

<u>No:</u>	BH2020/01791	<u>Ward:</u>	Central Hove Ward
<u>App Type:</u>	Full Planning		
<u>Address:</u>	28-29 George Street Hove BN3 3YA		
<u>Proposal:</u>	Installation of new window and door to the first floor rear elevation, removal of rooflights and erection of cedar fence screen to rear terrace.		
<u>Officer:</u>	Jack Summers, tel: 296744	<u>Valid Date:</u>	03.07.2020
<u>Con Area:</u>	n/a	<u>Expiry Date:</u>	28.08.2020
<u>Listed Building Grade:</u>	n/a	<u>EOT:</u>	
<u>Agent:</u>	ECE Planning Limited Worthing BN12 4AP	Brooklyn Chambers	11 Goring Road
<u>Applicant:</u>	Geneva Investment Group Chambers 11 Goring Road	C/O ECE Planning Limited Worthing BN12 4AP	Brooklyn

RECOMMENDATION

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
Location and block plan	3962-01	-	2 July 2020
Proposed Drawing	3962-04	A	2 July 2020

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 windows and doors hereby permitted shall have softwood frames painted white.

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 and HE6 of the Brighton & Hove Local Plan, and CP12 and CP15 of the Brighton & Hove City Plan Part One.

4 Prior to installation of the cedar screening hereby approved, full details of the colour and treatment to protect against weathering; and the method by which it is to be installed, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and thereafter retained.

Reason: To ensure a satisfactory appearance to the development, the preservation of the historic boundary wall, and to comply with policies QD14 and HE6 of the Brighton & Hove Local Plan, and CP12 and CP15 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 The applicant should be aware that whilst the requisite planning permission may be granted, this does not preclude the department from carrying out an investigation under the Environmental Protection Act 1990, should any complaints be received.

SITE LOCATION & APPLICATION DESCRIPTION

The application site comprises a double-width, two-storey terraced building on the eastern side of George Street, on the edge of, but not within, the Cliftonville Conservation Area.

The property is in (A1) retail use, with the first floor in use as ancillary space. A Lawful Development Certificate has confirmed that the change of use of the first floor of the property to two dwellings (planning use class C3 flats), from space ancillary to the retail premises on the ground floor, is 'permitted development' (ref. BH2020/01697). Planning permission is now sought to make the necessary external alterations at the rear of the property, including changes to windows/doors (fenestration), and the installation of timber balustrading.

RELEVANT HISTORY

BH2020/01697 Certificate of lawfulness for proposed change of use of first floor from retail (A1) to residential (C3) to create 2no flats. Approved

3/82/0438 Extensions at ground and first floor levels to the rear Approved

Also of relevance to this application:

BH2019/03321 - 53-54 George Street Erection of a first floor rear extension and the creation of 2no. first floor, two bedroom flats (C3) with a roof terrace, ground floor entrance, and associated works. Approved

BH2018/03774 - 22 George Street Erection of rear extension at first floor level and conversion of existing retail storage space (A1) to create 1no 2 bedroom flat (C3) with roof terrace. Alterations to shopfront to create separate street access. Replacement and relocation of air conditioning unit. Approved

CONSULTATIONS

None

REPRESENTATIONS

Eighteen letters have been received, objecting to the proposal on the following grounds:

- The flat roof is already used as an external amenity area which causes a loss of privacy. The proposal will exacerbate the loss of privacy
- The proposal will cause noise and light pollution
- Detrimental impact on property value
- The proposal will set a harmful precedent
- The proposal will cause overshadowing
- The proposed fence will impede access for wildlife
- The proposal will threaten the continued existence of the existing wildlife corridor to the rear of Ventnor Villas
- The proposal will be overbearing
- The proposal will cause harm to the character of the conservation area and a historic boundary wall
- The proposed flats may be used as 'Air B&Bs' which will impact on on-street parking in the area.
- The proposed floor plans show the flat to be below the size required to be in accordance with the Nationally Described Space Standards.
- The removal of the rooflights may impact on the viability of the ground floor commercial space
- The boundary markings are shown as running through rooms of the proposed flats, creating a flying freehold
- There does not appear to be any fire escape from the rear terraces
- The terrace will be used as a smoking area which will impact on neighbouring residents' amenities
- The proposed fence will make the flint wall more vulnerable to damage from the wind

It should be noted that of the eighteen letters which have been received, only five are from residents who are considered likely to be directly impacted upon by the proposal.

