

<b><u>No:</u></b>	<b>BH2024/00077</b>	<b><u>Ward:</u></b>	<b>Preston Park Ward</b>
<b><u>App Type:</u></b>	<b>Householder Planning Consent</b>		
<b><u>Address:</u></b>	<b>West House 34B Preston Park Avenue Brighton BN1 6HG</b>		
<b><u>Proposal:</u></b>	<b>Erection of first floor extension stepped back from building boundary and the installation of PV solar panels to roof.</b>		
<b><u>Officer:</u></b>	Alice Johnson, tel: 296568	<b><u>Valid Date:</u></b>	16.01.2024
<b><u>Con Area:</u></b>		<b><u>Expiry Date:</u></b>	12.03.2024
<b><u>Listed Building Grade:</u></b>		<b><u>EOT:</u></b>	15.05.2024
<b>Agent:</b>			
<b>Applicant:</b>	Mr Rory Aitkenhead 34 B Preston Park Avenue Brighton BN16HG		

## 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.

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Location Plan	001	B	10 January 2024
Proposed Drawing	015	C	5 March 2024
Proposed Drawing	016	C	5 March 2024
Proposed Drawing	017	C	5 March 2024
Proposed Drawing	018	C	5 March 2024
Proposed Drawing	019	C	5 March 2024

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, other than the proposal PV panels, 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 DM18, DM21 and DM26 of Brighton & Hove City Plan Part 2 and CP12 and CP15 of the Brighton & Hove City Plan Part One.

4. 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.

5. The development hereby permitted shall incorporate at least three (3) swift bricks/boxes within the external walls which 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. 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
3. Swift bricks/boxes can be placed on any elevation, but ideally under shade-casting eaves. They should be installed in groups of at least three, at a height of approximately 5 metres above ground level, and preferably with a 5m clearance between the host building and other buildings or obstructions. Where possible avoid siting them above windows or doors. Swift bricks should be used unless these are not practical due to the nature of construction, in which case alternative designs of suitable swift boxes should be provided in their place where appropriate.
4. The applicant is reminded that all species of bats are fully protected under the Wildlife and Countryside Act 1981, as amended, and The Conservation of Habitats and Species Regulations 2017, as amended, making them European Protected Species. Under the Regulations, it is an offence to: deliberately kill, injure, disturb or capture bats; damage or destroy their breeding sites and resting places (even when bats are not present); or possess, control or transport them (alive or dead). Under the Act, it is an offence to intentionally or recklessly: disturb bats while they occupy a structure or place used for shelter or protection; or obstruct access to a place of shelter or protection. Planning consent for a development does not provide a defence against persecution under these Regulations or this Act.
5. The applicant is advised that under Part 1 of the Wildlife and Countryside Act 1981 disturbance to nesting wild birds, their nests and eggs is a criminal offence. The nesting season is normally taken as being from 1st March - 30th September so trees and scrub on the site should be assumed to contain nesting birds between these dates, unless a recent survey has been undertaken by a competent ecologist to show that it is absolutely certain that nesting birds are

not present. The developer should take appropriate steps to ensure nesting birds, their nests and eggs are not disturbed and are protected until such time as they have left the nest. Planning permission for a development does not provide a defence against prosecution under this Act.

6. The applicant should be aware that the site may be in a radon affected area. If the probability of exceeding the Action level is 3% or more in England and Wales, basic preventative measures are required in new houses, extensions, conversions and refurbishments (BRE2011). Radon protection requirements should be agreed with Building Control. More information on radon levels is available at <https://www.ukradon.org/information/ukmaps>

## 2. SITE LOCATION

- 2.1. The application relates to one of two recently-constructed dwellinghouses located in the former rear garden of no. 34 Preston Park Avenue. It is understood that both of the houses are occupied. The dwellings adjoin each other and are both modern in appearance with flat roofs stepping upwards to the rear of the site to follow its topography. This application relates to the western dwelling which sits closest to the original dwelling.
- 2.2. The dwellings sit to the rear of a large detached Victorian property with two front gables to the front of the site overlooking Preston Park, a grade II registered park and garden. This is a former care home which is now in use as residential flats.
- 2.3. The site is within the Preston Park Conservation Area.

