

<u>No:</u>	BH2024/01962	<u>Ward:</u>	Patcham & Hollingbury Ward
<u>App Type:</u>	Householder Planning Consent		
<u>Address:</u>	63 Lyminster Avenue Brighton BN1 8JL		
<u>Proposal:</u>	Erection of part-single, part-two storey rear extension with extension of roof above. Creation of raised terrace to rear garden.		
<u>Officer:</u>	Charlie Partridge, tel: 292193	<u>Valid Date:</u>	10.09.2024
<u>Con Area:</u>		<u>Expiry Date:</u>	05.11.2024
<u>Listed Building Grade:</u>		<u>EOT:</u>	30.05.2025
<u>Agent:</u>	Divine Property Services Crawley RH11 8HP	8 Buckswood Drive Gossops Green	
<u>Applicant:</u>	Mr and Mrs Kotadia 63 Lyminster Avenue Brighton BN1 8JL		

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	LPEX007	001	08-Aug-24
Proposed Drawing	LAEX003	004	15-Apr-25
Proposed Drawing	LAEX004	005	02-May-25
Proposed Drawing	LAEX006	001	08-Aug-24

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. 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 CP10 of the Brighton & Hove City Plan Part One, DM37 of the Brighton & Hove City Plan Part Two and SPD11 Nature Conservation and Development.

4. A swift brick or box 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 Policies CP10 of the Brighton & Hove City Plan Part One and DM37 of the Brighton & Hove City Plan Part Two, and SPD11 Nature Conservation and Development.

5. Access to the flat roof over the extension hereby approved 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 policy DM20 of Brighton & Hove City Plan Part 2.

6. Notwithstanding the details on the drawings hereby approved, the raised terrace hereby approved shall not be first brought into use until a solid/opaque privacy screen of 1.8m metres in height (measured from the finished floor level of the terrace) has been installed on the southwestern boundary of the terrace. The screen 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.

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 above 5m height, 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.
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 Environment Act 2021.

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 site relates to a two-storey semi-detached dwellinghouse with rendered walls, a brick plinth and tiled roof, located on the northwest side of Lyminster Avenue.
- 2.2. The site is not within a conservation area and there are no Article 4 Directions covering the site relating to extensions or alterations.

3. RELEVANT HISTORY

None

4. APPLICATION DESCRIPTION

- 4.1. Planning permission is sought for the erection of a part-single, part-two storey rear extension with an extension of the roof above. Permission is also sought for the creation of a raised terrace to the rear garden.
- 4.2. The original proposal sought permission for a two storey, full width and full height rear extension. During the course of determining the application, the proposal was amended to a part-single, part-two storey rear extension. The two-storey element of the extension was also reduced in depth and height. A number of changes were made to the drawings to improve their accuracy. The existing high-level boundary hedgerows were added to the drawings. Their retention would provide natural privacy screening for the raised terrace.

5. REPRESENTATIONS

- 5.1. One (1) letter has been received objecting to the proposed development. Another letter has been received from a planning consultant on behalf of the same neighbour. The letters object to the proposed development for the following reasons:
- Damaging trees/shrubs - negative impact on local wildlife
 - Inappropriate height of development
 - Overdevelopment
 - Overshadowing/sense of enclosure
 - Loss of light
 - Poor design
 - Restriction of view

- Too close to the boundary
- Drawing Inaccuracies
- Failed 45 degree rule
- Contrary to policy/guidance
- Overbearing impact and loss of outlook
- Residential amenity
- Restriction of view
- Loss of privacy

- 5.2. Neighbours were reconsulted on the amended design. One (1) letter has been received objecting to the revised scheme in addition to another letter from a planning consultant on behalf of the same neighbour. The only new issue raised was the lack of information regarding drainage management during and after construction. No new material planning considerations were raised in the letters.
- 5.3. **Councillors Alistair McNair and Anne Meadows** have objected to the application also raising concerns that the extension is overbearing, too close to the shared boundary, would result in a loss of light, loss of the existing established hedge, would conflict with the Council's SPD on householder extensions, and would impact on the neighbour's drainage. A copy of this correspondence is attached to this report.
- 5.4. Full details of representations received can be found online on the planning register.

6. CONSULTATIONS

None

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);
 - 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
CP10	Biodiversity
CP12	Urban Design

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
DM37	Green Infrastructure and Nature Conservation

Supplementary Planning Document:

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 design and appearance of the proposed alterations and whether they would have a detrimental impact on neighbouring amenity. The impact of the proposal on biodiversity also requires consideration. A site visit was undertaken as part of the assessment of this application.

Design, Character and Appearance:

- 9.2. Policy DM21 states that permission for extensions or alterations to existing buildings, including roof extensions, will be granted if the proposed development:
- is well designed and scaled, sited and detailed in relation to the property to be extended, adjoining properties and to the surrounding area;
 - takes account the existing character of the area; and
 - uses materials that complement the parent building.
- 9.3. The original proposal sought permission for a two storey, full width and full height rear extension at a depth of 4.0m. This was considered to be overly large and dominant and was not supported by the Local Planning Authority..
- 9.4. During the course of determining the application, the proposal was significantly amended to a part-single, part-two storey rear extension. The two-storey element of the extension was also reduced in depth to 3.5m and the roof ridge was lowered in height. It is considered that the amendments would ensure the proposed extension is of an improved design and is more subservient to the host dwelling. While it would still represent a relatively large addition to the host property, it is considered that an acceptable proportion of the rear outdoor space would remain following its construction.

