

ITEM D

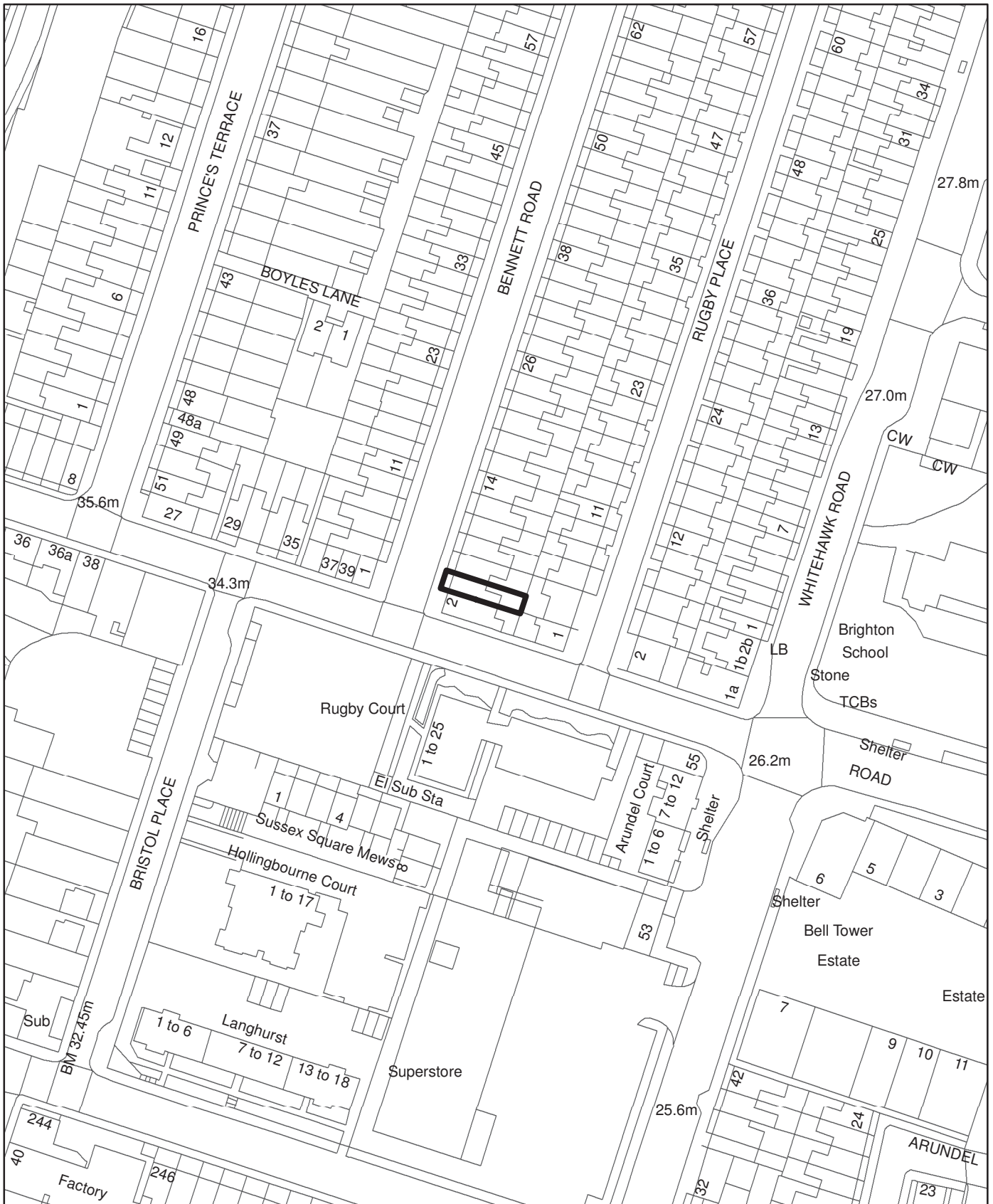
4 Bennett Road, Brighton

BH2013/02364

Householder planning consent

30 OCTOBER 2013

BH2013/02364 4 Bennett Road, Brighton



**Brighton & Hove
City Council**



Scale : 1:1,250

<u>No:</u>	BH2013/02364	<u>Ward:</u>	EAST BRIGHTON
<u>App Type:</u>	Householder Planning Consent		
<u>Address:</u>	4 Bennett Road Brighton		
<u>Proposal:</u>	Retention of enlarged rear porch to replace pre-existing, incorporating external steps to garden level (Part Retrospective).		
<u>Officer:</u>	Wayne Nee Tel 292132	<u>Valid Date:</u>	05/08/2013
<u>Con Area:</u>	n/a	<u>Expiry Date:</u>	30 September 2013
<u>Listed Building Grade:</u>	n/a		
<u>Agent:</u>	BPM, 31 Boundary Road Hove BN3 4EL		
<u>Applicant:</u>	Mrs Helen Lyons, 4 Bennett Road Brighton BN2 5JL		