## 3. RELEVANT HISTORY

### Land to the rear of 34 Preston Park Avenue

- 3.1. **BH2023/02475** Erection of first floor extension, roof terrace and installation of solar panels. Refused 20.11.2023 For the following reasons
  1. *The proposal, by reason of its unsympathetic design, height and massing in the prevailing context, would appear as an intrusive, visually dominating development which would cause harm to the character and appearance of the site and the wider Preston Park conservation area. The development is therefore contrary to policies CP12, CP15, DM18, DM21 and DM26 of the Brighton and Hove City Plan, and the guidance given in SPD12.*
  2. *The proposal, by virtue of its scale, height and the provision of a terrace, all sited in close proximity with neighbouring residential properties and gardens, would result in a harmful loss of amenity, by reason of an overbearing impact as well as overlooking, loss of outlook, and potential for noise disturbance for adjacent occupiers. The development is therefore contrary to policies DM20 and DM21 of the City Plan and guidance given in SPD12."*
- 3.2. **BH2022/00027** Erection of 2no dwellings (C3) to the rear of existing building with associated landscaping to address non-compliance with the plans approved in

relation to planning permission BH2020/01832, with amendments to the parking allocation and the red line boundary. Refused 06.10.2022 For the following reasons: *The car parking would have a negative impact on the amenity of residents of the flatted development and would therefore be contrary to policies QD27 of the Brighton and Hove Local Plan and DM20 of Brighton and Hove City Plan Part Two.* Appeal dismissed

3.3. **BH2020/01832** Erection of 2no dwellings (C3) to the rear of existing building with associated landscaping. Approved 04.09.2020

3.4. **BH2019/02275** Erection of 1no detached dwelling (C3) to the rear of existing building with associated landscaping. Approved 06.02.2020

No. 34 Preston Park Avenue

3.5. **BH2022/00026** Conversion of residential care home (C2) to 5no two bedroom and 1no one bedroom flats (C3), incorporating two storey rear extension, revised fenestration and associated alterations (retrospective) to address non-compliance with the plans approved in relation to planning permission BH2019/02007, with amendments to the parking allocation and to the red line boundary. Refused 06.10.2022 For the following reasons : *The car parking would have a negative impact on the amenity of residents of the flatted development and would therefore be contrary to policies QD27 of the Brighton and Hove Local Plan and DM20 of Brighton and Hove City Plan Part Two.* Appeal dismissed

3.6. **BH2019/02007** Conversion of residential care home (C2) to 5no two bedroom and 1no one bedroom flats (C3), incorporating two storey rear extension, revised fenestration and associated alterations (part-retrospective). Approved 27.02.2020

3.7. **BH2016/00584** Conversion of residential care home (C2) to 4no two bedroom and 1no three bedroom flat (C3) with erection of a two storey rear extension, revised fenestration and associated alterations (amended location plan). Approved 12.06.2017

#### **4. APPLICATION DESCRIPTION**

4.1. The application seeks permission for the erection of a flat-roofed first-floor extension, which would be stepped back from front façade of the building, and would follow the line of the narrower element to the rear of the building rather than covering the full expanse of the existing first floor. It is also proposed to install 25 PV solar panels to the remainder of the roof and that of the new extension.

4.2. The extension would project from the existing first-floor western elevation wall over a large area of flat roof. It would be approximately 6.00m in width, 3.00m in depth and 2.70m in height (when measured from the roof of the ground floor element). It would have a window in the southern (side) elevation but no

windows in either the northern (side) or western (front) elevations. The materials would match the existing property.

- 4.3. Since submission of the application, amendments have been made reducing the width and depth of the proposal in order to address officers' concerns regarding the size of the extension.

