



**Brighton & Hove
City Council**

Planning Committee

Title:	Planning Committee
Date:	13 October 2010
Time:	2.00pm
Venue	Council Chamber, Hove Town Hall
Members:	<p>Councillors: Hyde (Chairman), C Theobald (Deputy Chairman), Carden (Opposition Spokesperson), Alford, Cobb, Davey, Hamilton, Kennedy, McCaffery, Simson, Smart and Steedman</p> <p>Co-opted Members: Philip Andrews ((Chairman) Conservation Advisory Group)</p>
Contact:	<p>Jane Clarke Senior Democratic Services Officer 01273 291064 jane.clarke@brighton-hove.gov.uk</p>

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AGENDA

118. PROCEDURAL BUSINESS

- (a) Declaration of Substitutes - Where Councillors are unable to attend a meeting, a substitute Member from the same Political Group may attend, speak and vote in their place for that meeting.
- (b) Declarations of Interest by all Members present of any personal interests in matters on the agenda, the nature of any interest and whether the Members regard the interest as prejudicial under the terms of the Code of Conduct.
- (c) Exclusion of Press and Public - To consider whether, in view of the nature of the business to be transacted, or the nature of the proceedings, the press and public should be excluded from the meeting when any of the following items are under consideration.

NOTE: Any item appearing in Part 2 of the Agenda states in its heading the category under which the information disclosed in the report is exempt from disclosure and therefore not available to the public.

A list and description of the exempt categories is available for public inspection at Brighton and Hove Town Halls.

119. MINUTES OF THE PREVIOUS MEETING

1 - 18

Minutes of the meeting held on 22 September 2010 (copy attached).

120. CHAIRMAN'S COMMUNICATIONS

121. PETITIONS

No petitions had been received by the date of publication of the agenda.

122. PUBLIC QUESTIONS

(The closing date for receipt of public questions is 12 noon on 6 October 2010).

No public questions received by date of publication.

123. DEPUTATIONS

(The closing date for receipt of deputations is 12 noon on 6 October 2010).

No deputations received by date of publication.

PLANNING COMMITTEE

124. WRITTEN QUESTIONS FROM COUNCILLORS

No written questions have been received.

125. LETTERS FROM COUNCILLORS

No letters have been received.

126. NOTICES OF MOTION REFERRED FROM COUNCIL

No Notices of Motion have been referred.

127. APPEAL DECISIONS

19 - 76

(copy attached).

128. LIST OF NEW APPEALS LODGED WITH THE PLANNING INSPECTORATE

77 - 80

(copy attached).

129. INFORMATION ON INFORMAL HEARINGS/PUBLIC INQUIRIES

81 - 82

(copy attached).

130. INFORMATION ON PRE APPLICATION PRESENTATIONS AND REQUESTS

83 - 86

The Committee noted the position on information on pre-application presentations and requests as set out in the planning agenda.

131. TO AGREE THOSE APPLICATIONS TO BE THE SUBJECT OF SITE VISITS

132. TO CONSIDER AND DETERMINE PLANNING APPLICATIONS ON THE PLANS LIST

(copy circulated separately).

133. TO CONSIDER AND NOTE THE CONTENT OF THE REPORT DETAILING DECISIONS DETERMINED BY OFFICERS UNDER DELEGATED AUTHORITY

134. TO CONSIDER ANY FURTHER APPLICATIONS IT HAS BEEN DECIDED SHOULD BE THE SUBJECT OF SITE VISITS FOLLOWING CONSIDERATION AND DISCUSSION OF ITEMS ON THE PLANS LIST

Members are asked to note that plans for any planning application listed on the agenda are now available on the website at:

<http://www.brighton-hove.gov.uk/index.cfm?request=c1199915>

PLANNING COMMITTEE

The City Council actively welcomes members of the public and the press to attend its meetings and holds as many of its meetings as possible in public. Provision is also made on the agendas for public questions to committees and details of how questions can be raised can be found on the website and/or on agendas for the meetings.

The closing date for receipt of public questions and deputations for the next meeting is 12 noon on the fifth working day before the meeting.

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For further details and general enquiries about this meeting contact Jane Clarke, (01273 291064, email jane.clarke@brighton-hove.gov.uk) or email democratic.services@brighton-hove.gov.uk.

