

<u>No:</u>	BH2024/02331	<u>Ward:</u>	Goldsmid Ward
<u>App Type:</u>	Full Planning		
<u>Address:</u>	9 The Upper Drive Hove BN3 6GR		
<u>Proposal:</u>	Alterations and extensions to Block C to create additional storeys to provide 2no additional flats at third and fourth floor levels.		
<u>Officer:</u>	Sonia Gillam, tel: 292265	<u>Valid Date:</u>	23.09.2024
<u>Con Area:</u>	N/A	<u>Expiry Date:</u>	18.11.2024
<u>Listed Building Grade:</u>		<u>EOT:</u>	15.01.2025
<u>Agent:</u>	Dowsettmayhew Planning Partnership Mocatta House Trafalgar Place Brighton BN1 4DU		
<u>Applicant:</u>	Block C, 9 The Upper Drive Ltd C/O Dowsettmayhew Planning Partnership Mocatta House Trafalgar Place Brighton BN1 4DU		

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	EX06		23 September 2024
Proposed Drawing	PL01		23 September 2024
Proposed Drawing	PL02	B	23 September 2024
Proposed Drawing	PL03	B	23 September 2024
Proposed Drawing	PL04	B	23 September 2024
Proposed Drawing	PL05	B	23 September 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 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 CP12 of the Brighton & Hove City Plan.
4. The privacy screen to the raised roof terrace of the development hereby permitted, shown on drawing PL02 rev B received on 23 September 2024, shall be installed prior to first occupation of the fourth floor flat and shall thereafter be retained and maintained at all times.
Reason: To safeguard the privacy of the occupiers of the adjoining property and to comply with Policies DM20 of the Brighton & Hove City Plan.
5. Prior to the commencement of the development hereby approved (including demolition and all preparatory work), a scheme for the protection of the retained trees including street trees, in accordance with BS 5837:2012, including a tree protection plan (TPP) and an arboricultural method statement (AMS) shall be submitted to and approved in writing by the Local Planning Authority. The development thereafter shall be implemented in strict accordance with the approved details.
Reason: As this matter is fundamental to protecting the trees which are to be retained on the site during construction works in the interest of the visual amenities of the area and for biodiversity and sustainability reasons, to comply with policies DM22 and DM37 of Brighton & Hove City Plan Part 2, and CP8, CP10 and CP12 and CP13 of the Brighton & Hove City Plan Part One and SPD06:Trees and Development Sites
6. The residential units hereby approved shall not be occupied until they have achieved as a minimum, a water efficiency standard of not more than 110 litres per person per day maximum indoor water consumption.
Reason: To ensure that the development is sustainable and makes efficient use of water to comply with policy CP8 of the Brighton & Hove City Plan Part One.
7. The development hereby approved should achieve a minimum Energy Performance Certificate (EPC) rating 'B' for new build residential.
Reason: To improve the energy cost efficiency of existing and new development and help reduce energy costs and enhance sustainability, to comply with policies DM44 of the Brighton & Hove City Plan Part Two and CP8 of the Brighton & Hove City Plan Part One.
8. A 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.

9. The development hereby permitted shall not be occupied until the cycle parking facilities shown on the approved plans have been fully implemented and made available for use. The cycle parking facilities shall thereafter be retained for use by the occupants of, and visitors to, the development at all times.

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.

10. The development hereby approved shall not be occupied until refuse and recycling storage facilities have been installed within the site and made available for use. These facilities shall thereafter be retained for use at all times.

Reason: To ensure the provision of satisfactory facilities for the storage of refuse and recycling and to comply with Policies DM18 and DM21 of Brighton & Hove City Plan Part 2, policy CP8 of the Brighton & Hove City Plan Part One and Policy WMP3e of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan Waste and Minerals Plan.

11. Access to any areas of flat roof hereby approved, other than that annotated as 'terrace' on drawing no. PL02 rev B received on 23 September 2024, shall be for maintenance or emergency purposes only and the flat roof shall not be used as a roof garden, terrace, patio or similar amenity area.

Reason: In order to protect adjoining properties from overlooking and noise disturbance and to comply with Policies DM20 and DM21 of Brighton & Hove City Plan Part 2

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. The applicant is advised that Part L - Conservation of Fuel and Power of the Building Regulations 2022 now requires each residential unit built to have achieved a 31% reduction in carbon emissions against Part L 2013.