## 5. REPRESENTATIONS

- 5.1. Objections from **seven (7)** people raised the following issues:

- Additional traffic
- Detrimental impact on property value
- Inappropriate height of development
- Noise
- Overdevelopment
- Overshadowing
- Poor design
- Restriction of view
- Too close to the boundary
- Adverse impact on the conservation area
- Wildlife corridor
- Impact on residential amenity
- Access for building materials, delivery, storage and use
- Visible from properties within the conservation area
- Overlooking

## 6. CONSULTATIONS

- 6.1. **Arboriculture** 10th of April 2024  
Although Tree Preservation Orders are on site the proposal would not impact them.
- 6.2. **Ecology:** 26th of March 2024 following receipt of photos and further information. The scheme is unlikely to provide roosting opportunities for bats so a Preliminary Roost Assessment (PRA) for bats is not required but an informative should be attached to any grant of permission:
- 6th of February 2024
- 6.3. Insufficient information has been provided to assess the potential impacts on biodiversity and to inform appropriate mitigation, compensation and enhancement.
- 6.4. **Heritage** 15th of February 2024  
The proposed extension is not visible from the street therefore its effect on the conservation area from this perspective is negligible. Arguably there could be issues with views from neighbours adjacent to the development however the original development was approved and built. The proposed extension is

relatively small in relation to the original development and clad in similar materials. For this reason, do not see that proposal as harmful.

## **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
CP10	Biodiversity
CP12	Urban design
CP15	Heritage

#### Brighton & Hove City Plan Part Two (CPP2)

DM1	Housing Quality, Choice and Mix
DM18	High quality design and places
DM20	Protection of Amenity
DM21	Extensions and alterations
DM26	Conservation Areas
DM29	The Setting of Heritage Assets
DM30	Registered Parks and Gardens
DM37	Green Infrastructure and Nature Conservation
DM44	Energy Efficiency and Renewables

#### Supplementary Planning Documents

SPD06	Trees & Development Sites
SPD09	Architectural Features
SPD11	Nature Conservation & Development
SPD12	Design Guide for Extensions and Alterations
SPD17	Urban Design Framework

## 9. CONSIDERATIONS & ASSESSMENT

- 9.1. The main considerations in the determination of this application relate to the the design and appearance of the proposed development, including its impact on the conservation area; the potential impacts on the amenities of local residents; the standard of accommodation provided; and the impact on biodiversity.

### Design and Appearance

- 9.2. 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.
- 9.3. Case law has held that the desirability of preserving or enhancing the character or appearance of a conservation area should be given “considerable importance and weight”.
- 9.4. Under previous application BH2023/02475, a first-floor extension, roof terrace and solar panels were refused permission. This previously refused extension was larger, with a depth of 6.40m, a width of approximately 4.30m and a height of 2.70m. The extension was situated along the northern (side) boundary and had one window on the southern (side) elevation.
- 9.5. Amendments to the size and scale of the proposed extension have been made following the refusal, a roof terrace is not proposed under this current application.
- 9.6. The now proposed first-floor extension has a less bulky appearance than previously refused under BH2023/02475. It would be approximately 6.00m in width, 3.00m in depth and would extend approximately 2.70m in height (when measured from the roof of the ground floor element). It would extend from the first-floor western elevation wall and would not extend beyond the width of the existing first floor so would be positioned further from the northern boundary than the extension refused under BH2023/02475.
- 9.7. City Plan Part 1 Policy CP12 expects all new development to raise the standard of architecture and design in the city, establish a strong sense of place by respecting the character of existing neighbourhoods and achieve excellence in sustainable building design and construction. Policy DM21 of City Plan Part 2 states that extensions are expected to play a subordinate role that respects the design, scale and proportions of the host building, the takes account of the relationship with the adjoining properties, including the building line, roofscape, orientation, and the slope of the site.
- 9.8. The existing development takes up a large footprint on the site, appearing relatively low-level and, by way of excavation, fits in with the rising topography of the site, with a single-storey element sited to the west of the site, nearest the existing flatted development. The current proposal would follow the pattern of the low-level property and is considered to be of limited size relative to the existing building, which would ensure it would continue to fit in with the rising topography of the site.

