

<u>No:</u>	BH2023/02398	<u>Ward:</u>	Rottingdean & West Saltdean Ward
<u>App Type:</u>	Householder Planning Consent		
<u>Address:</u>	53 Ainsworth Avenue Brighton BN2 7BG		
<u>Proposal:</u>	Erection of roof extension to form new first floor level with flat roof and integrated solar panels, extension to square off ground and first floor bay windows with terrace above plus privacy screen and integrated living roof, alterations to porch, revised fenestration and new render and timber and zinc cladding. Levelling-out and widening of existing driveway with revised boundary treatment.		
<u>Officer:</u>	Helen Hobbs, tel: 290585	<u>Valid Date:</u>	29.08.2023
<u>Con Area:</u>		<u>Expiry Date:</u>	24.10.2023
<u>Listed Building Grade:</u>		<u>EOT:</u>	
<u>Agent:</u>	Wilbury Planning Ltd No.5 61-63 Wilbury Road Hove BN3 3PB		
<u>Applicant:</u>	Rowan and Ian Meyer and Storey 53 Ainsworth Avenue Brighton BN2 7BG		

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
Location and block plan	21142-P-001		29 August 2023
Proposed Drawing	21142-P-010		29 August 2023
Proposed Drawing	21142-P-011		29 August 2023
Proposed Drawing	21142-P-012		29 August 2023
Proposed Drawing	21142-P-013		29 August 2023

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. Notwithstanding any details shown on the approved plans, no development above ground floor slab level of any part of the development hereby permitted shall take place until details of all 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, including (where applicable):

- a) Samples/details of all brick, render and tiling (including details of the colour of render/paintwork to be used)
- b) samples of all cladding to be used, including details of their treatment to protect against weathering
- c) samples/details of the proposed window, door and balcony treatments
- d) samples/details of all other materials to be used externally

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 DM18/DM21 of Brighton & Hove City Plan Part 2 and CP12 of the Brighton & Hove City Plan Part One.

- 4. Notwithstanding the details on the drawings hereby approved, the first floor front terrace hereby approved shall not be first brought into use until the privacy screens shown on drawings 21142-P-011, 21142-P-012 and 21142-P-013 have been installed. The screens shall thereafter be retained.

Reason: To protect the amenity of neighbouring occupiers, to comply with Policies DM20 and DM21 of the Brighton and Hove City Plan Part Two.

- 5. The driveway hereby permitted shall not be used until the new crossover and access has been constructed.

Reason: In the interests of highway safety and to comply with policies DM33 of Brighton & Hove City Plan Part 2, and CP9 of the Brighton & Hove City Plan Part One.

- 6. At least one bee brick 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 DM37 of Brighton & Hove City Plan Part 2, Policy CP10 of the Brighton & Hove City Plan Part One and Supplementary Planning Document SPD11 Nature Conservation and Development.

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 planning permission granted includes a vehicle crossover which requires alterations and amendments to areas of the public highway. All necessary costs including any necessary amendments to a Traffic Regulation Order (TRO), the appropriate license and application fees for the crossing and any costs associated with the movement of any existing street furniture will have to be funded by the applicant. Although these works are approved in principle by the Highway Authority, no permission is hereby granted to carry out these works until all necessary and appropriate design details have been submitted and agreed. The crossover is required to be constructed under licence from the Head of Asset and Network Management. The applicant is advised to contact

the Council's Streetworks Team (permit.admin@brighton-hove.gov.uk 01273 290729) for necessary highway approval from the Highway Authority prior to any works commencing on the adopted highway to satisfy the requirements of the condition.

3. Where possible, bee bricks should be placed in a south facing wall in a sunny location at least 1 metre above ground level and preferably adjacent to pollinator friendly plants.

2. SITE LOCATION

- 2.1. The application relates to a bungalow with living accommodation in the roof, located on the northern side of Ainsworth Avenue in Ovingdean. The property has a basement level garage, with the land sloping upwards to the rear (north) and side (east). The surrounding area is wholly residential in character comprising detached two storey houses and bungalows of a variety of styles and designs, set within plots of differing scale.

