

<b><u>No:</u></b>	<b>BH2022/00612</b>	<b><u>Ward:</u></b>	<b>Central Hove</b>
<b><u>App Type:</u></b>	<b>Full Planning</b>		
<b><u>Address:</u></b>	<b>Flat 6B 6 St Aubyns Gardens Hove BN3 2TA</b>		
<b><u>Proposal:</u></b>	<b>Erection of single storey outbuilding to rear, with additional bedroom and study accommodation for Flat 6B. (Retrospective)</b>		
<b><u>Officer:</u></b>	Russell Brown, tel: 293817	<b><u>Valid Date:</u></b>	27.05.2021
<b><u>Con Area:</u></b>	Old Hove	<b><u>Expiry Date:</u></b>	22.07.2021
<b><u>Listed Building Grade:</u></b>	N/A	<b><u>EOT:</u></b>	
<b><u>Agent:</u></b>	Mr Alistair Dodd ADC Ltd 72A Beaconsfield Road Brighton BN1 6DD		
<b><u>Applicant:</u></b>	Mr B Patel Bellimo Ltd Brighton Kingsway Hotel 2 St Aubyns Hove BN3 2TB		

## 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 as set out hereunder.

### Conditions:

1. The development hereby permitted shall be retained 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	ADC1345/A LP		7 March 2022
Proposed Drawing	ADC1345/A01		7 March 2022
Proposed Drawing	ADC1345/A02	Rev A	10 March 2022
Proposed Drawing	ADC1345/A03	Rev C	21 June 2022

2. The outbuilding hereby approved shall only be used as accommodation ancillary to and in connection with the use of the main property (Flat B, 6 St Aubyns Gardens) as a single dwelling and shall at no time be occupied as a separate or self-contained unit of accommodation.

**Reason:** In order to protect the amenities of neighbouring properties because the outbuilding is unacceptable as a new dwelling and in accordance with Policy QD27 of the Brighton & Hove Local Plan and DM20 of the Proposed Submission City Plan Part Two.

3. The development hereby permitted shall not be first occupied until a scheme to enhance the nature conservation interest of the site has been submitted to and agreed in writing by the Local Planning Authority. The scheme shall include details of location, species, sizes and numbers of all proposed plants, and accord with the standards described in Annex 6 of SPD11 and shall be

implemented in full prior to the first occupation of the development hereby approved and thereafter retained.

Any plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

**Reason:** To increase the biodiversity of the site, to enhance the appearance of the development and to comply with Policies QD15 of the Brighton & Hove Local Plan, CP10 of the Brighton & Hove City Plan Part One, DM22 of the Brighton & Hove Proposed Submission City Plan Part Two and SPD11.

4. Access to the flat roof 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 and DM20 and DM21 of the Brighton & Hove Proposed Submission City Plan Part Two.

## 2. SITE LOCATION

- 2.1. The application site is on the north side of St Aubyns Gardens, which is effectively part of the west-to-east section of the dual carriageway known as Kingsway (A259), and opposite King Alfred Leisure Centre. It is a mid-terrace building, but which is at the western end of a row of 15 similar Classical style, mid-Victorian properties with two lower, four storey buildings adjoined to its western flank wall. The property, the subject of this application, was originally four storeys plus basement and roofspace, which has subsequently been converted via roof extensions either side of the original Dutch gables to the front elevation. In contrast with those buildings to the east, it only has one canted bay and features light green painted render as opposed to cream coloured render. To the rear it has a two storey outrigger that is set away off the rear elevation and straddles the boundary with no. 5. According to Council Tax records, the building is comprised of six flats; 1-4 are numbered as such and there are also nos. 6A and 6B (which is the subject of this application).
- 2.2. The application relates to the rear part of the back garden where a single storey building has been erected behind an existing fence and gate.
- 2.3. The application site is within the Old Hove Conservation Area, an Archaeological Notification Area and Controlled Parking Zone (CPZ) N. It is not a listed building or within the setting of any.

