

<u>No:</u>	BH2021/02084	<u>Ward:</u>	Hollingdean And Stanmer Ward
<u>App Type:</u>	Removal or Variation of Condition		
<u>Address:</u>	Ditchling Court 136A Ditchling Road Brighton BN1 6JA		
<u>Proposal:</u>	Variation of condition 1 of application BH2018/02054 (Erection of two storey extension and the creation of 7no flats, revised fenestration and other associated works.) to allow amendments to approved drawings.		
<u>Officer:</u>	Emily Stanbridge, 293311	tel: <u>Valid Date:</u>	03.06.2021
<u>Con Area:</u>		<u>Expiry Date:</u>	29.07.2021
<u>Listed Building Grade:</u>		<u>EOT:</u>	
<u>Agent:</u>	Dowsettmayhew Planning Partnership Mocatta House Trafalgar Place Brighton BN1 4DU		
<u>Applicant:</u>	Pearl Developments Brighton LLP C/o Dowsettmayhew Planning Partnership Mocatta House Trafalgar Place Brighton BN1 4DU		

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.

Plan Type	Reference	Version	Date Received
Proposed Drawing	11A		3 June 2021
Proposed Drawing	12D		16 September 2021
Proposed Drawing	13D		16 September 2021
Proposed Drawing	14A		3 June 2021
Proposed Drawing	15A		3 June 2021
Proposed Drawing	16D		16 September 2021
Proposed Drawing	17E		16 September 2021
Proposed Drawing	18E		16 September 2021
Proposed Drawing	19E		16 September 2021
Proposed Drawing	20E		16 September 2021
Proposed Drawing	21		3 June 2021
Proposed Drawing	22		3 June 2021
Proposed Drawing	23		3 June 2021
Location and block plan	10A		3 June 2021

2. The development hereby permitted shall be commenced before the 28th February 2023.

Reason: To ensure that the Local Planning Authority retains the right to review unimplemented permissions.

3. No development, including demolition, shall take place until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall include:

- (i) The phases of the Proposed Development including the forecasted completion date(s)
- (ii) A commitment to apply to the Council for prior consent under the Control of Pollution Act 1974 and not to Commence Development until such consent has been obtained
- (iii) A scheme of how the contractors will liaise with local residents to ensure that residents are kept aware of site progress and how any complaints will be dealt with reviewed and recorded (including details of any considerate constructor or similar scheme)
- (iv) A scheme of how the contractors will minimise disturbance to neighbours regarding issues such as noise and dust management vibration site traffic and deliveries to and from the site
- (v) Details of hours of construction including all associated vehicular movements
- (vi) Details of the construction compound
- (vii) A plan showing construction traffic routes

The construction shall be carried out in accordance with the approved CEMP.

Reason: As this matter is fundamental to the protection of amenity, highway safety and managing waste throughout development works and to comply with policies QD27, SU9, SU10 and TR7 of the Brighton & Hove Local Plan, policy CP8 of the Brighton & Hove City Plan Part One, and WMP3d of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan 2013 and Supplementary Planning Document 03 Construction and Demolition Waste.

4. No development above ground floor slab level of any part of the development hereby permitted shall take place until samples of all materials to be used in the construction of the external surfaces of the development have been submitted to and approved in writing by the Local Planning Authority, including (where applicable):

- a) samples of all render (including details of the colour of render/paintwork to be used)
- b) samples of all cladding to be used, including details of their treatment to protect against weathering
- c) samples of all hard surfacing materials
- d) details of the proposed window, door and balcony treatments
- e) samples of all other materials to be used externally

Development shall be carried out in accordance with the approved details.

Reason: To ensure a satisfactory appearance to the development and to comply with policies QD14 of the Brighton & Hove Local Plan and CP12 of the Brighton & Hove City Plan Part One.

5. Within 6 months of commencement of the development a Scheme of Management of the on site vehicle parking shall be submitted to and approved in writing by the Local Planning Authority. The scheme must include the following measures:
 - Details of how each car parking space will be allocated and managed
 - Details of measures to ensure that each car parking space is for the use of its allocated owner

The above measures must be implemented prior to the occupation of the building and thereafter be maintained as such.

Reason: To ensure the development maintains a sustainable transport strategy and to comply with policies CP9 of the Brighton & Hove City Plan Part One and TR14 of the Brighton & Hove Local Plan.

6. Prior to the first occupation of the development hereby approved the 1.8m high opaque screening hereby permitted shall be installed to the fourth floor balconies and shall thereafter be retained at all times, being repaired and maintained at all times in the event of damage, unless otherwise agreed in writing by the Local Planning Authority.

