

<b><u>No:</u></b>	<b>BH2021/04346</b>	<b><u>Ward:</u></b>	<b>Hanover And Elm Grove Ward</b>
<b><u>App Type:</u></b>	<b>Householder Planning Consent</b>		
<b><u>Address:</u></b>	<b>22 Hanover Terrace Brighton BN2 9SN</b>		
<b><u>Proposal:</u></b>	<b>Erection of single storey rear extension and construction of lower ground floor.</b>		
<b><u>Officer:</u></b>	Steven Dover, tel:	<b><u>Valid Date:</u></b>	08.12.2021
<b><u>Con Area:</u></b>	Valley Gardens	<b><u>Expiry Date:</u></b>	02.02.2022
<b><u>Listed Building Grade:</u></b>		<b><u>EOT:</u></b>	16.03.2022
<b>Agent:</b>	Garrick Architects 36 Edburton Avenue Brighton BN1 6EJ		
<b>Applicant:</b>	Mr Shah 130 Woodland Drive Hove BN3 6DE		

## 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>
Location and block plan	1929-P-10		8 December 2021
Proposed Drawing	1929-P-11	Rev A	8 December 2021

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. At least one bee brick shall be incorporated within the external wall of the development hereby approved and shall be retained thereafter.

**Reason:** To enhance the biodiversity of the site and to comply with Policy CP10 of the Brighton & Hove City Plan Part One and Supplementary Planning Document SPD11 Nature Conservation and Development.

4. Access to the flat roof over the extension 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.

5. The layout of the revised dwelling shall be in strict accordance with the approved floor plan 1929-P-11 received on the 8th December 2021 and retained as such thereafter.

**Reason:** To ensure adequate natural light and outlook for future occupiers of the site in accordance with policy QD27 of the Brighton and Hove Local Plan.

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. Where possible, bee bricks should be placed in a south facing wall in a sunny location at least 1 metre above ground level.

## 2. SITE LOCATION

- 2.1. The application relates to a three storey mid-terrace building finished in crème-coloured render, located on the southeast side of Hanover Terrace. The building is in use as a small House in Multiple Occupation (HMO) for five occupants (C4 use) with a single storey addition to the rear. The building is within Valley Gardens Conservation Area but is not a listed building or subject to an Article 4 direction, apart from the city-wide restriction on conversions of dwellings (C3 use) to Houses in Multiple Occupation (C4 use) without a planning application.
- 2.2. The area is relatively uniform in appearance, with small, terraced period properties set back behind small front gardens or light wells with canted bays, a large proportion of which have semi basements/lower ground floors.

## 3. RELEVANT HISTORY

- 3.1. **BH2019/03120** - Creation of additional lower ground floor level to form new 1 bedroom dwelling (C3) with extension to existing HMO above. Alterations to rear garden to create lower ground floor courtyard and ground floor patio, formation of new front entrance way for new dwelling, removal of chimneys and associated works. Refused for the following three reasons and subsequently dismissed on appeal:
  1. *The proposed excavation to create an entire new floor, the lightwell and the infill extension would cumulatively be an excessive form and scale of development and the front canted bay at basement level would be an untraditional addition, causing less than substantial harm to the appearance of the conservation area, without sufficient public benefits being proposed. As such, the application is contrary to Policies CP12 and CP15 of the Brighton & Hove City Plan Part One and QD14 and HE6 of the Local Plan.*

2. *The proposed infill extension, by reason of its height and siting on the boundary, would unacceptably restrict the outlook and create a sense of enclosure / a tunnel effect for the occupiers of no. 23. As such, the application is contrary to Policy QD27 of the Brighton & Hove Local Plan.*
3. *The standard of accommodation for the proposed dwelling, by reason of insufficient Gross Internal Area, outlook, natural light and private external amenity space, would be poor, and the ground floor extension and rear lightwell would also unacceptably reduce the amount of external amenity space for the existing HMO. As such, the application is contrary to Policies CP12 of the Brighton & Hove City Plan Part One and QD27 and HO5 of the Local Plan.”*

#### **4. APPLICATION DESCRIPTION**

- 4.1. Planning permission is sought for the erection of single storey rear extension and construction of lower ground floor basement.

#### **5. REPRESENTATIONS**

- 5.1. **Five (5)** representations have been received from members of the public objecting to the application for the following reasons
  - Adversely affects Conservation Area
  - Overdevelopment
  - Additional Traffic
  - Noise
  - Residential Amenity
- 5.2. **Two (2)** letters of representation have also been received from **Councillor Powell** and **Councillor Hills** objecting to the proposed development for the following reasons:
  - Adversely affects Conservation Area
  - Overdevelopment
  - Additional Traffic
  - Noise
  - Residential Amenity
  - Fire safety
  - Structural integrity

A copy of their letters is attached to this report.