4. Based on the information available, this permission is considered to be one which will not require the approval of a biodiversity gain plan before development is begun because one or more of the statutory exemptions or transitional arrangements are considered to apply. These can be found in the legislation.
5. The water efficiency standard required by condition is the 'optional requirement' detailed in Building Regulations Part G Approved Document (AD) Building Regulations (2015), at Appendix A paragraph A1. The applicant is advised this standard can be achieved through either: (a) using the 'fittings approach' where water fittings are installed as per the table at 2.2, page 7, with a maximum specification of 4/2.6 litre dual flush WC; 8L/min shower, 17L bath, 5L/min basin taps, 6L/min sink taps, 1.25L/place setting dishwasher, 8.17 L/kg washing machine; or (b) using the water efficiency calculation methodology detailed in the AD Part G Appendix A.
6. Existing Controlled Parking Zone/Residents' Parking Scheme: You are advised that details of the development will be passed to B&HCC as Traffic Authority administering the Controlled Parking Zone, of which the development forms part, so they can determine whether occupiers should be eligible for residents' parking permits.

Biodiversity Gain Plan

The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that, unless an exception or a transitional arrangement applies, the planning permission granted for the development of land in England is deemed to have been granted subject to the condition ("the biodiversity gain condition") that development may not begin unless:

- (a) a Biodiversity Gain Plan has been submitted to the planning authority, and
- (b) the planning authority has approved the plan.

The planning authority, for the purposes of determining whether to approve a Biodiversity Gain Plan in respect of this permission would be Brighton & Hove City Council.

2. SITE LOCATION

- 2.1. The application relates to a four-storey block of 7no. flats on the northern side of The Upper Drive. The block is one of 5 similar blocks on a wider site providing a total of 46 flats. The existing blocks vary in height between four and five storeys. The blocks are finished in a mix of render and timber cladding.
- 2.2. This stretch of The Upper Drive has been developed to the extent that the prevailing character on this section of the northern side is flatted development with fewer traditional dwellinghouses remaining.

3. RELEVANT HISTORY

- 3.1. **BH2021/00443** (Block A) Application for removal of condition 1 of application BH2019/03789, as amended by BH2020/03347 (Alterations and extensions to Block A to create two additional storeys, providing 3no two-bedroom flats at third and fourth floor levels) which requires compliance with Building Regulations Optional Requirement M4(2) (accessible and adaptable dwellings). Approved 23.03.2021
- 3.2. **BH2020/03347** (Block A) Application for variation of condition 1 of application BH2019/03789 (Alterations and extensions to Block A to create two additional storeys, providing 3no two-bedroom flats at third and fourth floor levels) to change fourth floor front balcony from Juliet balcony to full balcony, to match existing front balconies below. Approved 25.01.2021.
- 3.3. **BH2019/03789** (Block A) Alterations and extensions to Block A to create two additional storeys, providing 3no two-bedroom flats at third and fourth floor levels. Approved 26.03.2020.
- 3.4. **BH2018/03117** (Block D) Extension and alterations to provide an enlarged 2 bed flat at first floor level, and 2 no. additional flats at second and third floor level, and associated parking. Approved 17.01.2019
- 3.5. **BH2017/04139** (Block D) Creation of additional storeys to existing block D to provide an enlarged two-bedroom flat at first floor level and 2no additional flats at second and third floor level. Refused 15.05.2018. Appeal allowed 27.03.2019. The Inspector concluded that the proposed development:
"would not cause harm to the architectural integrity of Block D or the existing development as a whole and thus there would be no harm to the prevailing character and appearance of the area.... would not result in any material harm to the living conditions of the occupiers in terms of overlooking or loss of privacy."
- 3.6. **BH2004/01708/FP** 41 New residential apartments within 5 blocks with undercroft parking. Approved 04.04.2005.

4. APPLICATION DESCRIPTION

- 4.1. The application seeks permission for alterations and extensions to Block C at 9 The Upper Drive to create one/ two extra storeys to provide 2no additional flats at third and fourth floor levels.
- 4.2. An application (BH2017/04139) for two additional storeys to Block D to the east of the site was allowed at appeal after being refused by the Planning Committee in 2018. Further, a similar scheme (BH2018/03117) for additional storeys to Block D was approved by Planning Committee in 2019.
- 4.3. An application (BH2019/03789) to add two additional storeys to Block A to the west of the site was approved by the Planning Committee in 2020.

- 4.4. The presently proposed changes to Block C would bring this block in line with the height of the Block A to the west.

