

<u>No:</u>	BH2020/00724	<u>Ward:</u>	Hove Park Ward
<u>App Type:</u>	Householder Planning Consent		
<u>Address:</u>	2 Dyke Close Hove BN3 6DB		
<u>Proposal:</u>	Erection of two-storey rear extension incorporating 2no first floor balconies. Roof alterations including 2no front dormer windows, rear dormer featuring balcony, and removal of existing chimneys. Repositioning of garage, alterations to fenestration and associated works.		
<u>Officer:</u>	Jack Summers, 296744	tel: <u>Valid Date:</u>	04.03.2020
<u>Con Area:</u>	N/A	<u>Expiry Date:</u>	29.04.2020
<u>Listed Building Grade:</u>	<u>EOT:</u>		
<u>Agent:</u>	ECE Planning Limited Worthing BN12 4AP	Brooklyn Chambers	11 Goring Road
<u>Applicant:</u>	Mr P Papanichola 11 Goring Road Worthing BN12 4AP	C/o ECE Planning Limited	Brooklyn Chambers

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 **REFUSE** planning permission for the following reasons:

1. The proposed two-storey rear extension, by reason of its height and depth, together with its siting in close proximity to the shared boundary, would be likely to cause overshadowing to the unimplemented window on rear façade of No.1 Dyke Close, including which benefits from extant permission; and would present as an overbearing structure which would be unduly overbearing and intrusive. Accordingly, the proposal is considered to cause significant harm to the amenities of residents of No.1 Dyke Close, contrary to policies QD14 and 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. This decision is based on the drawings received listed below:

Plan Type	Reference	Version	Date Received
Block Plan	01	K	25 March 2020

Location Plan	02	J	4 March 2020
Proposed Drawing	03	M	22 May 2020
Proposed Drawing	04	M	22 May 2020
Proposed Drawing	05	J	4 March 2020
Proposed Drawing	06	M	22 May 2020
Proposed Drawing	07	K	25 March 2020
Proposed Drawing	08	M	22 May 2020

2. SITE LOCATION & APPLICATION DESCRIPTION

- 2.1. The application relates to a substantial two-storey detached dwellinghouse on the south side of the Dyke Close cul-de-sac.
- 2.2. Planning permission is sought for a number of alterations including a two-storey rear extension incorporating first-floor and rooftop-level balconies; the relocation and enlargement of the built-in garage; and alterations to fenestration at the front of the house, with two dormer windows.
- 2.3. The proposal is similar to a recently refused and dismissed scheme for this property. The two key changes are a reduction in the length of the rear extension and the removal of the basement level accommodation.

3. RELEVANT HISTORY

- 3.1. **BH2019/00150** Erection of two storey rear extension, formation of lower ground floor, roof alterations incorporating front rooflights and rear terrace area with balcony, revision to garage location, rear terrace with access to garden and associated works. Refused - Appeal Dismissed
- 3.2. The reason for refusal was:
The proposed two-storey rear extension, by reason of its scale and bulk together with its siting in close proximity to the shared boundary would cause overshadowing to the garden and areas of the rear facade of the adjacent property at No.1 Dyke Close, and would also represent an overbearing structure to Nos. 1 and 3 Dyke Close. Accordingly the proposal is considered to be contrary to policies QD14 and QD27 of the Brighton and Hove Local Plan.
- 3.3. **BH2017/03369 - No.1 Dyke Close** Erection of a single storey rear extension with associated roof extension to match existing and conversion of garage into habitable space including associated fenestration alterations. Approved
- 3.4. **BH2012/02921 - No.6 Dyke Close** Erection of single storey front and side extension with enlargement of front car parking area & external works including new front gable end & alterations to fenestration. Approved

4. CONSULTATIONS

- 4.1. Transport - Comments on previous proposal No objection - the infrastructure in place is sufficient to deal with the alternative parking arrangement.
- 4.2. Arboriculture - Comments on previous proposal No objection, subject to tree protection measures being implemented around the cedar (protected by a tree preservation order TPO (1) 2019) and flowering cherry tree prior to works commencing.