## 3. RELEVANT HISTORY

- 3.1. **BH2021/01599:** Erection of single storey outbuilding to rear. (Retrospective).  
Withdrawn

- 3.2. **BH2021/00897:** Retention of flat roof to replace existing pitched roof to rear outrigger. Approved at Planning Committee 09.06.2021 and decision issued 11.06.2021
- 3.3. **BH2002/01632/FP:** Alteration to rear roof light to form roof access hatch. Approved 13 August 2002

#### 4. APPLICATION DESCRIPTION

- 4.1. The current application seeks the retention of a single storey outbuilding to the rear of the back garden, which is solely used by a studio dwelling known as Flat 6B. It is to be used as additional living space for Flat 6B. The works commenced on 1 January 2021 and were finished on 28 February the same year, although it was not in use at the time of the site visit and the fence dividing the garden has since been removed. The application does not include the opening made in the boundary wall, which has since been made good.

#### 5. REPRESENTATIONS

- 5.1. **Eleven (11) objections** were received, more than five of which are from properties directly affected, raising the following concerns:
- Parking issues
  - Potential use of the annexe as rental accommodation
  - Damage to a garden wall, which has been very badly blocked up
  - A residential building in a garden is inappropriate
  - Direct views into neighbouring properties
  - Increased noise and disturbance
  - No planning permission was sought prior to its construction; retrospective application should be refused.
  - The necessity of the proposed development is unclear.
  - It overdevelops the plot
  - Loss of green space
  - It is not in keeping with cheap white plastic doors and windows, and bright security light
  - Negative effect on property values
  - Lack of information in the application
  - Detrimental impact on the character and appearance of the conservation area
  - It is odd that the outbuilding was built without planning permission and since then there have been two applications for it.
  - It is unclear how many bedrooms the flat has, and without that information, cycle parking, refuse, amenity space and other requirements cannot be considered.
  - In the event of an approval, a legal agreement should prevent its use as a separate dwelling given it is capable of independent occupation.
  - The degree of intervisibility between this building and the existing buildings, including those on the site itself, would be unacceptable.

- It does not create a high standard of accommodation for those who will reside there.
- It is an ugly utilitarian building with no connection to the architecture of the area. By reason of its design and location it does not make a positive contribution and is an inappropriate addition that would harm the character, appearance and visual amenity of the area.
- This proposal does not comply with Policies CP12, CP15, QD14 and HE6.

5.2. **Eighteen (18)** representations in support, more than five of which are from properties directly affected, have been received for the proposal for the following reasons:

- The outbuilding conforms with the garden and the main building.
- The size and the design are ok.
- This new modern, beautiful one storey outbuilding has enhanced the garden, and is appropriately located.
- The low height and the location could not cause a negative impact on the neighbours and it does not stand out as out of place.
- The outbuilding is not fenced off and therefore it is ancillary to the garden flat and in character with the building.
- It does not adversely affect views or living quality
- There are other similar outbuildings around
- No additional noise or disturbance
- It could blend in better with some more foliage or plants
- This outbuilding is more nicely designed, neat and of a good colour
- It does not affect the appearance of the beautiful buildings on St Aubyns Gardens.

## 6. CONSULTATIONS

6.1. **Brighton and Hove Archaeological Society:** Unaware of any archaeological deposits that are likely to be affected by this development. Suggestion to contact the County Archaeologist for their recommendations.

6.2. **County Archaeology:** No archaeological recommendations to make

## 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. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990

7.3. 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 JAAP (adopted October 2019).

7.4. 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. POLICIES

### The National Planning Policy Framework (NPPF)

#### Brighton & Hove City Plan Part One:

SS1 Presumption in Favour of Sustainable Development  
 CP10 Biodiversity  
 CP12 Urban design  
 CP15 Heritage

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

SU10 Noise nuisance  
 QD27 Protection of amenity  
 HE6 Development within or affecting the setting of conservation areas

#### Brighton & Hove City Plan Part 2:

Policies in this Plan 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. Some policies have gained further weight following the CPP2 examination hearings and publication of the Post Hearing Action points by the Inspector (INSP09) and Main Modifications for consultation March 17th (BHCC44 Schedule of Main Modifications).