MATERIAL CONSIDERATIONS

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

The development plan is:

- o Brighton & Hove City Plan Part One (adopted March 2016);
- o Brighton & Hove Local Plan 2005 (retained policies March 2016);
- o East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (adopted February 2013);
- o East Sussex, South Downs and Brighton & Hove Waste and Minerals Sites Plan (adopted February 2017);
- o Shoreham Harbour JAAP (adopted October 2019);

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.

RELEVANT POLICIES

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One (CPP1)

SS1 Presumption in Favour of Sustainable Development
SA6 Sustainable Neighbourhoods
CP8 Sustainable buildings
CP10 Biodiversity
CP12 Urban design
CP15 Heritage

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

TR7 Safe development
QD14 Extensions and alterations
QD16 Trees and hedgerows
QD27 Protection of amenity
HE6 Development within or affecting the setting of conservation areas

Brighton & Hove City Plan Part Two

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 Two (CPP2) (emerging)

DM18 High quality design and places
DM19 Maximising Development Potential
DM20 Protection of Amenity
DM21 Extensions and alterations
DM29 The Setting of Heritage Assets
DM37 Green Infrastructure and Nature Conservation

CONSIDERATIONS & ASSESSMENT

The main considerations in the determination of this application relate to the impact of the physical alterations on the character and appearance of the host building and wider area (including part of the Cliftonville Conservation Area); and the potential impacts on the amenities of local residents. 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, as raised in representations, is not a material consideration.

Further, the principle of the change of use is not a consideration of this assessment, nor is the use of the rear terrace as an associated external amenity area. The use of the site as up to two residential flats has been confirmed by this Authority as lawful under Schedule II, Part Three, Class G of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended), through the grant of the aforementioned Lawful Development Certificate.

Design and Appearance

The proposal includes alterations to the rear-facing first floor fenestration (windows), resulting in two matching pairs of French doors and a casement window between them. They are described as being constructed with softwood frames painted white, which is considered acceptable in terms of appearance so would be secured by condition.

The cedar screening that is proposed to run along the edges of the existing terrace would have an acceptable impact on the character of the host building. However, it is recommended that a condition is added requiring further details, including how it would be treated to protect against rot or weathering that may be detrimental to its appearance.

On this basis, the development is considered acceptable in terms of its design and appearance.

Impact on Heritage Assets

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.

Case law has held that the desirability of preserving a listed building or its setting, or the character or appearance of a Conservation Area must be given "considerable importance and weight".

In this case, the building abuts the boundary of the Cliftonville Conservation Area. A large number of objections have been made with regards to the impact the cedar screening could have on the significance of this heritage asset. It should be noted that only fleeting glimpses of the proposal would be visible from the public highway on Ventnor Villas, but the proposal would be visible from the rear gardens and windows of several of these properties.

The cedar screening would be installed into the side of the existing historic boundary wall and would project approximately 0.8m above it. It is considered that this placement, rather than directly atop the boundary wall, would mitigate the potential harm caused to some degree as the screen would be clearly 'read' as a non-original addition to the wall and should not significantly detract from its form and proportions. This would also lessen any structural impact on the wall. It is considered that some slight harm to the Conservation Area might occur as a result of introducing the cedar screening. However, any harm would be less than substantial, and in accordance with paragraph 196 of the NPPF the harm must be weighed against the public benefits of the proposal.

In this instance, it is considered that the benefit of ensuring that the two additional residential units added to the City's housing supply are of a sufficiently high standard of accommodation, and improve the amenity of the occupants, in accordance with policy QD27, is a public benefit which outweighs the slight impact upon the Conservation Area.