1 RECOMMENDATION

- 1.1 That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in section 11 and the policies and guidance in section 7 and resolves to **GRANT** planning permission subject to the Conditions and Informatives set out in section 11.

2 SITE LOCATION & DESCRIPTION

- 2.1 The application relates to a two storey terraced property situated on the eastern side of Bennett Road. The application site has a relatively small rear garden at lower ground floor level. Consequently the rear of the property is at an elevated level.
- 2.2 A porch with external steps and decking has been constructed at the side of the rear outrigger which replaced a pre-existing porch. The steps lead down providing access into the rear garden. The pre-existing porch matched the existing smaller porches found on some of the neighbouring properties along the terrace. Some of the windows on the porch have now been obscured.

3 RELEVANT HISTORY

BH2013/00962 Formation of enlarged rear porch to replace existing incorporating external steps and timber decking (Part Retrospective) – refused 21/05/2013

BH2012/03611 Formation of enlarged rear porch to replace existing incorporating external steps and timber decking (Retrospective) – refused 20/02/2013; appeal dismissed 30/05/13

4 THE APPLICATION

- 4.1 Planning permission is sought for the retention of an enlarged rear porch to replace the pre-existing porch, incorporating new external steps to garden level. This is a part retrospective application.

5 PUBLICITY & CONSULTATIONS

External

- 5.1 **Neighbours: One (1)** letter of representation has been received from **6 Bennett Road** objecting to the application for the following reasons:
- The failed applications and dismissed appeal demonstrate that the structure does not have planning consent;
 - This is substantially the same application as the previous refusal;
 - The appearance and size of the structure is inappropriate;
 - The footprint is at least twice the size of the existing structure;
 - The materials are not of a high quality;
 - The overbearing structure results in overlooking and loss of privacy to the rear garden and rear window;
 - The structure is a fire hazard;
 - No enforcement action has taken place following the Inspector's decision.
- 5.2 **Cllr Chaun Wilson** objects to the application, a copy of the email is attached to the agenda.

6 MATERIAL CONSIDERATIONS

- 6.1 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 states that "If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."
- 6.2 The development plan is:
- Brighton & Hove Local Plan 2005 (saved policies post 2007);
 - East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (Adopted February 2013);
 - East Sussex and Brighton & Hove Minerals Local Plan (November 1999); Saved policies 3,4,32 and 36 – all outside of Brighton & Hove;
 - East Sussex and Brighton & Hove Waste Local Plan (February 2006); Saved Policies WLP 7 and WLP8 only – site allocations at Sackville Coalyard and Hangleton Bottom and Hollingdean Depot.
- 6.3 The National Planning Policy Framework (NPPF) was published on 27 March 2012 and is a material consideration which applies with immediate effect.
- 6.4 Due weight should be given to relevant policies in the development plan according to their degree of consistency with the NPPF.

- 6.5 The Brighton & Hove City Plan Part One (submission document) is an emerging development plan. The NPPF advises that weight may be given to relevant policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency of the relevant policies to the policies in the NPPF.
- 6.6 All material considerations and any policy conflicts are identified in the “Considerations and Assessment” section of the report.

7 RELEVANT POLICIES & GUIDANCE

The National Planning Policy Framework (NPPF)

Brighton & Hove Local Plan:

- QD2 Design – key principles for neighbourhoods
QD14 Extensions and alterations
QD27 Protection of Amenity

Supplementary Planning Documents:

- SPD12 Design Guide for Extensions and Alterations

Brighton & Hove City Plan Part One (submission document)

- SS1 - Presumption in Favour of Sustainable Development

8 CONSIDERATIONS & ASSESSMENT

- 8.1 The main considerations in this application are whether the proposal is acceptable in terms of its design and appearance in relation to the recipient building and surrounding area and whether the proposal is appropriate in terms of its impact on the amenity of nearby neighbouring properties.