Reason: In order to protect adjoining property from overlooking and to comply with policies QD14 and QD27 of the Brighton & Hove Local Plan.

7. Prior to the first occupation of the development hereby approved a scheme of travel pack measures to promote sustainable transport to and from the site shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include but not be limited to the following measures:
 - 2 years membership for each residential unit to the City's Car club.
 - 1 year Bus pass or the equivalent sum towards Rail Services
 - 2 years BtnBikeshare
 - Provision of information on sustainable transport options and measures in all marketing material (including any on-line).

Reason: to ensure the development maintains a sustainable transport strategy and to comply with policies CP9 of the Brighton & Hove City Plan Part One and policy TR7 of the Brighton & Hove Local Plan.

8. Prior to first occupation of the development hereby approved, details of secure cycle parking facilities for the occupants of, and visitors to, the development shall be submitted to and approved in writing by the Local Planning Authority. The approved facilities shall be fully implemented and made available for use prior to the first occupation of the development and shall thereafter be retained for use 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. The development hereby permitted shall not be occupied until a scheme for the storage of refuse and recycling has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be carried out and provided in full in accordance with the approved details prior to first occupation of the development and the refuse and recycling storage facilities shall thereafter be retained for use at all times.

Reason: To ensure the provision of satisfactory facilities for the storage of refuse and to comply with policy QD27 of the Brighton & Hove Local Plan, policy CP8 of the Brighton & Hove City Plan Part One and Policy WMP3e of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan Waste and Minerals Plan.

10. None of the 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. None of the residential units hereby approved shall be occupied until each residential unit built has achieved as a minimum, a water efficiency standard of 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.

12. 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.

13. The new residential units shall not be occupied until all of the fenestration and other elevational changes to the building hereby approved have been completed.

Reason: To ensure a satisfactory appearance of the development and to comply with policies QD14 of the Brighton & Hove Local Plan and CP12 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. SITE LOCATION

- 2.1. This application relates to an existing purpose built block of flats positioned to the rear of 136-152 Ditchling Road. Private access is gained to the residential units via an access road to the south of 136 Ditchling Road. The surrounding area comprises both residential and commercial premises. The site is not located within a conservation area or otherwise subject to designations.

3. RELEVANT HISTORY

- 3.1. **BH2018/02054:** Erection of two storey extension and the creation of 7no flats, revised fenestration and other associated works. Approved February 2020.

4. APPLICATION DESCRIPTION

- 4.1. Planning permission is sought to vary condition 1 of application BH2021/00672 which approved the erection of a two storey extension and the creation of 7no. flats, revised fenestration and other associated works. This current variation of condition application seeks to increase the height of the approved extension by 1.7m in order to accommodate steel supports and the proposed construction method required to install them.

5. CONSULTATIONS

- 5.1. **Urban Design Officer** Verbal Comment 10.08.2021
In order to reduce the perceived height of the development, amendments could be made to the design of the scheme. It is suggested that the existing parapet height of the building be raised to the cill level of the third floor level windows. In addition, the top level of the development proposed should be broken up from the main building by introducing a band of render.

6. REPRESENTATIONS

- 6.1. **Six (6)** letters of representation have been received objecting to the proposed development on the following grounds:
- Lack of light to properties
 - Inappropriate height
 - Additional cars
 - Additional pollution
 - Noise disturbance
 - Safety of residents during construction
 - Increase refuse area
 - Overshadowing
 - Overlooking
 - The additional height will be visible from a wider area

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
CP1	Housing delivery
CP7	Infrastructure and developer contributions
CP8	Sustainable buildings
CP9	Sustainable transport
CP12	Urban design
CP14	Housing density
CP19	Housing mix
CP20	Affordable housing

Brighton and Hove Local Plan (retained policies March 2016):

TR7	Safe Development
TR14	Cycle access and parking
SU10	Noise Nuisance
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

Brighton & Hove City Plan Part 2 (Proposed submission October 2020)

- 8.1. 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 key CPP2 policies considered in determining this application is set out below where applicable.

DM18	High quality design and places
DM20	Protection of Amenity
DM21	Extensions and alterations

DM26	Conservation Areas
DM33	Safe, Sustainable and Active Travel
DM36	Parking and Servicing

Supplementary Planning Documents:
SPD12 Design guide for extensions and alterations

9. CONSIDERATIONS & ASSESSMENT

- 9.1. The original approved scheme (BH2018/02054) was considered by Planning Committee in September 2019 and was granted on the 28th of February 2020, following the signing of the S106. The scheme was considered to be acceptable in all regards so the principle of the scheme to provide a two storey extension and the creation of seven new flats has been accepted. As such only the acceptability of the amendments to the plans now sought, are material considerations, as set out below.

