

<u>No:</u>	BH2022/01786	<u>Ward:</u>	Hove Park Ward
<u>App Type:</u>	Householder Planning Consent		
<u>Address:</u>	9 Dyke Road Avenue Hove BN3 6QA		
<u>Proposal:</u>	Erection of two-storey front and rear extensions and single-storey side extension, with associated alterations.		
<u>Officer:</u>	Jack Summers, tel: 296744	<u>Valid Date:</u>	05.07.2022
<u>Con Area:</u>	N/A	<u>Expiry Date:</u>	30.08.2022
<u>Listed Building Grade:</u>	N/A	<u>EOT:</u>	
<u>Agent:</u>	Mr Alan Wood 75 Westbourne Street Hove BN3 5PF		
<u>Applicant:</u>	Mr Paul Russell 9 Dyke Road Avenue Hove BN3 6QA		

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	3	-	22 August 2022
Proposed Drawing	4	A	22 August 2022
Block Plan	-	-	6 July 2022
Location Plan	-	-	5 July 2022

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 relevant external finishes of the development hereby permitted shall be as follows:

- Brickwork to match the appearance of that found on the existing building.
- Roof tiles to match the appearance of those found on 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; CP12 of the Brighton & Hove City Plan Part One; and DM21 of the emerging Brighton & Hove City Plan Part Two.

4. No development above ground floor slab level of any part of the development hereby permitted shall take place until details of the following 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.

- a) Windows
- b) Doors (including front door, garage door and bi-folding doors)
- c) Decorated render
- d) Terrace balustrade

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; CP12 of the Brighton & Hove City Plan Part One; and DM18 and DM21 of the emerging Brighton & Hove City Plan Part Two.

5. The following windows hereby permitted at first floor level shall be obscure glazed and non-opening, unless the parts 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.

- The window servicing the bathroom on the north side elevation.
- The window servicing the shower room on the north side elevation.
- The window servicing the walk-in wardrobe on the south side elevation
- The window servicing the shower room on the south side elevation.

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; and DM20 of the emerging Brighton & Hove City Plan Part Two.

6. Access to the flat roof over the single-storey 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 property from overlooking and noise disturbance and to comply with policies QD14 and QD27 of the Brighton & Hove Local Plan, and DM20 of the emerging Brighton & Hove City Plan Part Two.

7. Prior to the commencement of the development hereby approved (including demolition and all preparatory work), a scheme for the protection of the retained trees, in accordance with BS 5837:2012, including a tree protection plan (TPP) and an arboricultural method statement (AMS) shall be submitted to and approved in writing by the Local Planning Authority. The development thereafter shall be implemented in strict accordance with the approved details.

Reason: As this matter is fundamental to protecting the trees which are to be retained on the site during construction works in the interest of the visual amenities of the area and to comply with policies QD16 of the Brighton & Hove Local Plan; CP10, CP12 and CP13 of the Brighton & Hove City Plan Part One; DM22 of the emerging Brighton & Hove City Plan Part Two; and SPD06: Trees and Development Sites.

8. One or more bee bricks 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.

9. Three or more swift bricks/boxes shall be incorporated within the external surface 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.

Informatives:

10. 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.
11. The applicant is advised that the application of translucent film to clear glazed windows does not satisfy the requirements of condition 5.
12. Where possible, bee bricks should be placed in a south facing wall in a sunny location at least 1 metre above ground level.
13. Swift bricks/boxes can be placed on any elevation, but ideally under shade-casting eaves. They should be installed in groups of at least three, at a height above 5m height, and preferably with a 5m clearance between the host building and other buildings or obstructions. Where possible avoid siting them above windows or doors. Swift bricks should be used unless these are not practical due to the nature of construction, in which case alternative designs of suitable swift boxes should be provided in their place.

2. SITE LOCATION

- 2.1. The application site is a two-storey detached dwellinghouse on the west side of Dyke Road Avenue. There is a mature beech tree at the front of the site near the southeast corner that is the subject of a Tree Protection Order.