Background

- 8.2 A previous application (BH2012/03611), for the formation of an enlarged rear porch to replace the pre-existing porch incorporating external steps and timber decking (Retrospective), was refused in February 2013 for the following reason:
- 8.3 *The rear porch with steps and decking, due to its elevated height, bulk, massing and its design, represents an un-neighbourly and overbearing addition for nearby residents by reason of an increased sense of overlooking, a loss of privacy and a loss of outlook, which is to the detriment of residential amenity. The proposal is therefore contrary to policies QD14 and QD27 of the Brighton & Hove Local Plan.*
- 8.4 A subsequent appeal (Appeal Ref: APP/Q1445/D/13/2195833) was dismissed in May 2013 on grounds of overlooking from the door, windows and deck platform. The Inspector did however note that obscure glazing could address overlooking from the windows and door, but the harm caused by the deck platform could not be mitigated.
- 8.5 Before the appeal decision, a resubmission of the application (the width of the proposed porch was reduced by 0.35m and the width of the proposed decking has been reduced by 0.5m) was refused in May 2013.

Design and Appearance

- 8.6 Policy QD14 of the Brighton & Hove Local Plan states that planning permission for extensions or alterations to existing buildings, including the formation of rooms in the roof, will only be granted if the proposed development:
- a) is well designed, sited and detailed in relation to the property to be extended, adjoining properties and to the surrounding area;
 - b) would not result in significant noise disturbance or loss of privacy, outlook, daylight/sunlight or amenity to neighbouring properties;
 - c) takes account of the existing space around buildings and the character of the area and an appropriate gap is retained between the extension and the joint boundary to prevent a terracing effect where this would be detrimental to the character of the area; and
 - d) uses materials sympathetic to the parent building.
- 8.7 The porch is located at the rear of the property and so it is not visually prominent on the street scene, although the rear wall is visible from Bristol Gardens. The elevated height of the structure means that it is a prominent feature at the rear of the building and is visible from a number of residential properties and gardens.
- 8.8 The structure replaces a pre-existing porch that matched the porch directly to the north on the neighbouring property (no. 6 Bennett Road), and it appears that this design can be found on other neighbouring properties further up the street.
- 8.9 The new porch has a larger footprint than the pre-existing one, taking it closer to the side boundary and extending up to the rear outrigger wall. The mono-pitch roof takes a similar form but is set higher than the pre-existing porch. The proposed steps would remove the existing elevated decked platform, and the new steps would lead directly down into the garden in a similar form to the pre-existing steps rather than the existing arrangement of being located across the rear wall of the outrigger.
- 8.10 In the appeal decision of the previous application (BH2012/03611), the Inspector stated: *'Whilst it is larger than the neighbouring property's porch (No 6), as it would generally be similar in form, of appropriate materials and design, would relate satisfactorily to the main house, and would be in a relatively secluded location, I consider that it would generally be acceptable in this respect'*.
- 8.11 The subsequent adoption of SPD12: Design Guide for Extensions and Alterations is not considered to change the reasons set out by the Inspector.
- 8.12 The proposed steps would reduce the bulk of the existing structure by removing the elevated decked platform. Given this amendment, and taking into account the Inspector's reasons, it is considered that the porch and proposed steps would not be significantly detrimental to the character and appearance of the existing property and the locality.

Impact on Amenity

- 8.13 Policy QD14 states that account will be taken of sunlight and daylight factors, together with orientation, slope, overall height relationships, existing boundary treatment and how overbearing the proposal will be.

