

<b><u>No:</u></b>	<b>BH2017/03830</b>	<b><u>Ward:</u></b>	<b>Hove Park Ward</b>
<b><u>App Type:</u></b>	<b>Householder Planning Consent</b>		
<b><u>Address:</u></b>	<b>19 Shirley Drive Hove BN3 6NQ</b>		
<b><u>Proposal:</u></b>	<b>Erection of first floor side extension over existing garage and a porch to the front elevation and a porch to the side elevation.</b>		
<b><u>Officer:</u></b>	Sven Rufus, tel: 292454	<b><u>Valid Date:</u></b>	20.11.2017
<b><u>Con Area:</u></b>	N/A	<b><u>Expiry Date:</u></b>	15.01.2018
<b><u>Listed Building Grade:</u></b>	<b>N/A</b>	<b><u>EOT:</u></b>	
<b><u>Agent:</u></b>	Mr Barry Field 7 Queen Square Brighton BN1 3FD		
<b><u>Applicant:</u></b>	Mr Paul Sherman 19 Shirley Drive Hove BN3 6NQ		

**Councillor Brown has requested that this application is determined by the Planning Committee.**

**1. RECOMMENDATION**

- 1.1 That the Committee has taken into consideration and agrees with the reasons for the recommendation set out below and resolves that, had the Council determined the application prior to an appeal against non-determination, it **WOULD HAVE GRANTED** 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>
Block Plan Proposed	764 14	A	20 November 2017
Floor Plans Proposed	837 03	A	20 November 2017
Sections Proposed	837 05	A	20 November 2017
Elevations Proposed	837 08	A	20 November 2017
Elevations Proposed	837 09	A	20 November 2017
Floor Plans Proposed	837 10		20 November 2017
Roof Plan Proposed	837 11		26 January 2018

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.

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 & APPLICATION DESCRIPTION**

- 2.1 The application site is a two storey detached house, on the east side of Shirley Drive.
- 2.2 The application proposes a first floor side extension over the garages and porches to the front and side elevations.

**3. RELEVANT HISTORY**

- 3.1 Appeal dismissed 17/10/17

**BH2017/01223:** Erection of first floor side extension over existing garage and a porch to the front elevation and a porch to the side elevation. Refused 30/5/17, appeal dismissed 17/10/17.

**BH2010/03875:** Outline application with some matters reserved for subdivision of site and erection of detached dwelling. Refused 21/2/11.

**4. REPRESENTATIONS**

- 4.1 One (1) letter has been received from a neighbour occupier, objecting to the proposed development on the following grounds:

Loss of light and dominant structure in front of the house. Breaches the 45 degree line.

- 4.3 Councillor Vanessa Brown objects to the proposed development, comments are attached attached.

**5. CONSULTATIONS**

- 5.1 None

**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  
CP8 Sustainable buildings  
CP12 Urban design  
CP19 Housing mix

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

TR7 Safe Development  
TR14 Cycle access and parking  
QD14 Extensions and alterations  
QD27 Protection of amenity

#### Supplementary Planning Guidance:

SPGBH4 Parking Standards

#### Supplementary Planning Documents:

SPD12 Design Guide for Extensions and Alterations

## 8. **CONSIDERATIONS & ASSESSMENT**

- 8.1 An Appeal against non-determination has been lodged by the Applicant, as the Council failed to determine the application within the statutory 8 week period. The Council must present to the Planning Inspectorate what their decision would have been had the Council determined the application prior to an appeal being lodged. Considerations in this regard area set out below.
- 8.2 The main considerations in the determination of this application relate to the impact of the proposed development on the relationship between the proposed works and the neighbouring property, the resultant impact on the amenity of neighbours, and the design and appearance of the proposed extension.
- 8.3 The proposed development follows a previous application which was refused and the subsequent appeal dismissed. The consideration of the current

application has taken account of the inspector's reasons for dismissing the appeal.

8.4 Design and Appearance:

The new front porch, and the porch to the rear elevation would be small additions to existing structures and in locations which would not be highly visible. It is considered that these additions would not cause harm to the appearance of the main building.

8.5 The largest part of the proposed works would be the additional storey on the first floor over the garage on the north side of the building. This extension would occupy the same footprint as the existing garage, but would be in close proximity to the boundary with the neighbouring property at 21 Shirley Drive.

8.6 The previous refused scheme also included an overhanging element at first floor, which closed the gap between the new build and the boundary by 0.6m, down to 0.3m distance between the side of the extension and the boundary. This was considered to be a cramped and top heavy design that would adversely impact on the 'spacious character and placement' of the building within the street, and creating an unneighbourly bulk close to the boundary.

8.7 The Appeal Inspector's report agreed with this view, but found that in other respects the design and appearance of the extension would not harm the appearance of the property.

8.8 The current design is similar to the refused scheme in all respects, other than having brought the extension in from the northern boundary, such that there is no overhang at first floor level, and consequently a reduced impact along the boundary. This results in a scheme that would have far less impact on the appearance of the property, and the spacing between the application site and the boundary than the previous scheme.

8.9 In light of the proposed layout now extending no further than the existing footprint, and giving due weight to the Inspector's decision, the proposed extension is considered to be a suitable alteration to the property, that would not cause harm to the appearance of the property, nor the wider street scene and the relationship between the property and the neighbouring house.

8.9 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.

8.10 The proposed porches are considered to cause no amenity issues for neighbouring properties as they are small in scale and set well away from boundaries.

- 8.11 The proposed first floor extension would create a substantial additional height to the property close to the boundary, and would introduce a first floor element forward of the closest windows on the neighbouring property.
- 8.12 The relationship of the proposed first floor extension to the neighbouring windows in the previous refused scheme was considered to be sufficiently harmful to the amenity of occupants of the neighbouring property to warrant refusal. This application has, by virtue of bringing the proposed extension away from the boundary, reduced that impact and the degree of harm that it would cause.
- 8.13 To objectively assess the impact on amenity through loss of light and outlook from extensions, the relationship between buildings can be assessed using the '45 degree rule', which examines whether the proposed extension would breach a line drawn from the midpoint of a nearby window, or the quarter point of nearby windows in the case of two storey extensions. For two storey extensions, this test should be done in the horizontal and vertical planes.
- 8.14 In the case of the proposal being considered here, the proposed extension would not breach the 45 degree line vertically (i.e. from the roof to the ground floor windows), but would breach the horizontal line (i.e. from the front elevation back towards the closest window. In this context, the proposed first floor extension may be considered to result in harm to the amenity of neighbours.
- 8.15 However, the issue of amenity impact was considered in the Inspector's Appeal decision. In this, the Inspector identified that the affected rooms on ground and first floor have a dual aspect, with a large window facing onto the garden from the first floor, and large patio doors at the ground floor level. He found that due to these rear facing windows the overall impact of the proposed development would be offset. He stated that:

*"I consider that the total amount of natural light within each respective room and the property as a whole would be of a good standard, and there would be no significant loss of amenity through loss of daylight, sunlight or additional overshadowing that would result in material harm to living conditions."*

- 8.16 Giving due weight to the Inspector's findings, in which a previous larger scheme was deemed to be acceptable, in considering this current scheme which is of a smaller scale, it is considered that the proposed development would not cause harm to the amenity of neighbours sufficient to warrant refusal in this case.
- 8.17 Conclusion  
The proposed development would result in an acceptable appearance, and the impact upon neighbouring amenity which would be caused does not warrant the refusal of planning permission. Approval is therefore recommended.

## **9. EQUALITIES**

- 9.1 No implications identified.