5. REPRESENTATIONS

- 5.1. **Ten (10)** letters have been received objecting to the proposal on the following grounds:
- Loss of privacy
 - Light pollution
 - The size of the extension will cause an overbearing impact
 - Loss of daylight due to overshadowing
 - Detrimental impact on property value
 - If trees are felled [as per original proposal under BH2019/00150] then further loss of privacy
 - Loss of chimneys and other changes of the dwellinghouse causes harm to its character
 - Future planning applications by the developer may cause further impact on the amenities of neighbours
 - The proposal is overly large
 - The proposal is larger than other extensions in the area
 - Loss of trees on site
 - Impacts of the building works themselves
 - Permissions described as similar in the local area differ in fundamental ways and do not set a precedent.
- 5.2. **Nine (9)** letters have been received, supporting the proposal for the following reasons:
- Some objections have been received from persons who have themselves made alterations, which is unreasonable.
 - Planning permission at no.6 Dyke Close [BH2012/02921] is not in keeping with the character of the streetscene, therefore it is not understood why planning permission would be refused in this instance.
 - The proposal is smaller than the previous refused application [BH2019/00150].
 - The proposal will enhance the building whilst retaining its character.
 - The proposal is a sympathetic improvement
 - The proposal is similar to other local approved developments
 - Other properties have had far larger extensions approved
 - There are no established front or rear building lines within Dyke Close

- 5.3. Letters have been received from **Councillors Brown and Bagaeen** supporting the application; copies have been attached to this report.

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);
 - Shoreham Harbour JAAP (adopted October 2019);
- 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. RELEVANT POLICIES

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part Two (CPP2)

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 but any greater weight to be given to individual policies will need to await the outcome of the Regulation 19 consultation. The council will consider the best time to carry out the consultation after the coronavirus (Covid-19) restrictions are lifted.

Brighton & Hove City Plan Part One (CPP1)

SS1	Presumption in Favour of Sustainable Development
SA6	Sustainable Neighbourhoods
CP8	Sustainable buildings
CP9	Sustainable transport
CP10	Biodiversity
CP11	Flood risk
CP12	Urban design

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

TR7	Safe development
TR14	Cycle access and parking

QD5	Design - street frontages
QD14	Extensions and alterations
QD15	Landscape design
QD16	Trees and hedgerows
QD27	Protection of amenity
HO5	Provision of private amenity space in residential development

8. CONSIDERATIONS & ASSESSMENT

8.1. The main considerations in the determination of this application relate to the impacts of the proposal on the character and appearance of the host building and wider streetscene, and the impacts on the amenities of local residents. Also of consideration are the impacts on the adopted highway and existing biodiversity.

8.2. Planning Practice Guidance states that the Courts have taken the view that planning is concerned with land use in the public interest, so that the protection of purely private interests such as the impact of a development on the value of a neighbouring property is not a material consideration. The potential impact caused by the building works themselves to other properties is also not a material planning consideration to be given any weight in the assessment of this proposal. Concerns regarding the loss of trees within the site appear to relate to the previous application, BH2019/00150, and would not appear to be relevant to the current proposal. Concerns have also been raised as to what future developments may be proposed at this site by the current owner; these are not grounds for refusal of the current application, which is assessed on its own merits.

Design and Appearance

8.3. The proposal includes several minor cosmetic alterations to the front elevation of the property which would be visible from the adopted highway. These are similar to what was proposed in the previous proposal and, as before, there is no objection to this aspect of the scheme. The only significant dissimilarity is the installation of two modest dormer windows. These are set centrally within the large roof-scape and appear as subservient, traditional additions and are considered acceptable.

8.4. The loss of architectural features such as chimneys may detract from the traditional character of the local built environment, however it should be noted that the site does not lie within a conservation area and is not covered by any Article Four Direction and thus the demolition of one or more chimneys and subsequent covering over of any gaps in the roof-scape would likely be permitted development for a single dwellinghouse such as this, and therefore does not warrant a strong objection in this instance.

8.5. The main section of the existing dwellinghouse has a depth of approximately 6.1m; with a 1m projection at the front and 1.5m projection to the rear. The proposed rear extension, as measured from the rear elevation of the main dwellinghouse, would have a depth of approximately 5.9m at ground floor level

and approximately 5.3m (not counting the depth of the small balcony) at first floor level. The rear extension proposed under BH2019/00150 had a total depth at both ground and first floor of approximately 7m. The general form of the extension, particularly from the rear, is largely unchanged, with the only other significant alteration being the reduction in depth of the two first floor level balconies from 1.6m to 0.6m each.