Date of Publication - Tuesday, 5 October 2010

BRIGHTON & HOVE CITY COUNCIL

PLANNING COMMITTEE

2.00pm 22 SEPTEMBER 2010

COUNCIL CHAMBER, HOVE TOWN HALL

MINUTES

Present: Councillors Hyde (Chairman), C Theobald (Deputy Chairman), Allen, Carden (Opposition Spokesperson), Alford, Cobb, Davey, McCaffery, Phillips, Simson, Smart and Steedman

Co-opted Members Philip Andrews ((Chairman) Conservation Advisory Group)

Officers in attendance: Paul Vidler (Deputy Development Control Manager), Nicola Hurley (Area Planning Manager (West)), Hamish Walke (Senior Team Planner (East)), Mick Anson (Major Projects Officer), Pete Tolson (Principal Transport Planning Officer) Hilary Woodward (Senior Lawyer) and Jane Clarke (Senior Democratic Services Officer)

PART ONE

100. PROCEDURAL BUSINESS

100a Declarations of Substitutes

100.1 Councillor Allen declared that he was substituting for Councillor Hamilton.

100.2 Councillor Phillips declared that she was substituting for Councillor Kennedy.

100b Declarations of Interests

100.3 Councillor Mrs Theobald declared a personal interest in application BH2010/01338, 5 Steine Street, Brighton in that she had sat as a Member on a Licensing Panel dealing with a licensing review of this premises. She did not feel this would prejudice her judgement of planning matters in any way and remained in the meeting and took part in the voting thereon.

100c Exclusion of the Press and Public

100.4 In accordance with Section 100A of the Local Government Act 1972 ("the Act"), the Planning Committee considered whether the public should be excluded from the meeting during consideration of any item of business on the grounds that it is likely in view of the business to be transacted or the nature of the proceedings, that if members

of the public were present during it, there would be disclosure to them of confidential information as defined in Section 100A (3) of the Act.

100.5 **RESOLVED** - That the public be not excluded from the meeting during consideration of any item appearing on the agenda.

101. MINUTES OF THE PREVIOUS MEETING

101.1 **RESOLVED** – That the Chairman be authorised to sign the minutes of the meeting held on 1 September 2010 as a correct record of the meeting.

102. CHAIRMAN'S COMMUNICATIONS

102.1 The Chairman noted that the Member's briefings that were organised by the Planning Department were not being well attended. Whilst these briefings were designed to provide Members with details about the proposals of up-coming schemes, they were expensive to run in terms of Officer's time and would have to be cancelled in the future if they were not well attended by Members.

103. PETITIONS

103.1 There were none.

104. PUBLIC QUESTIONS

104.1 There were none.

105. DEPUTATIONS

105.1 There were none.

106. WRITTEN QUESTIONS FROM COUNCILLORS

106.1 There were none.

107. LETTERS FROM COUNCILLORS

107.1 There were none.

108. NOTICES OF MOTION REFERRED FROM COUNCIL

108.1 There were none.

109. APPEAL DECISIONS

109.1 The Committee noted the content of the letters received from the Planning Inspectorate advising of the results of planning appeals which had been lodged as set out in the agenda.

110. LIST OF NEW APPEALS LODGED WITH THE PLANNING INSPECTORATE

110.1 The Committee noted the new appeals that had been lodged as set out in the planning agenda.

111. INFORMATION ON INFORMAL HEARINGS/PUBLIC INQUIRIES

111.1 The Committee noted the information regarding informal hearings and public inquiries as set out in the planning agenda.

112. INFORMATION ON PRE APPLICATION PRESENTATIONS AND REQUESTS

112.1 The Committee noted the information on pre-application presentations and requests.

113. LAND AT AND ADJACENT TO WEST PIER AND 62-73 KINGS ROAD ARCHES, KINGS ROAD, BRIGHTON

113.1 The Committee considered a report from the Director of Environment regarding the Land Adjacent to West Pier and 62-79 Kings Road Arches, Kings Road, Brighton.

113.2 Deputy Development Control Manager, Mr Vidler, introduced the report and stated that the i360 development had been given planning permission in 2006 with a Section 106 Agreement listing a number of financial contributions to be paid 180 days after commencement of work.

Although work had commenced, and a financial contribution for improvement works to lighting in the Regency Square subway had already been paid, work had now stopped again and the developers were seeking to re-phase the payments of the financial contributions until after resumption of work.

113.3 Councillor Davey asked whether work was taking place at this time, and if not when it would be likely to resume. Mr Vidler confirmed that work was not taking place currently, but he did not know when this may resume.

113.4 **RESOLVED** – That the proposed variation be agreed and the payment of financial contributions in respect of public transport, pedestrian and vehicular signage and a Traffic Regulation Order is re-phased until six months after the resumption of construction work on the site.

[Note: Councillors Simson and McCaffery were not present during the voting on this item.]

