

<u>No:</u>	BH2023/02906	<u>Ward:</u>	West Hill & North Laine Ward
<u>App Type:</u>	Full Planning		
<u>Address:</u>	56 London Road Brighton BN1 4JE		
<u>Proposal:</u>	Erection of single storey rear extension, re-positioning of existing compressor units (retrospective).		
<u>Officer:</u>	Alice Johnson, tel: 296568	<u>Valid Date:</u>	30.11.2023
<u>Con Area:</u>		<u>Expiry Date:</u>	25.01.2024
<u>Listed Building Grade:</u>		<u>EOT:</u>	
<u>Agent:</u>	Pegasus Planning Group Ltd Equinox North Great Park Road Bristol BS32 4QL		
<u>Applicant:</u>	DPSK Ltd C/O Pegasus Planning Group Ltd Equinox North Great Park Road Bristol BS32 4QL		

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 Plan	5325-LP-08B		29 November 2023
Block Plan	C5325-BP09	A	31 October 2023
Proposed Plans	C5325-A5-05	B	22 January 2024

2. Noise associated with plant and machinery incorporated within the development shall be controlled such that the Rating Level measured or calculated at 1-metre from the façade of the nearest existing noise sensitive premises, shall not exceed the existing LA90 background noise level. The Rating Level and existing background noise levels are to be determined as per the guidance provided in BS4142:2014-A1:2019 (or the relevant updated Standard). In addition, there should be no significant low frequency tones present.

Reason: To safeguard the amenities of the occupiers of neighbouring properties and to comply with policies DM20 and DM40 of Brighton & Hove City Plan Part 2.

3. Within six (6) months of the decision date cycle parking facilities for three cycles in the location shown on the approved 'Existing Plan and Elevations Refit (ref. C5325-A5-05, received on 29 November 2023) shall be provided on site and retained for this purpose throughout the use of the site, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that satisfactory facilities for the parking of cycles are provided and to encourage travel by means other than private motor vehicles and to comply with policy DM33 of Brighton & Hove City Plan Part 2, and SPD14: Parking Standards.

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

- 2.1. The application site is to the rear of no.56 London Road, which is currently occupied by a Dominos pizza delivery/takeaway shop (sui generis use - outside of any planning use class). The site fronts London Road, with the rear backing on to properties on Elder Place, to which a pedestrian access is provided.
- 2.2. There was previously a single storey rear extension to the site but this has been replaced with a full width rear extension which forms part of the present application. Similarly, there are compressor units to the rear but their position has been altered which also forms part of the present application.
- 2.3. The site adjoins properties on Elder Place where a live-work unit was approved by planning permission ref. BH2000/00873/FP and a reconfiguration was approved by BH2014/01943.

3. RELEVANT HISTORY

- 3.1. **BH2011/00657** Application for Approval of Details Reserved by Condition 4 of application BH2010/02854. Approved 05.05.2011
- 3.2. **BH2010/02854** Change of use from retail (A1) to hot food take-away (A5) incorporating new shop front and installation of extract duct. Approved 31.01.2011
- 3.3. **BH2003/00213/FP** Single storey rear extension (Re-Submission of application BH2002/02500/FP) Approved 12.03.2003
- 3.4. **92/0879/FP** Ground floor rear extension, first and second floor side extension, new shopfront and use of first and second floor as maisonette. Approved 16.09.1992

4. APPLICATION DESCRIPTION

- 4.1. Planning permission is sought retrospectively for the erection of a single storey rear extension and the re-positioning of existing compressor units. Re-consultation was carried out following the addition of the compressor units to the application. During the course of the application, the applicant confirmed that an acoustic enclosure was proposed to house the units which has been added to the scheme.
- 4.2. The retrospective nature of the application is not a material consideration. Seeking planning permission retrospectively is a valid course of action.

5. REPRESENTATIONS

- 5.1. Two (2) representations from one (1) individual have been received, objecting to the proposal on the following grounds:
- Inappropriate height of development.
 - Noise from business, staff and compressor units.
 - Overshadowing.
 - Overdevelopment.
 - Too close to the boundary.
 - Reduction in natural light from the erection of the extension.
 - Bright light entering neighbours properties causing sleep disruption.
 - Waste bins causing environmental health risks.
 - Proposal erected without consent.
 - Extension used for staff smoking breaks.
 - Discrepancies in the plans provided.
 - Alterations of the flues location detrimentally impacts neighbours air quality.
 - Additional costs to bills due to increased requirement of artificial light.
 - Concerns about the neighbour response date of the 5th of January as this falls over the Christmas holidays.
 - Refuse management has not been correctly implemented.
- 5.2. **Councillor Mcleay** has also objected to the application, raising the same issues as noted above, and asked that it be heard by the Planning Committee. A copy of their representation is attached.

6. CONSULTATIONS

- 6.1. **Environmental Health:** Comment
We have only received complaints about smoke and odour from the premises at the above address so far, however, it is possible that noise sensitive receptors may be affected by the repositioning of the compressors.
- 6.2. Therefore, I recommend that the developers provide documentation showing that any noise associated with the repositioned plant and machinery incorporated within the development has been controlled such that the Rating Level, measured or calculated at 1-metre from the façade of the nearest existing noise sensitive premises, does not exceed a level equal or below the existing

LA90 background noise level. Rating and existing background noise levels should be determined as per the guidance provided in BS 4142:1997. In addition, the document should demonstrate that there are no significant low frequency tones present.