- 8.6. Although the submitted drawings indicate the depth of the extension as, "3755mm", this denotes only the additional depth as measured from the existing central rear projection (rather than the main rear elevation of the dwelling) and is not considered to be an accurate depiction of the additional bulk that would be erected adjacent to the shared boundary with No.1 Dyke Close.
- 8.7. The basement level that was included in the previous proposal, BH2019/00150) has been omitted from the current scheme. There was no objection to that element previously and therefore its removal has a neutral impact on the consideration of the proposal.
- 8.8. The proposal been further amended during the course of the application with the inclusion of sustainability improvements, including solar tiles on the southern roof slope and subterranean water butts. Both of these items are supported within policies SA8 and CP8 of the Brighton & Hove City Plan Part 1, and if planning permission was to be granted, their inclusion in the design would be secured by condition. Further details would likely be required at least regarding the solar tiles to ensure an acceptable appearance.

Impact on Amenity

- 8.9. As was the case during the previous refused application, the residents of no.1 Dyke Close are those most likely to be impacted upon by the proposal in terms of loss of light. This property sits both to the north of the application site and forward of it in terms of building line. The issues raised previously were the loss of light to a habitable room with glazing in the rear wall and more generally the bulk of the extension causing an overbearing impact. (It should be noted that the habitable room in question is part of a permission to convert the garage at number 1 to a habitable room and this permission has been implemented but is yet to be completed.)
- 8.10. The appeal Inspector was concerned that the previous proposal at the application site had not taken this neighbour's extant permission into account and that the proposal would potentially cause harm to it, noting:
That permitted extension at no.1 had been built by the time of the site inspection, extending approximately 3m to the rear, close to the mutual boundary, although the proposed rear wall glazing was not in place, that wall being blank. The addition is not shown on the application drawings nor the sunlight drawings which appear to have been derived from them.
- 8.11. The Inspector concluded that this omission meant that overshadowing of a habitable room window could result.

- 8.12. The applicant's agent for the current application suggests that although the window could be implemented it is unlikely to happen as the room was meant to be a cinema room and therefore a non-habitable space and therefore on that basis the insertion of the window is unlikely and a decision should be made on what exists at present.
- 8.13. The Local Planning Authority cannot control how individuals use particularly rooms within their properties and just because a drawing indicates that the room will be used in a particular way does not mean that this will occur or will not change. Indeed, the inclusion of the window may suggest that the occupiers were not sure exactly how the room would be used. Similarly, a new occupier may wish to use the room in a different way and take advantage of the option to insert the approved window. The Inspector was clear in his conclusion, referring to the room as a habitable room and there is nothing to suggest that the Local Planning Authority should consider it in a different way now. It would not be in the public interest for the Local Planning Authority to second guess an owners intentions without any clear evidence nor would it be appropriate to prejudice an extension which has previously been approved and which an Inspector has agreed should be considered as part of the considerations on the basis that it is a habitable room with a rear window.
- 8.14. The current proposal is supported by documentation that shows that the revised scheme would still break the 45 degree rule with regards to the rear window of the neighbour's extant permission. (The 45 degree 'rule of thumb' is set out within Building Research Establishment guidelines and is used in SPD12.) Whilst the 45 degree rule is a guide as to whether there is likely to be harm and not necessarily determinative in itself, the Inspector noted that the proposed extension would breach the 45 degree line previously and this contributed to his concerns and conclusions.
- 8.15. The submitted Planning Statement also makes reference to a 60 degree angle taken from the rear window of the extant permission. Although 60 degree angles are not referenced in SPD12: Extensions and Alterations, it is sometimes used to help assess the impact to an affected window on the first floor of a building. The affected window in this instance is a ground floor window and so the reference is of less relevance.
- 8.16. The previous shadow study has been resubmitted but not updated. It thus refers to a larger proposed extension at the application site but does not show the extension to the neighbour at No.1 Dyke Close. Given the Inspector's conclusion previously that:
"...the extant permission at number 1 has not been taken into account and overshadowing of a habitable room window could result."
- 8.17. It is difficult for the Local Planning Authority to now reach a different conclusion based on no additional information. The application has not demonstrated that the extant permission will not be affected by the revised proposal and thus the Council's concerns remain.