3. RELEVANT HISTORY

- 3.1. **BH2001/00609/FP** Erection of two-storey pitched roof front extension. Approved

4. APPLICATION DESCRIPTION

- 4.1. Planning permission is sought to remodel the existing dwelling with two-storey front and rear extensions, and a wrap-around single-storey front/side/rear extension.
- 4.2. The proposed development originally also included plans to alter the front driveway to create a second vehicle entrance and erect a large front boundary wall. These aspects of the scheme have been removed during the consideration of the application due to the likely harm caused to the abovementioned TPO

beech tree. There were also plans to create a swimming pool in the rear garden; this too has been removed from the schedule of proposed works.

- 4.3. Following objection to the initial scheme, the single-storey side extension has been amended to reduce its eaves height.

5. REPRESENTATIONS

- 5.1. **Five (5)** representations have been received, objecting to the proposal on the following grounds:

- Detrimental impact on residential amenities by reason of:
- Loss of privacy
- Noise nuisance
- Loss of sunlight
- Overbearing
- Inaccuracies on the submitted documents/drawings
- Lack of information regarding highway safety
- The proposed development extends beyond the front and rear building lines
- The proposed development is overdevelopment
- Loss of trees within or adjacent to the site
- Structural damage to one or more neighbouring properties
- Incorporation of a neighbouring wall into the party wall

- 5.2. **Councillors Bagaen and Brown** have submitted representations, objecting to the proposed development. A copy of Councillor Brown's representation is attached to this report.

- 5.3. **Two (2)** representations have been received, making the following comments on the proposal:

- Several pages on the Planning Register were not properly visible*
- Clarification is sought why the application was not discussed at the August Committee.**

It should be noted that all representations received were prior to the most up-to-date set of drawings so do not take into account the changes made to the application including the reduction in scale of the side extension and the removal of the enlarged hardstanding, and installation of additional vehicle entrance and swimming pool.

**The Planning Register has been checked and the submitted documents are fully visible.*

*** The application has had amended plans received during the consideration of the application. The application was not ready to be presented to August Planning Committee.*

6. CONSULTATIONS

6.1. Arboriculture:

The protected beech tree at the front of the site is not identified on any of the plans - removal would not be supported. In the event planning permission is granted, tree protection measures should be submitted and approved prior to commencement.

6.2. Transport: Objection

The proposed new perimeter wall and gates exceeds 0.6 metres in height. A visibility splay must be clear of obstructions (gates/walls) over 0.6 metres, to allow for adequate visibility of pedestrians on Dyke Road Avenue, in the interests of pedestrian/cycle safety. The applicant is requested to provide a visibility splay drawing in order to demonstrate adequate visibility can be achieved from the vehicular accesses or amend the proposed perimeter wall to facilitate adequate visibility. Whilst the proposed new vehicle crossover is situated at least five metres from the existing crossover, which is welcomed, the implementation of the new crossover would result in the removal of an existing tree. The arboricultural team should be consulted on any crossover amendments or proposals that are situated within one metre of a tree.

It should be noted that the Highway Authority comments were received prior to the changes to the application removing any works to the front hardstanding and the intention to create a second vehicle entrance.

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 (JAAP) 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 (CPP1)

SS1 Presumption in Favour of Sustainable Development

CP9 Sustainable Transport
CP10 Biodiversity
CP12 Urban Design

Brighton & Hove Local Plan (BHLP) (retained policies March 2016)

TR7 Safe Development
QD5 Design - street frontages
QD14 Extensions and alterations
QD16 Trees and hedgerows
QD27 Protection of amenity

Brighton & Hove City Plan Part Two

The Inspector published her Final Report into the Examination of the City Plan Part Two 19th July 2022. The Report is a material consideration. The Inspector has concluded that with her recommended changes (the schedule of changes as appended to the Report) that the Plan is sound and can be adopted. The Inspector's report concludes the examination of City Plan Part Two. City Plan Part Two policies, as amended by the Inspector's schedule of Main Modifications, can be afforded significant weight but they will not have full weight until the City Plan Part Two is formally adopted.

DM18 High quality design and places
DM20 Protection of Amenity
DM21 Extensions and alterations
DM22 Landscape Design and Trees
DM33 Safe, Sustainable and Active Travel
DM36 Parking and Servicing

Supplementary Planning Documents:

SDD11 Nature Conservation & Development
SPD12 Design Guide for Extensions and Alterations

9. CONSIDERATIONS & ASSESSMENT

- 9.1. The main considerations in the determination of this application relate to the design and appearance of the proposed development; and the potential impacts on the amenities of local residents.