#### **6. CONSULTATIONS**

- 6.1. Heritage: No comment

## 7. MATERIAL CONSIDERATIONS

- 7.1. 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
- 7.2. 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);
  - Shoreham Harbour Joint Area Action Plan (adopted October 2019);
- 7.3. 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.

## 8. RELEVANT POLICIES

### The National Planning Policy Framework (NPPF)

#### Brighton & Hove City Plan Part One

SS1	Presumption in Favour of Sustainable Development
CP8	Sustainable buildings
CP12	Urban design
CP15	Heritage

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

QD14	Extensions and alterations
QD27	Protection of Amenity
HE6	Development within or affecting the setting of Conservation Areas

## 9. RELEVANT POLICIES

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SS1	Presumption in Favour of Sustainable Development
CP8	Sustainable buildings
CP12	Urban design
CP15	Heritage

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

QD14	Extensions and alterations
QD27	Protection of Amenity
HE6	Development within or affecting the setting of Conservation Areas
CP10	Biodiversity

### Brighton & Hove City Plan Part Two

Policies in the Proposed Submission City Plan Part 2 do not carry full statutory weight but are gathering weight as the Plan proceeds through its stages. They provide an indication of the direction of future policy. Since 23 April 2020, when the Plan was agreed for submission to the Secretary of State, it has gained weight for the determination of planning applications. The weight given to the relevant CPP2 policies considered in determining this application is set out in the Considerations and Assessment section below where applicable.

DM20	Protection of Amenity
DM21	Extensions and alterations
DM26	Conservation Areas
DM29	The Setting of Heritage Assets

### Supplementary Planning Documents:

SPD11	Nature Conservation & Development
SPD12	Design Guide for Extensions and Alterations

## **10. CONSIDERATIONS & ASSESSMENT**

- 10.1. The main considerations in the determination of this application relate to the impact on the character of the building, the wider historic terrace and Valley Gardens conservation area; and the impact on the amenity of future occupants and neighbouring residents.
- 10.2. When considering whether to grant planning permission for development in a conservation area the Council has a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the area.
- 10.3. Case law has held that the desirability of preserving or enhancing the character or appearance of a conservation area should be given "considerable importance and weight".

### Design and Appearance

- 10.4. The proposed single storey, flat-roofed rear extension would be at ground floor level, infilling the gap between the existing outrigger and the boundary wall with no. 23. It would have a width of 2.3 metres, a depth of 3.7 metres and a height of 2.7 metres. The dual-pitched roof of the existing outrigger would be removed, and an existing window replaced with double doors.
- 10.5. The rear extension form is considered acceptable in height, depth and width, infilling to the shared boundary to the south-west (23 Hanover Terrace). This part of terrace exhibits varying forms of rear extensions and outriggers, with no specific design which needs to be replicated in new extensions, particularly as it would not be visible from the street. The existing small outrigger with a dual pitched roof is of little architectural merit and the replacement with a flat roof, which also extends over the infill extension, is considered to cause little harm to the host and wider conservation in isolation.

- 10.6. The materials proposed would match the host property, with render and uPVC fenestration representative of the materials and appearance in the wider streetscene.
- 10.7. A uPVC lightwell and low level window would be inserted on the frontage to serve the new basement. Although the use of uPVC windows is generally not supported in conservation areas, particularly on principal elevations fronting highways, the existing property has already had all the windows replaced with uPVC units, and as the new window to the front elevation would be set at lower ground level and not highly visible it is considered to have a neutral effect on the host property and wider conservation area.
- 10.8. The proposed lower ground floor design is considered acceptable in appearance with a new window to the front elevation being flush with wall as was recommended by Heritage in respect of the previously refused application BH2019/03120. The new rear window would be set in the new extension and considered appropriate in design. The new front window would be set below the existing canted bay at ground floor level with a lightwell in front. As no separate access is proposed the degree of change and impact to the conservation area and host property is assessed as low. The appearance would be similar to other properties in the street which have a lower ground floor or basement.
- 10.9. The proposed works would not substantially disrupt the host property, nor appear an incongruous addition. The location at the rear of the infill extension ensures visibility in the public realm is limited. The proposed design of the lower ground floor minimises negative impacts on the host property and preserves the wider conservation area, taking cues from the existing historic terrace that ensure it appears an original element, rather than a later addition.
- 10.10. Therefore, the works are considered suitable alterations to the building that do not significantly harm its appearance or that of the wider conservation area, in accordance with policies QD14 & HE6 of the Brighton & Hove Local Plan, CP12 and CP15 of City Plan Part One, policies DM21 and DM26 of City Plan Part Two (DM26 can be given limited weight. DM21 carries more weight than QD14, the policy which it replaces), and SPD12 guidance.
- Impact on Amenity
- 10.11. Policy QD27 of the Brighton & Hove Local Plan and emerging Policy DM20 of City Plan Part 2 (which can be given more weight than QD27) both state 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.
- 10.12. A recent site visit has been carried out by the case officer to fully assess the impact of the works.
- 10.13. It is considered that although the scheme increases the amount of fenestration, it would not result in any substantially increased overlooking or adverse harm to

the privacy of neighbouring properties. The rear facing fenestration is all located at ground floor level, limiting any adverse harm to private amenity. The new rooflights on the extension would provide only skyward views.