5. REPRESENTATIONS

- 5.1. **Fourteen (14)** representations have been received objecting to the proposed development. The main grounds for objection are as follows:
- Parking/ Traffic issues
 - Overdevelopment
 - Design out of character
 - Height/ roofline
 - Overshadowing and loss of light
 - Overlooking/ loss of privacy
 - Cladding concerns
 - Additional refuse/ recycling
- 5.2. Comments regarding impact on property prices and inconvenience from the build are noted, however these are not material planning considerations.
- 5.3. Full details of representations received can be found online on the planning register.

6. CONSULTATIONS

Internal:

- 6.1. **Private Sector Housing:** Comment assessed however no comments offered.
- 6.2. **Sustainable Transport:** No objection subject to cycle parking provision and an informative in relation to the restriction of parking permits.
- 6.3. **Urban Designer:** *Verbal comment:* No objection Good design. The proposal mirrors the adjoining blocks in design terms and the raised height is not considered to detrimentally impact on the character and appearance of the site and surrounding area.

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; revised October 2024)
- East Sussex, South Downs and Brighton & Hove Waste and Minerals Sites Plan (adopted February 2017)
- Hove Station Neighbourhood Plan (adopted February 2024)
- Rottingdean Neighbourhood Plan (adopted February 2024)
- Shoreham Harbour Joint Area Action Plan (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
CP1	Housing delivery
CP8	Sustainable buildings
CP9	Sustainable transport
CP10	Biodiversity
CP11	Flood risk
CP12	Urban design
CP13	Public streets and spaces
CP14	Housing density
CP19	Housing mix

Brighton & Hove City Plan Part Two:

DM1	Housing Quality, Choice and Mix
DM18	High quality design and places
DM20	Protection of Amenity
DM21	Extensions and alterations
DM33	Safe, sustainable and active travel
DM36	Parking and servicing
DM37	Green Infrastructure and Nature Conservation
DM40	Protection of the Environment and Health - Pollution and Nuisance
DM43	Sustainable Drainage
DM44	Energy Efficiency and Renewables

Supplementary Planning Documents:

SPD03	Construction & Demolition Waste
SPD11	Nature Conservation & Development
SPD12	Design Guide for Extensions and Alterations
SPD14	Parking Standards
SPD17	Urban Design Framework

9. CONSIDERATIONS & ASSESSMENT

- 9.1. The main considerations in the determination of this application relate to the impact of the development on the character and appearance of the existing building, site and streetscene, the impact on residential amenity, the standard of accommodation provided, highways and sustainability issues.

Principle of the Development:

- 9.2. Policy CP1 in City Plan Part One sets a minimum housing provision target of 13,200 new homes for the city up to 2030. However, on 24 March 2021 the City Plan Part One reached five years since adoption. National planning policy states that where strategic policies are more than five years old, local housing need calculated using the Government's standard method should be used in place of the local plan housing requirement. The local housing need figure for Brighton & Hove using the standard method is 2,333 homes per year. This includes a 35% uplift applied as one of the top 20 urban centres nationally.
- 9.3. The council's most recent housing land supply position is published in the SHLAA Update 2023 which shows a five-year housing supply shortfall of 7,786 (equivalent to 1.7 years of housing supply).
- 9.4. As the council is currently unable to demonstrate a five-year housing land supply, increased weight should be given to housing delivery when considering the planning balance in the determination of planning applications, in line with the presumption in favour of sustainable development set out in the NPPF (paragraph 11).
- 9.5. The proposed two additional units of housing would make a small but useful contribution towards the adopted City Plan Part 1 housing target of 13,200 new homes over the period 2010-2030.
- 9.6. City Plan policies do not specify a required housing mix, however Policy CP19 states that developments will be required to demonstrate that proposals have had regard to housing mix considerations and have been informed by local assessments of housing demand and need. A mix of 1x two-bed flat and 1x three-bed flat is proposed which is welcomed.

Design and Appearance:

- 9.7. Policies CP12 (Urban Design) and 14 (Housing Density) of the City Plan Part One set out aims to secure a high standard of design and development which pays respect to site constraints and the character of the area surrounding the site.
- 9.8. It is acknowledged that, in recent years, this section of The Upper Drive has been developed to such an extent that most of the properties on this section of the northern side are flatted development with fewer traditional dwellinghouses remaining.
- 9.9. There are four blocks of flats facing onto The Upper Drive. The proposed new units would be sited on Block C in the middle of the site which is three/ four storeys in height as existing, as are Blocks D and B either side. Block A to the west of the site is taller in height (four/ five storeys) than the three neighbouring blocks to the east. Blocks A and D have both been extended upwards in recent years.