Design and Appearance

- 9.2. The proposed development is considered to be acceptable in terms of appearance. Dyke Road Avenue is characterised primarily by large detached dwellinghouses within spacious plots; over the years many of the buildings have been subject to alterations introducing more contemporary design features such as rendered walls or large feature windows. Whilst it is regrettable to lose the style of the existing house and it is acknowledged that the application property would undergo a dramatic change in style, it is not considered that any detrimental impact would be had upon its own character or that of the wider Dyke Road Avenue streetscene that would justify refusal of the application.

- 9.3. The proposed front extension would bring the building line forward, but this would still be in line with both neighbouring properties at two-storey level and would not be further forward than the existing two storey element that was granted and constructed previously. The garage extension (single-storey in height) would project slightly further forward but this is not considered to be to the detriment of the local character. The immediate streetscene is on a gentle curve and the building line is fairly uneven; it is not considered that a strong building line is contributory to the local character of the built environment.
- 9.4. The proposed design has been slightly amended during the lifetime of the application; the single-storey side extension has had the original flat roof design replaced with a pitched roof, except for the garage element which would still be flat roof.
- 9.5. The proposed development represents a significant enlargement in the scale of the building, but it is considered that it maintains an appropriate appearance within the streetscene and within its own plot and for this reason is not considered to represent an overdevelopment of the site.
- 9.6. The proposed external materials include brickwork and roof tiles that are described as matching those existing on site; this is considered appropriate. Other materials shall be secured by condition in the interests of maintaining the visual amenity of the area.

Impact on Amenities

- 9.7. Concerns have been raised that the proposed development will lead to harm to the amenities of neighbouring residents due to a loss of light and privacy, by creating a noise nuisance, and by appearing overbearing. Each of these aspects will be addressed in turn.
- 9.8. With regards to the loss of light, during the morning hours the proposed rear extension is likely to lead to some loss of direct light to the back garden of no.11 Dyke Road Avenue and this harm is noted; however, from midday onward the impact on the rear garden of no.11 is likely to be much reduced. The most valuable afternoon and early evening sunlight are likely to be affected only to a limited extent. Whilst it is acknowledged there would be some impact, this is not considered sufficient to justify refusal of the application and on balance the impact is considered to be acceptable.
- 9.9. With regards to the loss of privacy this appears to concern the rear-facing windows and balcony. These face out over the rear garden of the application site, whilst projecting deeper into the rear garden the relationship between proposed windows and those properties either side of the application site are unlikely to be dissimilar to the existing relationship. The terrace area is flanked by the built form on either side by the extensions and is unlikely to result in additional overlooking that would warrant refusal of the application. The distance between the proposed rear windows and the rear boundary line is approximately 14m. Directly to the rear of the application site is no.24 Woodlands; the distance between the two properties is approximately 30m. Both properties (and those within the wider area) feature deep rear gardens with trees and other vegetation

separating them; it is considered that the proposed development would not have any significant impact on the level of privacy enjoyed by residents of no.24 Woodlands and their immediate neighbours. It is considered that the significant distance between the proposed development and sensitive windows on neighbouring buildings, coupled with existing boundary treatments, will greatly mitigate the potential harm caused to privacy and the resultant impact is considered acceptable. It has been noted that the application site sits on slightly higher ground than properties to its rear and this has been taken into account.