- 9.9. The extension would not be of significant size, would be set back from all of the adjoining boundaries and located well within the roofscape of the existing property. The extension's siting within the roof space and its size would ensure it is suitably subservient, respecting the scale and proportions of the host property. The set back from the boundaries, flat roof design and size, takes into account the building line, orientation and slope of the site. The flat roofed design and matching materials respect the design of the host property.
- 9.10. The solar panels would be flat and situated at roof level. These would not be highly visible due to their flat nature and proximity to the flat roof and would not be visible off site.
- 9.11. The proposal would not be visible from within the public realm, the wider conservation area, or the Grade II Listed Preston Park which is located to the west of the property. It is acknowledged that the extension would be visible from many surrounding properties and their respective gardens. The extension, considerably reduced in size from that proposed under BH2023/02475, would fit well with the existing buildings at no.34A and no.34 B. The façade addition would therefore not have a significantly detrimental impact on these views. Furthermore, no objections have been raised by the Heritage Officer.
- 9.12. Previously under (BH2023/02475) concerns were raised about the lack of windows, resulting in a featureless, blank addition. Due to the smaller scale of this proposal, its bulk and prominence is much reduced over that proposed under BH2023/02475, reducing the impact caused by a lack of windows, particularly given the set-back from the facade. On balance the design is considered acceptable and to accord with Policies CP12 and DM12.

#### Impact on Amenities

- 9.13. Policy DM20 of City Plan Part 2 states that planning permission for any development will not be granted where it would cause unacceptable loss of amenity to the proposed, existing, adjacent or nearby users, residents, occupiers or where it is liable to be detrimental to human health.
- 9.14. The proposal contains one new window, on the south elevation facing towards the rear garden of 33 Preston Park Avenue. This would provide some additional views to the south, however, these would not be significantly above and beyond the view provided by the existing windows on this elevation.
- 9.15. The extension would be set back from the side boundaries which combined with its limited depth mean it would not cause significant overshadowing or loss of light for the neighbours at no. 35 to the north, no. 34 to the west and no.33 to the south. Furthermore, when the existing two storey element at no.34B is taken into account any loss of light or overshadowing is not expected to be significantly more than the existing situation.
- 9.16. The extension would bring the two-storey element 3.00m closer to no. 34 Preston Park Avenue. This would change the outlook from the rear windows of no. 34 to some degree, however, not significantly given there would be approximately 10.80m of separation between the extension and no.34. This



space, the differing topography and setting back of the extension from the front elevation also prevents significant harm by way of loss of light or overshadowing.

- 9.17. The solar panels are not considered to be of a position or angle which would cause glare to significantly impact neighbouring properties amenity.

#### Standard of Accommodation

- 9.18. 'The 'Nationally Described Space Standard' (NDSS) was introduced by the Department for Communities and Local Government in 2015 to establish acceptable minimum floor space for new build developments. These standards have been formally adopted into policy DM1 of the City Plan Part 2 and can now be given full weight.

- 9.19. The proposal would provide one additional bedroom for the existing three bed property, with a floor area of approximately 10.4sqm and a width of 2.50m. While not meeting the requirements of a double bedroom, the proposed room would meet that required for a single room. It is acknowledged that a double bed is shown on the plans, however, the room use and occupancy number would not be suitable to secure for the extension of a single dwelling, such no.34B. Furthermore, the other double bedroom on the first floor meets the standards required and the proposed bedroom would have sufficient light, outlook and ventilation.

#### Biodiversity and Trees

- 9.20. In regard to arboriculture the proposal is not expected to impact upon protected trees on the site, especially as the extension would be at first floor level and therefore not breaking ground.

- 9.21. The County Ecologist has confirmed they have no objection to the proposal following further information that has been provided. The informative the Ecologist has requested in relation to bats will be added to the application.

- 9.22. 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 and swifts. A suitably worded condition will be attached to secure an appropriate number of bee bricks and swift bricks within the proposal in order to help meet the requirements of policies CP10 of the CPP1 and DM37 of the CPP2 as well as Supplementary Planning Document 11: Nature Conservation.

#### Other Matters

- 9.23. The benefit of the provision of additional renewable energy through the provision of 25 solar panels must be given weight in determining this application, and would accord with Policy DM44 of City Plan Part 2.

- 9.24. There would be no change to the access or increase in vehicle movements resulting from the scheme so further impact on highway capacity or road safety is not expected.

- 9.25. Matters such as loss of property value, structural safety, and the impact of construction works are not material planning considerations. The council will retain the authority to investigate under the Environmental Protection Act 1990, should any noise complaints be received.

Conclusion

- 9.26. The proposed development is considered to be acceptable in terms of appearance and the impacts it is anticipated to have on the amenities of local residents. External materials and biodiversity improvements shall be secured by condition.

**10. EQUALITIES**

- 10.1. During the determination of this application due regard has been given to the impact of this 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 characteristics 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.