- 9.10. The proposed additional storeys on Block C would match the height of Block A to the east of the wider site and would result in a building which would be taller, by one storey, than the adjoining buildings either side. The proposal would recreate the staggered height appearance of the existing blocks. The inset top floor has been designed so that from street level it would have the appearance of spanning only half the width of the overall block which would reduce the visual bulk, similar to the design of the existing blocks.
- 9.11. It is considered that the resulting variations in roof heights created by the proposal are appropriate in visual terms, without the extended building appearing excessively tall or out of keeping with the character of the site and streetscene. It is also noted that, over the years, the street trees have grown in height and Block C is now screened somewhat by the existing vegetation which reduces its prominence in the streetscene.
- 9.12. Given the above and the distances between the application site and its neighbours, it is considered that the increased height of Block C would not appear out of context with the neighbouring properties or within the prevailing streetscene. The Council's Urban Design Officer considers the proposal is of appropriate design and scale and has no objections to the scheme overall.
- 9.13. The proposal is therefore considered to be a suitable form of development on the site, which would be in keeping with the character and appearance of the existing block, wider site and streetscene, consistent with policies CP12, CP14 and DM18 of the City Plan. Matching materials are proposed to be secured by condition.

Standard of Accommodation:

- 9.14. Policy DM20 of the CPP2 seeks to ensure a good standard of amenity for future occupiers of the proposed development and this requirement is one of the core planning principles of the NPPF. Indeed, the updated NPPF requires that all developments provide a 'high' standard of amenity for future occupiers, which is a high bar that goes beyond amenity being merely 'adequate' or 'acceptable'. Policy DM1 sets out Nationally Described Space Standard (NDSS) for dwellings.
- 9.15. The new two-bedroom flat at third floor would measure 84m² which complies with the NDSS which seeks a minimum standard of 70m² for a four-person, two bed unit. The new three-bedroom flat at fourth floor would measure 111m² which also complies with the NDSS which seeks a minimum standard of 95m² for a six-person, three bed unit. Both units therefore comfortably exceed the NDSS and provide sufficient space for furniture and circulation, as well as good access to natural light, ventilation and outlook. Section drawings demonstrate that the units would provide for sufficient floor to ceiling heights (2.3m for at least 75% of the Gross Internal Area). It is noted that the reconfigured existing flat at third floor level, at a floor area of 86m², would also meet the NDSS (70m² for a two-bed, 4-person dwelling).
- 9.16. Policy DM1 states that all new residential development will be required to provide useable private outdoor amenity space appropriate to the scale and character of

the development. Both units at third floor would benefit from a private balcony to the front elevation. At fourth floor the new unit would have both a roof terrace and front balcony.

- 9.17. The application states that communal refuse storage for the development is currently located to the rear of the building where there is space to accommodate additional waste bins if required. This is considered acceptable and can be secured by condition.
- 9.18. Overall, the proposed development would result in an acceptable level of accommodation in compliance with policy DM20 of the proposed City Plan Part Two and the core planning principles of the NPPF.

Impact on Amenity:

- 9.19. Policy DM20 of City Plan Part 2 states that planning permission for any development or change of use will not be granted where it would cause unacceptable loss of amenity to the proposed, existing and/or adjacent users, residents, occupiers or where it is liable to be detrimental to human health.
- 9.20. The proposed development would add height and bulk to the building but there is not considered to be an unacceptable loss of privacy, light or outlook on the adjacent properties, nor an overbearing impact.

Impact on Light

- 9.21. There are windows facing the application site on the adjoining blocks which may see a small reduction in light from the extension. However, these windows are small and/ or secondary windows serving kitchen areas or bathrooms. Therefore, this minor impact is considered acceptable and would not warrant refusal of the application.
- 9.22. There have been objections from neighbours in Block E in terms of a reduction in sunlight reaching eastern windows and garden areas. However, given the existing relationship between the properties and that the east facing windows and gardens are already in shade after midday, it is not considered that the amount of sunlight reaching the outside amenity areas would be significantly affected by the proposals. Daylight would not be affected given the existing situation and the distances involved.

Impact on Privacy

- 9.23. The proposed side kitchen windows would face the blocks on either side which are already overlooked by existing kitchen/ bathrooms windows in each floor in the side facing elevations so the loss of privacy resulting would be minimal. Additionally, the proposed development would also be sited a sufficient distance from the nearest windows and gardens in the adjoining blocks which would limit undue harm from overlooking. It is considered that, given the existing situation, there would be no significant harm caused to the amenity of existing occupiers as a result of overlooking from the proposed windows.