3. RELEVANT HISTORY

- 3.1. **BH2022/03398** Erection of extension to form new first floor with flat roof and additional solar panels, new roof terrace at first floor level, extension to square off ground and first floor bay windows, alterations to porch, revised fenestration and new render and timber and zinc cladding. Refused 06.02.2023 for two reasons:

- “1. *The proposed development, by reason of the additional height, bulk and positioning of the roof level development and its proximity to the shared boundary with No. 51 Ainsworth Avenue, would have an overbearing impact on this neighbour. The proposal would result in a significant increase in the sense of enclosure and would overshadow the neighbouring property's rear garden. In addition, the proposed front roof terrace, by reason of its scale and positioning, would result in an unduly overbearing feature which would cause a loss of privacy and result in a perceived sense of overlooking. The proposal is therefore contrary to policy DM20 of the Brighton and Hove Local Plan Part Two.*
2. *The proposed development, including front roof terrace, by reason of its overall scale and bulk, together with its proposed design and position within the streetscene, would result in an overly dominant and incongruous development, which would be out of character with the area. The proposal is therefore contrary to policies CP12 of the Brighton and Hove City Plan Part One and DM18 and DM21 of the Brighton and Hove City Plan Part Two.”*

- 3.2. The refusal was appealed but dismissed on 10.07.2023. The Inspector found the design to be acceptable, and only refused it on a single ground, namely harm to neighbouring amenity.

4. APPLICATION DESCRIPTION

- 4.1. The application seeks permission for the erection of a first floor extension with a roof terrace at first floor level. The footprint of the dwelling would be slightly increased to square-off the front projecting bay element.
- 4.2. The application is an amended resubmission of refused application BH2022/03398. The key differences between the 2022 and the current scheme include:
- The first floor level of proposal and main house would be set one metre in from the current line of the side gable on the western side
 - Reduction of the front terrace
 - Installation of privacy screens to the side of the roof terrace
 - Provision of a green living roof to the external space adjacent to the front roof terrace

5. REPRESENTATIONS

- 5.1. Sixteen (16) letters have been received objecting to the proposed development on the following grounds:
- Overbearing and too large
 - Overdevelopment
 - Overshadowing
 - Loss of light
 - Loss of outlook / enclosing impact on adjoining gardens
 - Incongruous design and out of keeping
 - Adverse impact on conservation area
 - Increased noise and disturbance
 - Loss of privacy
 - Impact on trees, wildlife, flora and fauna
 - Impact to utilities/services
 - Impact on property value
 - Traffic/highways impact.
- 5.2. **Ovingdean Residents & Preservation Society:** Objection due to loss of amenity, overdevelopment/out of keeping.
- 5.3. **Councillor Bridget Fishleigh:** Objection. A copy of this representation is attached to this report.

6. CONSULTATIONS

Internal

- 6.1. **Sustainable Transport:** Verbal Comment:
The applicant is proposing two car park spaces (and garage). If LPA is minded to grant, a crossover condition is necessary as there is no formal crossover at present. The crossover will need to be wide which is acceptable in principle in

this location. However, the layout/depth of the hardstanding is not standard on the eastern edge and will need to be agreed with the crossover team. (refer to highway guidance for the dropped kerb). The garage is being retained and cycle parking can be stored conveniently. It is unlikely to generate a significant increase in trips to the site.

- 6.2. [Note: comments related to the previous application but the present proposal is unchanged in highway terms].

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 City Plan Part Two (adopted October 2022)
- 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).

8. RELEVANT POLICIES & GUIDANCE

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One:

SS1	Presumption in Favour of Sustainable Development
CP8	Sustainable Buildings
CP10	Biodiversity
CP12	Urban Design

Brighton & Hove City Plan Part Two:

DM18	High quality design and places
DM20	Protection of Amenity
DM21	Extensions and alterations
DM33	Safe, sustainable and active travel
DM36	Parking and servicing

Supplementary Planning Document:

SPD12	Design Guide for Extensions and Alterations
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9. CONSIDERATIONS & ASSESSMENT

- 9.1. The main considerations in the determination of this application relate to the impacts of the development on the character and appearance of the existing property, streetscene and surrounding area, the impacts on neighbouring amenity, impact on highway and sustainability. The previous decision relating to a similar development must also be taken into account in determining the application.