- 10.14. There would be no significant change in impact to the north-east (21 Hanover Terrace) as the existing outrigger sits on this boundary and the depth would not change, but the height of the roofline would be reduced. There would be an increase in the bulk and massing along the common boundary with 23 Hanover Terrace to the southwest, but the extension would not be overbearing result in significant loss of light due to its single storey height, relatively modest depth and flat roof. The window of No.23, in close proximity to the boundary, is small and relatively high in the elevation, so the effect of loss of light from the proposed extension is limited. The form of the proposed rear extension has been considered acceptable regarding impact on neighbouring properties amenity by the Appeal Inspector on the refused application BH2019/03120.
- 10.15. The new extension would lead to a reduction in the views towards the east view from No.23, but this is not a material consideration in the determination of planning applications. The outlook for No.23 is considered acceptable.
- 10.16. To ensure that the extension flat roof is not used as a terrace or outside amenity area, with the resultant harm to neighbouring amenity, a condition is proposed limiting access for maintenance and emergency only.
- 10.17. The reduction in the useable rear amenity space is considered to have a detrimental effect on the current and future occupiers, but the degree of harm is assessed as minimal, with the space lost to the side of the existing outrigger being small in scale and not of particularly high value as useable amenity space. The harm of this outdoor amenity loss is partly offset by the improvement of access and visibility to the remaining area from the new extension, better integrating the indoor and outdoor spaces, and allowing ease of transition and use.
- 10.18. The internal improvement to amenity of the existing and future occupiers from the proposed extension and lower ground floor are considered substantial, especially considering the current use as a small HMO (C4 Use Class). The revised and increased floor space allows for substantially more shared space and areas for relaxation and study.
- 10.19. The proposed single person bedroom in the lower ground floor is considered acceptable in size and layout with floor area of 11.5 square metres. The amount of light and outlook are considered acceptable with the window sitting flush to the elevation allowing more light and outlook than a canted bay, without a detrimental impact on the appearance of the conservation area.
- 10.20. The proposed works would see the use as a small HMO increase from five to six potential occupants, but no change of use is considered as the property would still fall under Use Class C4 (HMO) which allows not more than six residents living together in a house of multiple occupation. The increase in residents is not considered to give rise to any significant increase in amenity

harm to surrounding properties over the existing situation. The internal improvements in layout and utility are considered to be beneficial to the existing and future occupiers. In the event the number of occupants was to exceed six, the use would fall outside C4 (HMO) and be considered a Sui Generis use for which planning approval is needed.

- 10.21. Therefore, it is not considered that the extension and works cause any significant harm to amenity, in accordance with Policy QD27 of the Brighton & Hove Local Plan and Policy DM20 of CPP2 (DM20 carries more weight than QD27, the policy which it replaces).
- 10.22. A condition requiring a bee brick has been attached to improve ecology outcomes on the site in accordance with the Policy CP10 of the Brighton & Hove City Plan Part One and Supplementary Planning Document SPD11 Nature Conservation and Development.

Issues Raised in Representations:

- 10.23. Various comments have raised the potential for additional bedrooms to be created from the proposed extension which would further increase the number of occupants, as stated previously, in the event the number of occupants was to exceed six, the use would fall outside C4 (HMO) and be considered a Sui Generis use for which planning approval is needed.
- 10.24. The applicant's motivation behind the development, structural integrity and foundations, quality of building works, the construction process and duration, problems with the existing HMO and anti-social behaviour are not relevant planning considerations, and therefore have not been considered within this report.
- 10.25. Fire safety has also been raised and this is assessed as part of building regulations and falls outside the considerations of this report. It is also noted that as part of HMO registration for properties, fire certificates have to be produced, detailing satisfactory compliance of fire detection and alarm to ensure safety for occupants.

**Conclusion:**

- 10.26. The development is considered acceptable in terms of its impact on the host property, the wider area conservation area, and would cause no significant harm to neighbouring amenity or the existing and future occupiers. Approval is therefore recommended.

- 11. EQUALITIES**  
None identified

- 12. CLIMATE CHANGE/BIODIVERSITY**



- 12.1. The works modernise and increase the flexibility of an existing property, with the new glazing increasing the opportunity for solar gain in the winter to reduce heating from non-renewable sources.

