

<u>No:</u>	BH2026/01213	<u>Ward:</u>	Westbourne & Poets' Corner Ward
<u>App Type:</u>	Full Planning		
<u>Address:</u>	Flat 9 191 Kingsway Hove BN3 4FB		
<u>Proposal:</u>	Alterations to the existing balcony balustrade and addition of three retractable awnings to existing sliding doors to balcony.		
<u>Officer:</u>	Charlotte Tovey, tel: 202138	<u>Valid Date:</u>	18.05.2026
<u>Con Area:</u>		<u>Expiry Date:</u>	13.07.2026
<u>Listed Building Grade:</u>		<u>EOT:</u>	07.08.2026
<u>Agent:</u>	Stickland Wright Ltd Stickland Wright Ltd 23 Vine Street Brighton BN1 4AG		
<u>Applicant:</u>	Mr Andrew Peck Flat 9 191 Kingsway Hove BN3 4FB		

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
Proposed Drawing	005 B		21-Jul-26
Location and block plan	001 B		18-May-26
Proposed Drawing	006 B		21-Jul-26
Proposed Drawing	007 B		21-Jul-26

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. Unless otherwise shown on the drawings hereby approved, 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, DM26 of City Plan Part Two and CP12, CP15 of City Plan Part One

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 relates to a five storey plus basement block of 9 flats located at 191 Kingsway on the seafront road between Walsingham Road and Sackville Gardens. The building is a relatively new addition to the Sackville Gardens Conservation Area constructed in 2016.
- 2.2. The building is of contemporary design with rendered elevations and dark grey aluminium fenestration. Two sets of semi-circular balconies are a design feature of the front elevation with a curved front bay to the penthouse at roof level.
- 2.3. The application relates to Flat 9, the penthouse flat.

3. RELEVANT HISTORY

- 3.1. **PRE2024/00221** Flat 9, 191 Kingsway - Pre application advice was sought seeking clarification on the acceptability of new awnings and glass balustrade - Following a site visit, officers advised the applicant that the principle of fitting awnings above the existing doors would have an acceptable impact on the appearance of the building and Conservation Area.
- 3.2. **BH2015/03105** Application for variation of condition 2 of application BH2014/00703 (variation of condition 2 of application BH2011/03956) (Original permission for Demolition of existing building and construction of nine residential flats) to permit amendments to the approved drawings including roof alterations and omission of Juliet balconies on North elevation. Approved
- 3.3. **BH2015/01140** Application for variation of condition 2 of application BH2014/00703 (Variation of condition 2 of application BH2011/03956) (Original permission for Demolition of existing building and construction of nine residential flats) to permit amendments to the approved drawings for roof alterations. Refused as detrimentally increased the height of the building
- 3.4. **BH2014/02500** Application for Approval of Details Reserved by Conditions 3, 5 and 6 of application BH2014/00703. Approved
- 3.5. **BH2014/00703** Application for variation of condition 2 of application BH2011/03956 (Demolition of existing building and construction of nine residential flats) to permit amendments to the approved drawings to vary South and North elevations and roof layout. Approved

- 3.6. **BH2011/03956** Demolition of existing building and construction of nine residential flats. Refused by the LPA, Allowed at Appeal

4. APPLICATION DESCRIPTION

- 4.1. Planning permission is sought for alterations to the existing balcony balustrade and awnings at penthouse level at the above site. The application proposal is to replace the existing balustrade with a clear glass balustrade of 13.5mmm toughened glass and the addition of three retractable awnings to the existing sliding doors to the balcony. The awnings are proposed to be powder coated aluminium frames in a light cream colour to match the building. The awnings are also proposed to be in light cream to match the existing building also. No other alterations are proposed.

5. REPRESENTATIONS

- 5.1. In response to publicity, responses were received from eight (8) individuals, objecting to the application and raising the following issues:
- Adversely affects Conservation Area
 - Detrimental affect on property value
 - Poor design
 - Unsafe in high winds
- 5.2. In addition we have received three (3) comments of support raising the following points:
- Good design
 - Modest and reasonable alterations for the needs of the occupiers
 - Cause no harm to the Conservation Area
- 5.3. In addition we have also received one (1) response from an individual commenting on the application raising the following points:
- Considers there is a restriction of allowing awnings in the sea frontage due to the impact of heavy winds, which could damage the building.
 - Could be damage to adjoining properties and possible damage at street level and harm pedestrians.
- 5.4. Full details of representations received can be found online on the planning register.