Background

- 9.2. As noted above, an application was refused by the Local Planning Authority in February 2023 on two grounds relating to design and impact on amenity. This was appealed, with the Inspector upholding the refusal.
- 9.3. Whilst the Inspector agreed with the reason for refusal relating to the impact on amenity, particularly with reference to the neighbouring property No. 51 Ainsworth Avenue, they did not agree with the reason for refusal relating to the design and appearance of the proposed development and its impact on the streetscene. This was due to the diverse range of housing designs already within the streetscene.
- 9.4. As a result, the revisions to the current scheme have been made by the applicant to address the impact of the proposed development on neighbouring amenity.

Impact on Character and Appearance:

- 9.5. The site is located in a suburban residential location with a streetscene comprised of dwellings of varied design and scale. The site is some distance away from the Ovingdean Conservation Area and would not affect its setting.
- 9.6. The proposed extension would create an additional full first floor in place of the existing pitched roof. The existing single storey projecting bay feature would be squared off, slightly increasing the footprint and a flat roof terrace would be created above. A green roof would also be constructed on the flat roof. The first floor would be clad in timber with new aluminium framed windows and cladding detailing throughout. The ground floor would be rendered and painted grey.
- 9.7. In terms of its design and appearance, the proposal is similar to that of the refused 2022 application, but incorporating the set-in of the first floor and reduction of the front balcony which would not substantially alter the appearance of the overall development. The Inspector stated in relation to the previous application that:
“The proposal would substantially change and remodel the existing house with new materials including grey render, vertical timber as well as zinc or aluminium cladding. However, the footprint of the building would not be significantly altered, retaining the existing spacing with the neighbouring dwellings. The overall height of the dwelling would not be increased although there would be an increase in massing, but given the range of property sizes in the vicinity, I do not consider that this would result in the dwelling appearing overly prominent in the street scene.”
- 9.8. The Inspector also disagreed with the LPA that the proposed front balcony feature (now reduced in scale) would be dominant or incongruous, concluding

that this feature would not be unduly prominent in the street scene. Overall, the Inspector considered the design and appearance of the proposed development to respect the varied street scene.

9.9. Given the recent date of the appeal decision and the similarities between the refused scheme and the present application, the Inspector's decision must be given significant weight in determining it. Given that the revisions to the scheme have not substantially altered the overall appearance, it is considered that the proposal would not result in significant harm to the character or appearance of the existing site, streetscene or the surrounding area. The reduction of the roof terrace and inclusion of the green roof are also considered to be improvements to the scheme.

9.10. As such, the development would comply with policies DM18 and DM21 of the Brighton and Hove City Plan Part Two and CP12 of the Brighton and Hove City Plan Part One.

Impact on Residential Amenity:

9.11. In considering whether to grant planning permission for extensions to residential properties, account will be taken of sunlight and daylight factors, together with orientation, slope, overall height relationships, existing boundary treatment and how overbearing the proposal will be.

9.12. Policy DM20 of the Brighton & Hove City Plan Part Two states:
“Planning permission for development...will be granted where it would not cause unacceptable loss of amenity to the proposed, existing and/or adjacent users, residents, occupiers...”

9.13. The property most affected by the proposal would be no. 51 Ainsworth Avenue to the west, which is a bungalow with a modest rear garden, set at a lower ground level due to the gradient of Ainsworth Avenue.

9.14. The Inspector stated in the appeal decision that:
“As a result of the roof changes, and although the ridge height of the appeal property would not be increased, there would be a considerably greater mass of built form adjoining No. 51. Given the proximity of the appeal property to the boundary with No.51 and the limited depth of the rear garden, I consider that the proximity of the increased massing would be overbearing and would have an enclosing effect; this would materially harm the outlook of the neighbours at No.51 both from rear facing rooms as well as their rear garden.”

9.15. The Inspector also concluded that the applicant had not provided sufficient information to demonstrate that the development would not have an impact on the light and overshadowing, which formed part of the Council's reason for refusal.

9.16. Whilst the current proposal would create a similar level of bulk and massing as that previously refused, the side wall of the upper level would be set a further 1 metre from the edge of the existing ground floor, and a total of 2 metres from the shared side boundary. Whilst 1m could be considered to be a relatively small

inset, in this case the neighbouring property is already affected by the existing side gable wall at first floor which has a somewhat dominant impact on their garden area. Setting the entire first floor away (including gable wall) by 1m therefore not only reduces the impact of the proposed extension, but also reduces the impact of the existing side wall of the house. It is therefore considered that, on balance, the overall impact of the development would not be as significantly overbearing, enclosing or result in the same levels of loss of outlook as identified in the previous application, and is acceptable.