- 8.18. The appeal Inspector also acknowledged that *"on a technical level the proposal would allow sunlight and daylight to the neighbouring houses as they stand at present without undue adverse effects,..."* The revised scheme will not alter that situation.
- 8.19. Nevertheless, the Inspector was principally concerned with the impact of the overall scale and bulk of the rear extension on the amenity of No.1 Dyke Close. Whilst he acknowledged that for this neighbour the open aspect to the rear would not change and that they would still enjoy a large garden he concluded that *"...the bulk of the extension together with the pitched roof would be an ever-present intrusion into the outlook and the depth, height and proximity taken together with being to the south of the neighbouring dwelling would result in planning harm to the living conditions of the occupiers of 1 Dyke Close. Notwithstanding the BRE findings, the sense of enclosure would likely be greater from a large structure to the south."*
- 8.20. Although the impact of the revised scheme would be less than previously found due to the reduced length, the proposed extension is still placed close to the shared boundary and is still a significant, two-storey development. Given the position of the neighbour's patio areas it is clear that the proposed extension will still represent a prominent and dominant structure that will create a sense of enclosure to this neighbour.
- 8.21. The applicants' make reference to a difference in levels making 1 Dyke Close sit higher than the application site and that there is an existing high boundary treatment. However, these existed previously and would have been taken into account by the Inspector
- 8.22. It is acknowledged that the depth has been reduced but the Inspector particularly referred to a combination of factors including the height of the extension and its proximity to the boundary as well as the depth. The Inspector concluded his decision by saying:
"...the depth and height of the addition and its siting relative to the location of that neighbouring property would be unduly overbearing and intrusive, contrary to the aims of the Supplementary Planning Document as well as Policies QD14 and QD27 and that failing alone is sufficient to conclude that for the reasons given above the appeal should be dismissed."
- 8.23. It was clearly the combination of these three factors together which created the potential harm and reducing one does not necessarily compensate for not reducing the other elements.
- 8.24. The Inspector noted that the neighbour to the other side, no.3 Dyke Close, is to the south of the application site and therefore would not be unduly impacted in terms of loss of sunlight and that any impact would not be harmful. Given the revised scheme, there is no objection in terms of the impact on this neighbour.
- 8.25. Concerns have also been raised with regard to a loss of privacy; however this was not considered cause for significant concern at the time of the previous application. Given the reduction in scale in terms of overall depth, and the size

of the rear balconies, it is not considered that any loss of privacy to occur would be significantly harmful. Properties to the rear of the site, fronting Hill Brow, are a significant distance away, it is also noted, as before, that although the properties all benefit from large gardens some element of distant overlooking is inevitable.

- 8.26. The balconies could have created a small degree of overlooking to the sides but amended plans have been received which include obscure screening to a height of 1.8m on the external side edges of both first floor balconies, which would reduce any overlooking that could occur.
- 8.27. Concerns have also been raised regarding the potential for light pollution resulting from the large areas of glazing at the rear of the proposal. These are noted but given the significant distance between the rear of the proposal and the rear faces of properties fronting Hill Brow - approximately 70m - it is not considered that any light source from the application site would constitute a significant nuisance.

Impact on the Adopted Highway

- 8.28. The proposal is not considered likely to result in a significant increase in trips to and from the site, and the impact on the adopted highway is considered acceptable. The site would retain a secure garage that could easily accommodate cycle parking, and no dedicated cycle parking would be considered necessary were this scheme otherwise found acceptable.

Biodiversity

- 8.29. Since November 2019 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 bees. Recently received, amended plans have included a bee brick within the external face of the rear extension and whilst this is supported in principle, it is noted that the siting of the brick is on a north-facing wall that would not receive any direct sunlight and would be less desirable by bees as a result. A condition could secure the implementation of a bee brick in an alternative location would be attached to allow flexibility in the location of said brick, which would be best placed on the rear or south-side elevation, if the scheme was acceptable in all other respects.
- 8.30. No development appears to be proposed within the root protection areas of retained trees on site, however it is considered that were the scheme otherwise acceptable that an arboriculture method statement detailing tree protection measures would be required by condition in order to ensure that the health of existing trees would be safeguarded during the course of the construction process.

Other Considerations

- 8.31. Requests have been received that an audit of all extensions granted permission on Dyke Close be undertaken. Firstly, this application must be assessed on its own merits and therefore such an audit would be inappropriate. Secondly, the proposed works are not considered to cause any

harm to the character and appearance of the host building or the wider cul-de-sac and therefore there is little value in comparing extensions. Thus, as the recommendation is based on the harm caused to neighbouring amenity such an audit would clearly be superfluous.

Conclusion

- 8.32. The rear extension has been amended but despite a reduction in depth, the extension remains at such a depth that it would still cause harm to the permitted window at no.1 Dyke Close and the submitted information does not provide the Local Planning Authority with any indication to the contrary. Furthermore, and notwithstanding the reduced depth of the extension it would, in conjunction with its height and proximity with the shared boundary still create an overbearing impact. The inclusion of sustainability improvements in the design is supported but does not outweigh the identified harm, and for these reasons the proposal is considered to be contrary to policies QD14 and QD27 of the Brighton and Hove Local Plan.

9. **EQUALITIES**
None identified.