- 9.24. A roof terrace is proposed to the top floor flat. An obscure glazed 1.7 metre height privacy screen is proposed to the front and side of the terrace, set in some 1.2 metres from the edge of the building. These measures would prevent the neighbouring roof terrace in Block B from being overlooked. Given the siting of the proposed terrace to the front of the development, it is not considered that there would be significant overlooking of neighbouring properties and gardens.
- 9.25. It is noted that residents in Wilbury Villas to the south and Old Shoreham Road to the north have rear gardens that face the development site. Whilst the proposed fenestration would provide marginally enhanced views of these rear gardens, given the distances involved, the existing relationship between the properties and level of mutual overlooking in the area, this is not considered to warrant refusal of the application.
- 9.26. Therefore, the impact on the amenity of residents of existing flats in the block or the wider area is not considered to be significant. Furthermore, two additional units of residential accommodation is unlikely to lead to such a significant increase in noise or activity to warrant refusal of the application. Given the above, it is therefore considered that the proposal would comply with policy DM20.

Sustainable Transport:

- 9.27. The proposed development is unlikely to significantly increase the number of trips to the site to warrant refusal of the application.
- 9.28. The application does not propose any car parking provision as there is physically no further space within the site to provide additional spaces. The site is located within a Controlled Parking Zone (CPZ O) with limited capacity. Therefore, the proposed development has the potential to generate additional residential parking demand within the CPZ.
- 9.29. However, the applicant has submitted a Parking Beat Survey indicating a residual capacity on the streets in the close vicinity of the site to accommodate two additional cars. Therefore, there is no objection from the Local Highway Authority on this ground. However, an informative would be added ensuring details of the development are passed to the Traffic Authority administering the Controlled Parking Zone so that it can be determined whether occupiers should be eligible for residents' parking permits.
- 9.30. Cycle parking is already provided at ground floor level and would be amended to incorporate additional facilities (5x additional spaces) to serve the new units. This can be secured by condition.

Sustainability:

- 9.31. CPP2 Policy DM44 requires new build residential development to achieve at least a 31% improvement on the carbon emission targets set by Part L Building Regulations, and to meet the optional standard for water consumption. The policy also requires new build residential to achieve a minimum energy Performance Certificate EPC rating 'B'. This can be secured by condition.

Biodiversity Net Gain:

- 9.32. This scheme was considered exempt from the need to secure mandatory biodiversity net gain under Schedule 7A of the TCPA because it does not impact a priority habitat or habitat of more than 25sqm or 5m of linear habitat. A condition to secure minor biodiversity enhancements (incorporation of bee brick) should be imposed to comply with policies CP10 and DM37.

Other issues:

- 9.33. There are several trees subject of a TPO on the site, however none are sited very close to Block C. As development is to the upper floors it is acknowledged that the root protection areas would not be affected in any case. Additionally, no pruning is proposed. However, it is considered prudent to ensure protection of the trees, including street trees, from damage during construction; this can be secured by condition.
- 9.34. A representation has been received with regard to the safety of the proposed cladding. The application states that external treated fibre cement base board cladding would be sourced to match the existing in style and colour. The final cladding specification is to be checked with regard to Buildings Regulations during the application process for construction.

Conclusion

- 9.35. The scheme would provide two additional dwellings of a suitable standard of accommodation which is beneficial in terms of housing needs in the city.

10. EQUALITIES

- 10.1. Section 149(1) of the Equality Act 2010 provides:
- 1) A public authority must, in the exercise of its functions, have due regard to the need to—
 - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 10.2. Officers considered the information provided by the applicant, together with the responses from consultees (and any representations made by third parties) with regard to potential material impacts on individuals or identifiable groups with protected characteristics. Ideally, new dwellings should be accessible and adaptable and in accordance with Building Regulations M4(2) for accessibility as required by Policy DM1 of the City Plan Part Two. However, this is an existing building and although there is level access and a lift in the building, to fully comply with above, entrances, common stairs, external parking etc would need to be substantially altered, which would go beyond the remit of the proposed scheme.

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 23 July 2020 and began charging on all CIL liable planning applications on and from the 5 October 2020. The exact amount would be confirmed in the CIL liability notice which would be issued as soon as it practicable after the issuing of planning permission, if granted.