DM1 - Housing Quality, Choice and Mix  
 DM20 - Protection of Amenity  
 DM26 - Conservation Areas  
 DM40 - Protection of the Environment and Health – Pollution and Nuisance

#### Supplementary Planning Documents:

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

## 9. CONSIDERATIONS & ASSESSMENT

- 9.1. The main considerations in the determination of this application relate to principle of development, design and heritage as well as the impact on neighbouring amenity and highways.

Principle of Development:

- 9.2. Prior to the construction of the single storey outbuilding the subject of this application, this part of the garden was occupied by two sheds, which have subsequently been demolished. It has since been occupied by this outbuilding, which is to be used as an extension to the existing studio dwelling (Use Class C3) on the ground floor of the main building. The main issues in terms of whether the application is acceptable in principle is the loss of garden space.
- 9.3. Prior to this development, the back garden was approx. 30m long at its longest point and had an area of approx. 282.5m<sup>2</sup>. Post-development, the rear garden is approx. 21.8m long at its longest point and has an area of approx. 195m<sup>2</sup>. Therefore, 69% of the back garden would be retained, which is considered acceptable since it still provides sufficient amenity space for the ground floor studio flat.

Design and Heritage:

- 9.4. 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.
- 9.5. Case law has held that the desirability of preserving or enhancing the character or appearance of a conservation area must be given “considerable importance and weight”.
- 9.6. No objections are raised to the removal of the temporary sheds previously where the outbuilding now stands.
- 9.7. It is a single storey structure of 2.6m high with a flat roof and light grey rendered elevations punctuated with white uPVC framed windows and a single door. It spans nearly the full width of the site at 8.6m wide, but set in 1m from each boundary.
- 9.8. In terms of the surrounding context, there are flat roofed outbuildings built in the back gardens of 8 and 10 St Aubyns and another where 2-6 St Aubyns and 1 St Aubyns Gardens join (it is unclear to which property it relates). In that context, the provision of a single storey outbuilding is not out of keeping with the surrounding area, with that at 10 St Aubyns potentially being in commercial use as a workshop. There are workshops within Namrik Mews to the north and also live-work units such as in the building (nos. 12-20) that directly backs onto the site with a two storey façade and pitched roof. No design-based objection is therefore raised to this outbuilding.
- 9.9. As regards materials, the flat roof is felt, the walls grey painted render, the windows, doors and fascia white uPVC, and the gutters and downpipes dark grey uPVC. These are generally not high quality materials and not particularly suitable for use in a conservation area. However, the outbuilding is not visible

from any publicly visible point and is tucked away to the rear of the back garden behind a fence, away from the frontage properties. In this context, the materials used would not warrant a refusal of planning permission for that reason alone. It is regrettable that the applicant did not use high quality materials, but it is considered that alternative materials cannot be conditioned.

- 9.10. In terms of its impact on heritage assets, the nearest listed buildings are 2, 4 and 6 St Aubyns, which together with their piers and railings are listed at Grade II. Given that they are at least 35m away to the south east of the outbuilding, it is not considered that there is any harm to the listed buildings or their setting. Added to it not being visible from any publicly visible point, NPPF paragraph 202 regarding public benefits is therefore not engaged.
- 9.11. City Plan Part One Policy CP10 require net gains for biodiversity, but none are proposed by this application. It is considered unreasonable to request that a bee brick be incorporated into already constructed rendered walls so in the event of an approval it is recommended to secure details of landscaping, such as wildflowers and insect hotels, by condition to provide a net gain.
- 9.12. Therefore, the single storey outbuilding is considered acceptable in design and heritage terms and would not materially harm the appearance and character of the Old Hove Conservation Area. As such, the application is considered to be compliant with Policies CP12 and CP15 of the City Plan Part One, HE6 of the Local Plan and DM26 of the emerging City Plan Part Two.