6.3. Furthermore, the applicant should be aware that whilst the planning permission may be granted, should any complaints be received with regards to noise, vibration, odour, and/or smoke, this does not preclude this department from carrying out an investigation under the provisions of the Environmental Protection Act 1990.

6.4. **Sussex Police Summary**

I have no concerns from a crime prevention viewpoint.

6.5. **Transport Verbal**

Further details of cycle parking scheme is required for a minimum of three parking spaces. These should ideally be Sheffield Stands.

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 Joint Area Action Plan (JAAP) 2019.

8. RELEVANT POLICIES & GUIDANCE

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One (CPP1)

SS1	Presumption in Favour of Sustainable Development
SS1	Presumption in Favour of Sustainable Development
CP2	Sustainable economic development
CP4	Retail provision
CP12	Urban design

Brighton & Hove City Plan Part Two (CPP2)

DM20	Protection of Amenity
DM21	Extensions and alterations

DM40 Protection of the Environment and Health - Pollution and Nuisance

Supplementary Planning Documents

SPD02 Shop Front Design
SPD12 Design Guide for Extensions and Alterations
SPD17 Urban Design Framework

Other Documents:

East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan - Policy WMP3e

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 and business-users.

Principle of Development

9.2. As noted above, the site previously had an extension at the rear, which was some 5.0m in depth, 3.0m in width and 3.0m in height. The compressor units were situated on top of each other, as approved by BH2011/00657. This was incorrectly shown on the originally-submitted 'pre-existing' plans where they are indicated as being side by side, but this is not considered to materially affect consideration of the application.

9.3. The site can be used in its entirety for purposes relating to the commercial use as a takeaway. The present scheme would form part of this use so is considered in principle. As noted above, the retrospective nature of the application is not a material consideration.

Design and Appearance

9.4. The application the subject of this application has already been built, and extends some 4.2m from the rear wall, is 6.0m in width and 2.6m in height with a flat roof. The existing compressor units have been re-located to the south east elevation. The extension is reduced in depth and height over what was previously on site but has increased in width.

9.5. The extension is fairly utilitarian in appearance, however, this would not be more detrimental than the appearance of the pre-existing extension, particularly given the location to the rear of the property, at single storey in height, within an enclosed yard. This being the case, the scheme would not be detrimental to the character and appearance of the streetscene because it is not visible from the public realm, and noting the appearance of the pre-existing extension. The compressors were already on site but have been relocated which is not considered to result in any impact on the appearance of the area. The acoustic enclosures would not be visible from the streetscene or public realm so would have no visual impact.

- 9.6. The scheme is considered appropriately designed and subordinate, particularly given the pre-existing situation.

Impact on Residential Amenity:

- 9.7. Policy DM20 of City Plan Part 2 states that 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 or where it is not liable to be detrimental to human health.
- 9.8. While wider than the pre-existing extension, the existing extension is set back further from the dwelling at no.28 Elder Place which is considered beneficial in terms of impact on these residents. Given this location, the orientation of the site and the single storey height of the building, it is not considered to result in any increased loss of light.
- 9.9. Concerns have been raised in objections about air quality, noise from the compressor units and staff/business activity of no.56. However the nature of the use would remain unchanged, and the scale of the extension is minor, particularly noting what was previously in place. The yard could be used by the business as part of its operation so it is considered that enclosing some of the operation within a building would have benefits in terms of impacts on residential amenity.
- 9.10. During the process of the application new plans were provided showing the addition of an acoustic enclosure for the compressor units. This change is minor and as such a change in description or consultation was not considered to be required. These enclosures would benefit the amenity of residents through reduced noise levels.
- 9.11. The Environmental Health Officer has not raised an objection to the compressor units, particularly as they were already in situ, albeit in a different position. A condition managing the noise levels has been recommended to ensure noise outputs are acceptable.
- 9.12. In addition, no objections have been raised by the Environmental Health Officer to the fresh air intake and water heater flue. The oven extract system remains as pre-existing.
- 9.13. Objections also raise concerns about lighting but this does not form part of the application and can be installed without planning permission. If this remains a concern this should be reported to the Environmental Health Team. Concerns about waste management and refuse collection should be reported to Environmental Health Team also. The council will retain the authority to investigate under the Environmental Protection Act 1990, should any noise complaints be received.

Other Matters

- 9.14. Concerns about the cost of artificial lighting raised in objections are not a material planning consideration.

- 9.15. Objections have commented on the consultation taking place over the Christmas period. However, this cannot be avoided, and the consultation accorded with the legal requirements, with an additional week allowed to account for bank holidays.
- 9.16. The Transport Officer has requested that secure cycle parking be provided. A condition requiring details and instalment of secure cycle parking has been recommended.

Conclusion

- 9.17. The scheme is considered to be acceptable in terms of appearance and the impacts it is anticipated to have on the amenities of local residents.
- 9.18. For the foregoing reasons the scheme is considered to be in accordance with policies CP12 of the Brighton and Hove City Plan Part One, and DM20 and DM21 of the City Plan Part Two.

10. EQUALITIES

- 10.1. During the determination of this application, due regard has been given to the impact of the scheme in relation to the Equality Act 2010 in terms of the implications for those with protected characteristics, namely age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. There is no indication that those with any of these protected characteristic would be disadvantaged by this development.

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.