6. CONSULTATIONS

External:

- 6.1. **CAG: Refuse**
The replacement of the original balustrade with frameless glass panels would be regrettable and unnecessary.

- 6.2. The original brackets and pillars and horizontal steel elements are repeated on each of the five levels of the façade and make an important contribution to the character of the building. This pattern should not be disrupted.
- 6.3. The awnings are acceptable but should not project beyond the parapet when extended.
- 6.4. **Heritage: No objection**
The proposed replacement of the existing balustrade with a frameless clear glass design is not considered to be out of keeping with the building. The proposal is considered to preserve the character and appearance of the Conservation Area. With regards to the NPPF, no harm is caused to the significance of the heritage asset.
- 6.5. In addition, the proposed retractable awnings would be positioned above the existing sliding doors, which are set back from the building facade and would match the buildings colour. Therefore, they are also not expected to have any adverse visual impact.
- 6.6. Full details of consultation responses received can be found online on the planning register, with the exception of the verbal responses noted above.

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
CP12	Urban design
CP15	Heritage

Brighton & Hove City Plan Part Two:

DM18	High quality design and places
DM20	Protection of Amenity
DM21	Extensions and alterations
DM26	Conservation Areas

Supplementary Planning Documents:

SPD09	Architectural Features
SPD12	Design Guide for Extensions and Alterations
SPD17	Urban Design Framework

Sackville Gardens Conservation Area

9. CONSIDERATIONS & ASSESSMENT

- 9.1. The main consideration of the proposed development relates to design and appearance, the impact of the development on the special character of the Conservation Area and the impact to neighbouring amenity.
- 9.2. Consideration should also be given to the comments of the allowed appeal of the refused initial planning application to BH2011/03956 in regards to the buildings design and the impact of the development to the special character of the Sackville Gardens Conservation Area.
- 9.3. 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.
- 9.4. 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".

Design and Appearance and Impact on Heritage Assets

- 9.5. The site is on Hove seafront and the building is a recent addition to the Conservation Area, built in 2016 and with a contemporary design.
- 9.6. The allowed appeal of the initial redevelopment of no. 191 Kingsway (BH2011/03956) comments on the buildings design and impact on the Sackville Gardens Conservation Area.
- 9.7. The inspectorate comments on the location:
"Kingsway is characterised by residential blocks of varying styles, width and heights. As the streets were development in a fairly piecemeal way, one of the features of the area is its architectural variety."
- 9.8. And on the design of the new building:
"Although described as a modern take on an art deco aesthetic, that it not an architectural style that is particularly noted in the Sackville Gardens Conservation Area Character Statement as being prevalent in the area. In any

event, the Art Deco references appear to have amounted to little more than the use of motifs on the balustrades, detailing on the front and a curved stepped access and the design was subsequently revised to remove some of the unnecessary detail."

"There is a simple formal design approach to the front elevation with a central curved stepped access, a curved canopy above with hanging balconies to each side and a curved front bay at the penthouse. The semi circular central element, deep eaves to the flanking sections and parapet give interest to the roofline.

"The Conservation Area is characterised by its architectural variety and I am satisfied that the appeal proposal represents an appropriate design standard that would have a positive impact on the character and appearance of the Conservation Area"

- 9.9. Concerns have been raised during consultation that the proposed alterations to the top floor balustrade and addition of 3 awnings above the existing windows would be of poor design, cause harm to the buildings appearance, interrupt its cohesive design and would cause harm to the Conservation Area.
- 9.10. The existing balustrade has a slightly narrower railing profile in the glass when compared with the other balconies below. The proposal would replace the balustrade with a clear glass frameless design, fixed to the inside face of the rendered upstand.
- 9.11. Taking into account the comments on the inspectorate, it is clear that Kingsway seafront is characterised by taller buildings that vary in their design and architectural features. As the inspectorate has commented, the art deco features are not prevailing to the largely Victorian and Edwardian design of Sackville Gardens Conservation Area, and as such are not considered essential to be retained in the buildings design and appearance.
- 9.12. Whilst an overall cohesive appearance of the building and material palette to the front elevation is important in achieving good quality design, it is common to see small variations in the design of architectural features of penthouse flats. Whilst the glass balustrade will be seamless and have no steel railings or horizontal detailing, the replacement balustrade would remain simple in form and acceptable in appearance. If the alteration were proposed to a different storey on the front elevation or to a singular balcony on one side of the building, this would likely jar somewhat visually and appear out of keeping.
- 9.13. Given the height of the building and storey it relates to, the alteration is overall considered to be a minor amendment that would be acceptable in appearance and not cause harm to the appearance of the building to warrant refusal.
- 9.14. CAG (Conservation Advisory Group) have raised concerns to the proposed seamless glass balustrade that it would cause harm to the character of the building. As noted above the inspectorate did not weigh the art deco design of the building to contribute to the prevailing Victorian and Edwardian character of

the conservation area in the previous appeal the character of the building should be viewed as one that is contemporary.