Variation to Condition 1 (Plan list)

Visual Impact

- 9.2. This application seeks to increase in height of the approved scheme by 1.7m. The reasoning behind the increase in height is to accommodate the proposed construction method. Steel supports are required which results in an increase of the building height.
- 9.3. Amendments have been received during the lifetime of this application, following requests by officers, to reduce the perceived height of the building. In order to reduce the verticality of the building and prevent a 'top heavy' appearance, the height of the parapet has been increased so it would be level with the cill level of the 3rd floor windows. It is considered that this successfully decreases the overly tall appearance of the development. In addition, the scheme as now proposed, includes a band of render between the 3rd and 4th storeys which is considered to provide a visual break in the verticality of the building. The amendments made to the scheme are considered to have reduced the overall perceived height of the building so that it is acceptable in appearance.
- 9.4. It is also noted on the drawings submitted that the proposed balcony at 4th storey level to the southern elevation has been pulled in from both the east and west by approximately 0.7m. The setting in of this balcony is considered acceptable and provides some relief in particular from the front (west) elevation of the building. This alteration is considered acceptable.
- 9.5. The design of the development in all other regards is the same as that approved under application BH2018/02054.
- 9.6. The proposals are therefore considered to be in accordance with policies QD14 of the Local Plan, CP12 of the Brighton and Hove City Plan Part One and policy DM21 of the City Plan Part Two which holds significant weight.

Amenity Impact

- 9.7. The application site is set on slightly higher ground than neighbouring residential properties. The original scheme (BH2018/02054) considered that the impact of the development upon neighbouring amenity was acceptable in all regards.
- 9.8. The development would not be sited any nearer to neighbouring properties, and the position of the windows within each elevation would be similar to those approved, albeit of a slightly increased height owing to the changes proposed. Given the separation distance of more than 20m between the site and neighbours, no increase in overlooking would result.
- 9.9. Given the increase in height of the building (by 1.7m) an updated sunlight and daylight assessment has been provided dated September 2021.
- 9.10. The properties most likely to be impacted by the development are No's 142- 148 Ditchling Road. These properties lie immediately west of the tallest proposed element at Ditchling Court. The window most impacted by the development is the ground floor window to the rear outrigger of No.142.
- 9.11. The assessment provided shows that there is a predicted change of 8.70% of daylight in relation to the vertical sky component. BRE guidance states that any loss of daylight which exceeds 20 percent is considered to be of significant impact. As such this proposed change is not considered to cause significant adverse harm. By comparison, the same figure for the approved development was 7.97%.
- 9.12. The report also states that the amended scheme proposed would have no measurable impact on the availability of sunlight to the receptor window at No.142 Ditchling Road.
- 9.13. The proposed increase in height of the development at Ditchling Court will have some impact on the average daylight hours, with the approved scheme allowing for 1.05% whilst that proposed would reduce this to 0.98%. The code of practice states that, below 2% electric lighting is likely to be turned on. In this case it is likely that the room already requires artificial lighting and that the increase in height will not have a significant impact on daylighting within the room.
- 9.14. It should be noted that the number and size of the units proposed would remain as per the approved scheme. Each unit proposed would meet or exceed the standards set out within the national space standards and would benefit from acceptable levels of natural light, ventilation, outlook and privacy. It is acknowledged that the proposed changes to the southern elevation would result in a slight reduction in the balcony space for one of the units proposed. However, this decrease is considered minimal and the level of amenity space for future occupiers would remain acceptable.
- 9.15. The proposals are therefore considered to be in accordance with policies QD27 of the Local Plan and DM20 of the Brighton and Hove City Plan Part Two which holds significant weight.

Conditions and 106 Agreement:

- 9.16. The other conditions, as agreed by committee, and as per the extant permission, are still relevant and would be re-applied to the new decision notice albeit with the timeframe for implementation of the development being up-dated to ensure that the proposal commences within the original 3 year period.
- 9.17. There are provisions in the S.106 Legal Agreement, so that the Agreement will relate to and bind any new permission resulting from a S.73 application. The heads of terms include a affordable housing provision of £135,750 and a sustainable transport contribution of £6,300.

Community Infrastructure Levy

- 9.18. Because the original permission was granted before the introduction of CIL, it does not apply to this development.

10. EQUALITIES

- 10.1. Given that the development approved under application BH2018/02054 is situated on the upper floors of the property with no lift, the development could not comply with Requirement M4(2) of the optional requirements in Part M of the Building Regulations and therefore in this case a condition to secure these measures is not sought.