- 8.14 Policy QD27 of the Brighton & Hove Local Plan states that planning permission for any development or change of use will not be granted where it would cause material nuisance and loss of amenity to the proposed, existing and/or adjacent users, residents, occupiers or where it is liable to be detrimental to human health.
- 8.15 The porch is situated close to the side boundary and rear garden of the adjoining neighbouring property at no. 6 Bennett Road, which is the property most impacted upon by the structure. This property has a porch and steps that matched the pre-existing on the application site. There is a rear facing ground floor dining room window that faces towards the porches.
- 8.16 The extended width of the porch, in comparison to the pre-existing, has reduced the gap in between the structure and the neighbouring porch that provides outlook for the rear dining room window of no. 6 Bennett Road.
- 8.17 In respect of the issue of the impact of outlook from this window, the Inspector noted that: *'Whilst the proposed porch would be larger, higher and closer to the boundary than the pre-existing porch, thereby slightly closing the gap between the two, the effect of the additional bulk, even though at a raised level, would not cause material harm to the outlook from that room.'*
- 8.18 The overall dominance of the development would be reduced in part due to the proposed removal of the elevated decked platform. With regard the dominance of the porch itself, the Inspector stated: *'even though it would be in an elevated position, the structure would not appear as overbearing, in comparison to the previous porch, when viewed from the rear garden of No 6.'*
- 8.19 There is a rear balcony directly to the east at no. 3 Rugby Place, and the gardens are relatively small, and so some mutual overlooking is to be expected. However the existing raised decked platform provides views into the rear garden of no. 6 Bennett Road, as well as the properties at 2 Bennett Road and 1 & 3 Rugby Road.
- 8.20 When dismissing the appeal of the previous application on grounds of overlooking, the Inspector stated that the views into the rear garden and dining room were from the elevated decked platform and the windows and doors of the porch. In this proposal the elevated decked platform has been removed.
- 8.21 With regard to the windows and door of the porch, the Inspector noted that a condition to obscure glaze the windows and door of the proposed porch may overcome the harm, however as the appeal failed for other reasons relating to overlooking from the raised platform it could not be considered.
- 8.22 Now that these other reasons have been rectified in this proposal (by removing the elevated decked platform), it is considered that a condition to fully obscure glaze the windows and door would be necessary in this instance.
- 8.23 Taking into account the Inspector's reasons in the appeal, the proposed removal of the raised decked platform, and the use of a planning condition to ensure the

obscure glazing of the door and windows of the porch, its is considered that the proposal would not result in significant harm to the occupiers of surrounding properties.

9 CONCLUSION

9.10 The proposed rear porch and steps would not significantly harm the appearance of the recipient building or surrounding area and would not result in a significant impact on the amenity of any adjacent residential properties.

10 EQUALITIES

10.1 None identified.

11 PLANNING OBLIGATION / CONDITIONS / INFORMATIVES

11.1 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
Pre-existing floor plans, elevations & section	1019/01		15 July 2013
As-existing floor plans, elevations & section	1019/02		15 July 2013
Proposed floor plans, elevations & section	1019/03		26 July 2013
Site plan	n/a		15 July 2013

- 2) All windows and the glazed door of the porch hereby approved shall be shall be obscure glazed within 3 months of the date of this permission and thereafter permanently retained as such.
Reason: To safeguard the privacy of the occupiers of the adjoining property and to comply with policies QD14 and QD27 of the Brighton & Hove Local Plan.
- 3) The existing steps and raised deck as shown on drawing No. 1019/02 received on 15 July 2013 shall be removed and the steps hereby approved and shown on drawing No. 1019/03 received on 26 July 2013 shall be erected within 3 months of the date of this permission.
Reason: To safeguard the privacy of the occupiers of the adjoining property and to comply with policies QD14 and QD27 of the Brighton & Hove Local Plan.

11.2 Informatives:

1. In accordance with the National Planning Policy Framework and Policy SS1 of the Brighton & Hove City Plan Part One (submission document) the

PLANNING COMMITTEE LIST- 30TH OCTOBER 2013

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. This decision to grant Planning Permission has been taken:
 - (i) having regard to the policies and proposals in the National Planning Policy Framework and the Development Plan, including Supplementary Planning Guidance and Supplementary Planning Documents:
(Please see section 7 of the report for the full list); and
 - (ii) for the following reasons:-
The proposed rear porch and steps would not significantly harm the appearance of the recipient building or surrounding area and would not result in a significant impact on the amenity of any adjacent residential properties.

18th September 2013

Hi Wayne,

Further to our discussion earlier today and various email correspondences with your colleagues regarding the recent planning application relating to 4 Bennett Road, Brighton; I wish to register a formal objection on the basis that this is one of several applications relating to a structure already identified as being an unauthorised development.

The structure itself has been the cause of significant distress to neighbours who are now overlooked as a result of the design, size and proximity of the building to their boundary.

The complex history of this case, in my opinion, warrants close scrutiny and I would therefore request that the matter be referred to the planning committee for consideration as soon as possible.

Kind regards,

Councillor Chaun Wilson

Labour & Cooperative Member for East Brighton Ward

Spokesperson for Housing Strategy

Spokesperson for Equalities

Overview and Scrutiny Committee