Impact on Neighbouring Amenity:

- 9.13. Paragraph 130 of the NPPF outlines that planning decisions should ensure that developments create places that promote health and well-being, with a high standard of amenity for existing and future users.
- 9.14. The objections received raise issues of noise and disturbance, overlooking, light spill and alternative use of the outbuilding than that proposed by this application.
- 9.15. The use of the outbuilding is to be used as additional living space, namely a bedroom, storage and a WC / shower room for the studio flat the subject of this application. Given the nature of this space, it is not considered to cause adverse levels of noise audible outside of its walls. Any disturbance caused from the use of a domestic outbuilding would be minimal. Access would be had through 6 St Aubyns Gardens, which is owned by the applicant, as opposed to from the rear in Namrik Mews.
- 9.16. The windows installed within the external walls of the building face south towards the existing rear garden, which pertains to the studio flat, and west towards a 2.4m high wall at 86cm away. It is for those reasons why it is considered that the outbuilding does not provide intrusive overlooking of neighbouring gardens and windows. It is therefore not necessary for any of the windows to be obscure glazed. In the event of an approval, a condition would be added to prevent the flat roof being used as any kind of amenity space, which would otherwise cause an adverse impact on privacy.

- 9.17. It is possible that some light spill would occur from the south-facing windows, however, the lighting would be commensurate with the domestic use of the outbuilding. The relatively small external light adjacent to the entrance door to the outbuilding is a typical security light and is likely to be movement sensitive, hence the reference to it coming off and on all night, probably triggered by wildlife. Therefore, light spill is not considered to be harmful to neighbouring windows, the nearest of which is approximately 23m away.
- 9.18. Officers recognise the potential for the building to be used as a self-contained or separate dwelling, or for short-term holiday accommodation purposes, as alleged in the objections. Therefore, in the event of an approval, it is considered appropriate to recommend a condition be added to restrict the use of the outbuilding as ancillary to Flat 6B.
- 9.19. As such, the proposal is considered to be in accordance with Local Plan Policy QD27 and Policy DM20 of the Proposed Submission City Plan Part Two, which carries more weight than QD27.

Standard of Accommodation:

- 9.20. The 'Nationally Described Space Standards' (NDSS) were introduced by the Department for Communities and Local Government in 2015 to establish acceptable minimum floor space for new build developments. Although these space standards have not been formally adopted into the Brighton and Hove City Plan, Policy DM1 of Proposed Submission City Plan Part Two proposes to adopt them and can now be given significant weight.
- 9.21. It is recognised that this is an extension of an existing dwelling, however it is considered reasonable to assess it against the NDSS and Policy DM1, which can be given significant weight in determining planning applications.
- 9.22. Only the size of dwellings themselves and bedrooms are assessed and the bedroom within this outbuilding would be approximately 18.9m<sup>2</sup> by 4.17m wide, which is sufficient for two bedspaces. However, it is also important that bedrooms receive sufficient ventilation, natural light and outlook. In this case, it is served by a casement window facing south towards the rear garden. As such, it would provide sufficient natural light and outlook for the bedroom.
- 9.23. Therefore, this application for an extension to the existing dwelling in the form of a rear outbuilding offers an acceptable standard of accommodation to future residents, compliant with Local Plan Policy QD27 and Policy DM20 of the Proposed Submission City Plan Part Two.

Matters raised by consultation:

- 9.24. Matters regarding potential use of the outbuilding as rental accommodation, alterations outside the scope of this application, property values and the need for the development are not valid planning considerations and therefore have not been taken into account in the determination of this application.

Conclusion



- 9.25. This application is considered acceptable in principle and on matters of design and impact on heritage assets and neighbouring amenity, and the single storey outbuilding, as an extension to the existing dwelling, provides an acceptable standard of accommodation to future residents. As such, this application is recommended for approval.

**10. EQUALITIES**

- 10.1. None identified

**11. CLIMATE CHANGE / BIODIVERSITY**

- 11.1. The extension to the existing dwelling makes better use of land that was otherwise redundant and would contribute to biodiversity net gain through a landscaping condition. Although not required by policy, two cycle parking spaces are provided to the south of the outbuilding.