- 9.17. Studies have been undertaken by the applicant which have assessed the potential daylight, sunlight and overshadowing impacts on 51 Ainsworth Avenue. The findings conclude that the rear windows of that property would experience a slight change in probable sunlight hours however as the change would not be a reduction in sunlight hours greater than 4%, the BRE guidance is met and the impact is classed as negligible. The overshadowing of the existing and proposed dwellings were also calculated and concluded that any increase in overshadowing is deemed as being insignificant when compared to the existing levels. Overall, the findings of the report state that the proposed development would have a negligible impact on No. 51. Officers have interrogated the report and agree with its conclusions.
- 9.18. It is therefore considered that any loss of light or overshadowing that would occur it would be minimal, and due to the increased separation distance, the other harmful impacts such as an overbearing impact and loss of outlook have been sufficiently reduced so that overall the proposal would not result in significant harm to the amenity of the neighbouring property.
- 9.19. No upper floor side windows have been proposed facing no. 51. A side-facing window is proposed at ground floor but would be obscure glazed and due to its positioning, would be unlikely to result in any overlooking or loss of privacy.
- 9.20. The proposed front roof terrace, has been significantly reduced in scale. As part of the 2022 application, the terrace spanned the full depth and width of the flat roof and it would now have a depth of 2.3m and width of 4m. A 1.8m screen, would be positioned along depth of the terrace on the shared boundary with No. 51. The significant reduction in scale of the terrace and screening is considered to have satisfactorily address previous concerns that the terrace would be unneighbourly and overbearing towards No. 51. The terrace would not result in undue noise or disturbance. It is also noted that within the appeal decision, the Inspector did not agree that the previously proposed terrace would be detrimental. Conditions will be attached to ensure that the screen is installed prior to the first use, to ensure that no harmful overlooking or loss of privacy would occur.
- 9.21. The Inspector raised no concerns regarding the impact of the scheme on other properties.
- 9.22. To the east of the site is no. 55 Ainsworth Avenue, a two storey dwelling, set a slightly higher land level. The application site is set approximately 2m from the shared boundary with this property. The separation distance coupled with the

land level changes, ensure that the additional bulk and height of the proposed development would not result in a significant impact to this neighbouring property.

- 9.23. No first floor windows would be located within the western elevation.
- 9.24. The proposed roof terrace, due to the separation distances and obscure glazed screening would not have a significant impact on no. 55.
- 9.25. The development would not adversely affect the neighbouring properties opposite due to the separation distances. The properties to the rear of the site are set at a significantly higher level, with the rear gardens at a similar level to the ridge height of the properties on Ainsworth Avenue. Given this height difference the properties would not be unduly affected by the proposals.
- 9.26. To conclude, the merits of the proposal in terms of impact to no.51 are finely balanced, and it is acknowledged the proposal would have some impact to that property. However, it is considered that the changes proposed are significant enough to overcome the previous concerns. It is considered that a refusal of permission cannot be sustained, and the proposal would comply with Policy DM20.

Sustainable Transport:

- 9.27. The applicant is proposing two car park spaces and a garage at basement level. There is no objection to this.
- 9.28. The Highways Officer has recommended that a condition be included to ensure that a crossover is constructed at the site prior to the driveway being used as there is no formal crossover at the site at present. The boundary walls will also require alteration to ensure that the opening is wide enough to comfortably allow two cars access. This is because the layout/depth of the hardstand is not standard on the eastern edge. Separate authorisation may be required from the Council's crossovers team and an Informative has been attached to notify the applicant of this.
- 9.29. A garage is being retained and cycle parking could be provided that would be secure and convenient. The development is unlikely to result in any significant harm to the highway or result in an increase in trip generation.
- 9.30. The proposal is therefore acceptable in highways terms, in compliance with policies DM33 and DM36.

Other considerations:

- 9.31. There would be no adverse impact on trees, wildlife, flora and fauna. The inclusion of a green living roof is encouraged as this has sustainability benefits, and incorporation of bee brick is recommended also.
- 9.32. Any potential impacts in terms of utilities/services or property values are not material planning considerations.

10. EQUALITIES

- 10.1. No issues have been identified that would result in anyone with protected characteristics being disadvantaged by the proposed development, or having been disadvantaged during consideration of the application.