- 9.15. Overall it is considered that the replacement balustrade would cause no harm to the appearance of the building nor harm to the special character of the Conservation Area and would be in accordance with policies set out above.
- 9.16. The three awnings proposed to be fitted above the existing windows would add a new feature to the buildings front elevation. The balcony and facade they are being fixed to is set back from the buildings frontage and is proposed to match the colour of the building. The awnings would not exceed the balustrade nor the depth of the adjoining buildings balcony and would be adequately set back from the replaced balustrade. Due to the height of the building, this set back position and their matching colour it is not considered that the development would cause demonstrable harm to the buildings appearance. Whilst the amendments will be visible to the public realm from the seafront opposite (and in some longer views) the proposal would be a simple modern addition to a modern building and would not unduly draw the eye.
- 9.17. It was also noted on the site visit that the Victorian terrace to the east of the site on Kingsway at the junction of Sackville Gardens has recessed balconies with fixed canopies above at first floor level. Therefore in the wider street scene the awnings would not appear incongruous.
- 9.18. In consideration of all the above the amendments to the existing balustrade and installation of the awnings are not considered to cause harm to the appearance of the building and would not harm the special character of the Sackville Gardens Conservation Area or cause harm to the wider street scene. The proposal would therefore accord with policies DM18, DM21 and DM26 of City Plan Part Two and CP12 and CP15 of City Plan Part One.

Standard of Accommodation

- 9.19. The flats below the application site, have recessed balconies which provide some form of natural shade to one another. The design of the penthouses glazing to either side of the central semi-circular roof design have no overhang which would provide little shade due to the front elevation being south facing.
- 9.20. The awnings proposed would enhance the viable use of the roof terrace in the summer months providing some natural shade for the occupiers.
- 9.21. This would provide a better standard of accommodation and align with the principles of policy DM1 of City Plan Part Two.

Impact on Amenity

- 9.22. Policy DM20 of the Brighton & Hove City Plan Part Two seeks to ensure that development does not cause unacceptable harm to the amenities of existing occupiers through overlooking, overshadowing, loss of outlook, overbearing impacts or noise disturbance.

- 9.23. No harm has been identified in regards to amenity from the proposed alterations. The site is south facing and the awnings proposed are adequately set away from the adjoining neighbours and front balustrade, set within the roof terrace. The height and material finish of the balustrade would be the same as existing, glass for glass and would not create any new views.
- 9.24. Overall the alterations are considered to be in accordance with policy DM20 of City Plan Part Two.

Biodiversity

- 9.25. 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.
- 9.26. The proposal would accord with policy DM37 of City Plan Part Two and CP10 of City Plan Part One.

Other Matters

- 9.27. Concerns have been raised that the fitment of awnings would be prohibited in the terms of the leasehold agreement and could cause a hazard to the safety of local residents and pedestrians in high winds. Whilst this is noted, any planning decision would not supersede this requirement to satisfy the conditions of the legal agreement with the other leaseholders/ freeholders which is a civil matter. Homeowners are ultimately responsible for any damage, public safety hazards, or public highway obstructions caused by flying debris. It would be prudent for the homeowner of the flat to ensure the awnings are not used in windy conditions to avoid causing damage.
- 9.28. Comments have been raised on the safety of the existing balustrade. In the absence of any structural report we cannot consider this as the case. The safety of visitors to the flat including young children is the responsibility of the parent and owner. The existing balustrade appears to be in a good condition, the height meets building regulations and is not considered to be a safety concern.
- 9.29. Concerns have been raised that the incorrect application has been submitted by the agent. This has been rectified and updated certificate B has been received and noticed served on all leaseholders within the building.
- 9.30. A site visit has been conducted to make an informed decision in addition to the plans submitted.

Conclusion

- 9.31. Subject to compliance with the attached condition requiring that the colour of awning fitted matches the colour of the building, the proposed alterations to the front elevation are not considered to cause harm to the buildings appearance or harm the special character of the Sackville Gardens Conservation Area. The proposed alterations would not cause harm to neighbouring amenity nor considered to cause a hazard to public safety. The development is therefore recommended for approval.

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.