- 9.10. There are several new side windows proposed within the existing body of the building; these will all be subject to a condition requiring that they be fitted with obscure glazing and be fixed shut to an internal height of no less than 1.7m.
- 9.11. A condition will be attached restricting access to the flat roof above the garage for anything other than maintenance or in the event of an emergency. It is considered that access as an amenity space could cause a harmful sense of overlooking for neighbours in the adjacent property.
- 9.12. The proposed enlargement of the building may lead to a larger number of persons residing within it, but this is not considered likely to create a noise output outside of what one should reasonably expect from a residential house. The swimming pool in the rear garden, which was specified as a reason for concern from local residents, has been removed from the schedule of proposed works, though it should be noted that the creation of a swimming pool can be 'permitted development' under Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) Order 2015 (as amended). The proposed plant room may house equipment that emits some noise; however, this may also not require planning permission subject to a number of criterion.
- 9.13. Regarding concerns that the proposed development may appear overbearing, it is noted that the proposed development leads the dwelling to be further behind the building line or either of the neighbouring properties. A gap is maintained between the application site and no.11; it is considered that the impact upon residents of this property will be acceptable. The single-storey extension abuts the shared boundary with no.7 and as aforementioned this has been amended during the lifetime of the application. The eaves have been lowered and the roof now slopes away from the shared boundary, significantly reducing the impact. On balance and noting the size of the rear gardens of these properties, it is considered that impact on residents of no.7 would also be acceptable, and the single-storey extension is unlikely to lead to any significant sense of enclosure or appear overbearing that would justify refusal of the application.

Impact on the Public Highway

- 9.14. The proposed development has been amended during the lifetime of the application, removing all the works to the front garden and driveway. These were considered to be unacceptable due to requiring the likely removal of a protected tree and resulting in unsafe highway conditions. The amendments to the scheme (removing these works from the schedule of development) have overcome the concerns.

- 9.15. The proposed development could lead to a greater number of persons living in the property and lead to a small increase in trip generation, but this is not considered likely to have any significant impact on the public highway; there are no concerns in this regard.

Other Considerations

- 9.16. It has been noted that the North Marker on the Proposed Block Plan is incorrected oriented; this has not impacted upon the Local Planning Authority's ability to assess the proposed development and need not be given any weight in the assessment.
- 9.17. The Council has adopted the practice of securing minor design alterations to schemes with the aim of encouraging the biodiversity of a site, particularly with regards to protected species such as bumblebees and swifts. A suitably-worded pair of conditions will be attached to secure an appropriate number of bee bricks and swift bricks within the proposal in order to help meet the requirements of policy CP10 of the City Plan Part One.
- 9.18. As aforementioned, the site is home to a TPO tree within the front garden. There is a second large tree on the site in the northwest corner. Neither of these trees would be displaced by the development but could be put at risk during the construction process. A tree protection plan and arboricultural method statement designed to ensure the health of these trees will be secured by condition in the interest of visual amenity and site biodiversity.
- 9.19. Concerns have been raised that the proposed development may cause damage to one or more buildings in neighbouring properties; this is not a planning matter and need not be given any weight in this assessment. The proposed development would need to be carried out in accordance with Building Regulations.
- 9.20. Concerns have also been raised that the existing boundary wall should not be used as a party wall. Such matters are also outside the remit of planning.

Conclusion

- 9.21. The proposed development is considered to be acceptable in terms of appearance and the impacts it may have on the amenities of local residents. External materials, tree protection measures, biodiversity improvements and limiting access to the flat roof for amenity purposes shall be secured by condition. For the foregoing reasons the proposal is considered to be in accordance with policies QD5, QD14, QD16 and QD27 of the Brighton and Hove Local Plan; and CP9, CP10 and CP12 of the City Plan Part One.
- 9.22. It is also considered that the proposal would be in accordance with policies DM18, DM20, DM21 and DM22 of the Proposed Submission City Plan Part Two which is gathering weight. Policy DM22 is considered to have significant weight at this stage and policies DM20 and DM21 are considered to have more weight than the adopted Local Plan policies QD14 and QD27.

10. EQUALITIES

None

11. COMMUNITY INFRASTRUCTURE LEVY

- 11.1. Under the Regulations of the Community Infrastructure Levy (CIL) 2010 (as amended), Brighton & Hove City Council adopted its CIL on 23rd July 2020 and began charging on all CIL liable planning applications on and from the 5th October 2020. The exact amount will be confirmed in the CIL liability notice which will be issued as soon as is practicable after the issuing of planning permission.

12. CLIMATE CHANGE/BIODIVERSITY

- 12.1. Biodiversity improvements including bee and swift bricks shall be secured by condition within the approved development. Tree protection measures shall also be secured by condition to safeguard the biodiversity of the site.