- 9.5. The flat roof of the single storey element of the extension would be at the same height as the internal first floor level and the eaves of the two-storey element of the extension would be level with the main eaves of the property. Materials would match the existing dwelling, which would be secured by condition.
- 9.6. The proposed extension would be visible from the public domain, however due to its location at the rear of the property, it would not be highly prominent. In addition, the properties along Lyminster Avenue vary greatly in design and many have been extended and altered. Due to this variation in the character of the streetscene, the proposed extension is unlikely to have a significant impact on the appearance of the area.
- 9.7. The proposal would also involve the creation of a raised decking area at the rear of the proposed extension. This element of the scheme would not be harmful to the appearance of the property and would be acceptable in design.
- 9.8. Overall, and on balance, the proposed extension would not significantly harm the appearance of the host dwellinghouse or that of the wider area, in accordance with policy DM21 of City Plan Part 2 and SPD12 guidance.
- Impact on Residential Amenity:
- 9.9. Policy DM20 states that permission for development will be granted where it would not cause unacceptable loss of amenity to the proposed, existing, adjacent or nearby users, residents, occupiers or where it is not liable to be detrimental to human health. In particular, privacy, overlooking, outlook, overshadowing and sunlight/daylight impacts are considerations. Additional guidance within SPD12 is also a consideration.
- 9.10. The extension would not feature any side windows facing neighbouring properties that could lead to loss of privacy.
- 9.11. The two-storey element of the proposed extension would be of limited depth (3.5m) and would be set away enough from Nos.61 and 67 Lyminster Avenue as to not be considered significantly overbearing.
- 9.12. The single storey element of the proposed extension would impact the outlook of the adjoining neighbour No.61 due to its proximity to the shared boundary and is likely to reduce the outlook available from their ground floor kitchen window. It would project 4m beyond the rear elevation of the houses. Although a degree of harm is acknowledged, it is considered that this impact would not be significant enough to warrant refusal of the application as the single storey element of the extension is not unduly large/deep and would have an approximate height of 2.5m, which is not considered to be excessive (noting a 2m high boundary treatment would be Permitted Development and not require permission). The ground floor element of the extension would be set away a substantial distance from all other neighbouring properties.
- 9.13. The 45-degree angle test (SPD12) was applied to both the proposed single storey and two storey elements as part of the overall assessment of the impact of the extension on the daylight available to the adjoining neighbour's ground

floor kitchen window and conservatory. When applying the test to the plans (horizontal), both extensions would fail so are likely to reduce the amount of daylight received from beyond the extensions. However, when applying the test to the elevations (vertical), both extensions would pass. As such, daylight levels are unlikely to be significantly adversely affected because light will continue to be received over the two roofs of the extension. In addition, due to the northwest facing orientation of the rear gardens and the fact that No.61 is located to the south of the application site, no significant loss of sunlight is expected to occur to this neighbour. Taking into account all considerations, any sense of enclosure or loss of daylight would not be harmful enough to warrant refusal of the application on these grounds.

- 9.14. The proposed raised terrace would be approximately 3.0 metres deep and set off the boundary and would be screened either side by the existing mature hedgerows which run the full length of the boundary. Utilising the existing hedgerows as screening would have a natural appearance and would result in less disruption to both the neighbours and the biodiversity of the site. This helps mitigate the impact of the terrace. A condition is also recommended to ensure a 1.8m high privacy screen is installed along the southwestern boundary of the decking to ensure the privacy of adjoining neighbours is maintained, should the hedge ever fail or be removed in the future. On balance it is considered that the scale and siting of the terrace would be acceptable.
- 9.15. As outlined, it is considered that the proposal would impact the amenity of the occupants of the adjacent property to a certain degree given the proposed scale and siting of the extensions. On balance, however, the impact is considered not to be so significant to warrant refusal of the application for the reasons above. The proposal is not considered to conflict with policies DM20 and DM21 of the City Plan Part 2.

Biodiversity

- 9.16. 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 bees and swifts. Conditions requiring the installation of both a bee brick and a swift brick/box have been attached to achieve a net gain in biodiversity and generally improve ecology outcomes on the site in accordance with the Policy CP10 of the Brighton & Hove City Plan Part One, Policy DM37 of the Brighton & Hove City Plan Part Two and SPD11 Nature Conservation and Development.
- 9.17. This scheme was considered exempt from the need to secure mandatory biodiversity net gain under Schedule 7A of the TCPA because it is a householder application.

Standard of Accommodation

- 9.18. The proposal facilitates the provision of an additional bedroom to this property. It would be at first floor level and would benefit from sufficient outlook and natural light via the proposed rear window. It would have an internal floor space exceeding the standard for two bedspaces of 11.5m². The space created would therefore be in general accordance with CPP2 Policy DM1.

Other Considerations

- 9.19. An objection has been raised in regard to the lack of information regarding drainage management during and after construction and also relating to boundary matters. These are not a material planning consideration in the determination of this application. Drainage management and boundary issues are a civil matter and would need to be addressed separately from the planning process.

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) and determined that the proposal would not give rise to unacceptable material impact on individuals or identifiable groups with protected characteristics.