 20% to the 3 No 'side/secondary' windows which face towards the site proposal, the average VSC in consideration for all windows serving the room, meet the target criteria and as submitted (re. daylight distribution and Average Daylight Factor), good daylighting levels within the room would continue in the proposed scenario.
- 8.24 From the officer site visit, there was no reason to disagree with the findings in the report. The room is a conservatory and has full height glazing on three elevations. Even with the blinds drawn, the room has plenty of light coming in from the north aspect overlooking the garden.
- 8.25 There are no further windows to the side of no. 13 that would be affected by loss of light from the increased height of the structure
- 8.26 Other neighbouring properties  
There is no significant impact on other neighbours from the proposed scale and massing of the development. The neighbours at the rear in Old Shoreham Road are some distance away and are heavily screened from the site by evergreen trees. There have been objections from residents in Wilbury Villas, whose rear gardens face the development site. Whilst the development's front windows and outside amenity space would provide marginally enhanced views of these rear gardens, given the distances involved and the existing level of mutual overlooking in the area, this is not considered to warrant refusal of the application.
- 8.27 There is not considered to be a significant impact on the existing flats in the block or the wider site. The development in general, including the proposed windows to the western elevation, is a sufficient distance from the nearest windows in the adjoining block to limit undue harm. The potential noise and disturbance created by two additional units is not considered to be unacceptable, subject to submission of a soundproofing scheme which can be secured by condition.
- 8.28 Sustainable Transport:**  
It is proposed to provide 2 no. dedicated off street parking spaces which are currently unallocated within the wider site; this is acceptable. The site is not within a controlled parking zone however the proposal would limit undue on-street parking pressure from additional resident parking. Cycle parking would be provided in the existing secure cycle store within the block.
- 8.29 There may be a small uplift in trip generation however, given that only two new units are proposed, this is not considered to be unacceptable or warrant refusal of the application.

8.30 Given the likely increase in child, adult and visually impaired pedestrian movements that the development will generate, and in the interests of ensuring that it is accessible to all, the Council's Highways Team have recommended that dropped kerbs and blister tactile paving are added to either side of Caisters Close at its junction with The Upper Drive. This can be secured by condition.

**8.32 Sustainability:**

Policy CP8 requires new development to achieve 19% above Part L for energy efficiency, and to meet the optional standard for water consumption. This can be secured by condition.

**8.33 Other Matters:**

An objector has referred to the proposed lack of affordable housing provision. The original scheme of 41 dwellings provided for 16 affordable housing units. Planning policies at the time required 40% of units on developments comprising 10 dwellings or more to be affordable. This would have been 16.4 units on the wider site. Therefore given that affordable housing was provided at the time at almost 40%, it is not considered reasonable to revisit this issue when only two further dwellings are being proposed and, given the timescales involved with this application, cannot be seen as part of a wider development proposal for the whole site.

8.34 This application has been considered under the Conservation of Habitats and Species Regulations 2017 (Habitats Regulations) for its potential impacts on the Natura 2000 (European) sites. A pre-screening exercise has been undertaken which has concluded that there is no potential for in-combination "likely significant effects" on European sites and therefore it is not necessary to carry out further appropriate assessment under the Habitats Regulations.

**8.35 Conclusion:**

Given the prevailing character of the streetscene on this stretch of The Upper Drive, it is considered that the development would not appear out of character with the surroundings. It is acknowledged that the original approved design was mindful of the relationship with the adjacent property to the east, no. 13 The Upper Drive. However, given that the approved scheme has now been built and can be viewed in situ, it is considered that the proposed extension would not have an overbearing impact on its neighbour and has been carefully designed to take account of overlooking and loss of privacy issues. Subject to conditions it is considered that the development is appropriate in terms of design, scale and impact on amenity, and would provide two new dwellings for the City, of an acceptable size and standard.

**9. EQUALITIES**

9.1 It is noted that an occupant of an adjacent property has mental disabilities and this is taken account of in the consideration of the application.

9.2 The requirement to meet Lifetime Homes has now been superseded by the accessibility and wheelchair housing standards within the national Optional Technical Standards. Step-free access to the extension is not achievable due to the proposed units being on upper floors.