Concerns have been raised that by affixing the screening to the historic wall it would be more vulnerable to the wind. Whilst issues relating to safety of construction are a matter for Building Regulations and are not a planning consideration, maintaining the condition of the historic wall is desirable and details of the method of fixture of the screening (which may be to the floor level of the terrace rather than the wall itself) will be secured by condition.

Impact on Amenity

The cedar screening would run along the edges of the existing terrace and is designed to create a greater sense of privacy for future occupants of the site but would also prevent overlooking into the rear gardens of the properties on Ventnor Villas. At least one neighbour has stated that the rear terrace is already used as an outside amenity area (presumably by employees of the commercial unit) and that there is already a perceived and actual loss of privacy.

However, not only is the terrace already used by the commercial occupier but it could be used as outside amenity space for the residential flats. Because these have been allowed under 'permitted development' rights, the planning authority cannot restrict the use of the terrace or access to it, unlike on other rear terraces along George Street.

Accordingly, given that the proposed screening would reach to a height of 1.8m as measured from the floor level of the terrace, it would significantly reduce any existing or potential overlooking and on this basis is considered to have a positive impact in terms of amenity and protecting privacy and avoiding overlooking.

Concerns have been raised that the proposed fenestration may cause light pollution to windows on the rear of buildings on Ventnor Villas. The proposed fenestration is not significant in size and would be separated from neighbouring windows by an appreciable distance and partially obscured by the proposed cedar screening. For these reasons, and the abovementioned fact that use of the first floor as residential accommodation is 'permitted development', the impact of light pollution resulting from the development is not considered significant.

Concerns have also been raised about how the terraces might be used and that there could be an increased noise output from future residents using the terrace. It is not considered that anyone using the terrace should be presumed to be noisier than any existing residents in their own gardens, and any noise output would be proportional to a residential unit. Regardless, the Council retains the authority to investigate under the Environmental Protection Act 1990, should any noise complaints be received. Some level of background noise should be expected within this dense part of the City.

Impact on the Adopted Highway

Concerns have been raised that the proposed flats could be used as holiday accommodation and will subsequently impact detrimentally on local parking conditions. As previously noted, the creation of one or more flats in this location is permitted development and this application relates only to the physical works to the rear of the property. The impact on the adopted highway is not, therefore, a material planning consideration in this instance.

Standard of Accommodation

As previously noted, the creation of one or more flats in this location is permitted development, therefore the standard of accommodation is not something that can be taken into consideration in this assessment. It is, however noted that the proposal is designed to improve the standard of accommodation for future residents with an improved layout of fenestration.

Some objection has been raised to the removal of the existing rooflights, as this would allegedly impact on the viability of the ground floor commercial unit. However, that issue would be beyond the scope of this application and light/ventilation can be secured by other means for the commercial unit, if deemed necessary.

Biodiversity

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. Given the nature of the application it is not considered appropriate to secure biodiversity improvement in this instance.

Concerns have been raised that local wildlife walks along the top of the historic wall and that the proposed screening will impede this access. Given that the screening is not attached directly atop the wall it is not considered likely that it would impede access for local animals.

Concerns have also been raised that the proposal will threaten the continued existence of the green corridor running down the rear of Ventnor Villas. Given the small scale of the proposal it is not considered that it would have any significant impact on any existing flora and fauna.

Other Considerations

Issues surrounding fire safety are a matter for Building Regulations and are not a material planning consideration.

One letter of objection has raised the issue that due to the subdivision of the first floor level it may create a flying freehold, which in turn may impact on future owners' ability to manage maintenance. This would be a private matter for future owners to manage and is not a material planning consideration.

Concerns have been raised that by granting planning permission in this instance that a harmful precedent would be set. Planning applications are assessed on a case-by-case basis and this would not set a precedent for new roof terraces in other areas.

Equalities

None identified.



Signature of Reviewing Officer: Jane Moseley
Dated: 14 August 2020