114. TO AGREE THOSE APPLICATIONS TO BE THE SUBJECT OF SITE VISITS

114.1 **RESOLVED** – That the following site visits be undertaken by the Committee prior to determination of the application:

Application:	Requested by:
BH2010/00391, 37-41 Withdean Road, Brighton	Committee
BH2010/02005, 30 Hove Park Road, Hove	Committee
BH2010/00584, 227 Preston Road, Brighton	Committee
BH2010/02010, 25-28 St James Street, Brighton	Deputy Development Control Manager

115. TO CONSIDER AND DETERMINE PLANNING APPLICATIONS ON THE PLANS LIST

(i) TREES

115.1 There were none.

(ii) SUBSTANTIAL OR CONTROVERSIAL APPLICATIONS OR APPLICATIONS DEPARTING FROM POLICY

A. Application BH2010/01976, The Community Stadium, Village Way – Proposed revisions to the North stand approved under planning application BH2008/02732 to include increased floor area for the club shop, new floor area for club offices, new museum, new floor area for storage and minor revisions to the North stand elevations.

(1) The Major Projects Officer, Mr Anson, introduced the application and demonstrated plans and elevational drawings. He stated that the revisions to the stadium had already been approved in 2009 and some changes to the floor space and layout were now being applied for. Minor improvements to the elevations were also included. The Economic Development Team supported the application as it would create 20 additional jobs at the site. Mr Anson referred to a correction in the report on the financial contribution to the public art element of the S106 Agreement, which should read £5,500.

Questions/Matters on Which Clarification was Sought

(2) Councillor Steedman asked about the sustainability energy centre that had been proposed with the original scheme, but was now being left out under these proposals. He noted that the centre had been the subject of much discussion at Committee when the original approval was granted and asked if the stadium would still be able to attain the same levels of sustainability without it. Mr Anson replied that the removal of the sustainability energy centre should not affect the levels of sustainability that the stadium could achieve. He added that the same standards that had been agreed with the original approval through the Section 106 Agreement would still apply.

- (3) A vote was taken and on a unanimous vote minded to grant planning permission was agreed subject to the variation of the s106 Agreement dated 21 April 2009 and the conditions and informatives listed in the report.

[Note: Councillor Simson was not present during the voting on this item.]

- 115.2 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in paragraph 10 of this report and resolves that it is minded to grant planning permission subject to a Deed of Variation to the Section 106 Agreement dated 21st April 2009 (Brighton Agreement 1) attached to BH2008/02732 and the conditions and informatives listed in the report.

- B. Application BH2010/01833, St Mary's Hall, Eastern Road, Brighton** – Change of use from class D1 education to class B1 office use with residential accommodation and retention of swimming pool and tennis courts.

- (1) The Major Projects Officer, Mr Anson, introduced the application and demonstrated plans and elevational drawings. He noted that the application was for a change of use and there were various buildings on site. The current boarding houses would become doctor's accommodation but there were no external alterations of the buildings proposed. Any internal alterations would be subject to the future granting of listed building consent.

The doctor's accommodation would be mainly single rooms with shared facilities, and the swimming pool would be retained. It was understood that the Brighton Swim School had expressed an interest in leasing the pool, but that the pool would be available to NHS staff at other times during the day. A community use agreement regarding the management of the pool formed a part of the Section 106 Agreement. There were parking spaces on site but these would be controlled by a strict parking permit scheme.

Questions/Matters on Which Clarification was Sought

- (2) Councillor Smart asked whether the access to the pool would be limited for members of the public. Mr Anson replied that access to the pool would be provided through a 3rd party such as the Brighton Swim School as the NHS Trust did not want completely open access on site for security reasons.
- (3) Councillor Smart asked about the parking permit system on site and asked whether the trainee doctors would be provided with a permit. Mr Anson replied that a strict parking permit scheme would be operated on site and it would be unlikely that junior doctors living on site would be provided with a permit. Mr Tolson added that the junior doctors were on a 6th month training contract and would be moving to a different area after this time. It was unlikely that they would own a car, or be granted a parking permit for parking on site. The residential streets in the area were also within a parking permit zone.

- (4) Councillor Mrs Theobald noted that the pool was currently in use and asked if this application would reduce the use of the pool for the community. She also asked if disabled accesses on site would be improved. Mr Anson replied that usage would not be reduced and the pool would in fact be opened during the day for staff use as well as community swim schools in the evening. Any construction would need to be DDA compliant to comply with the law.
- (5) Councillor Davey asked about the proposals for cycle parking and Mr Anson replied that the details of location and design were still to be agreed.
- (6) Councillor Davey asked if there was a pedestrian access through to the primary school and Mr Anson replied that there would be no other pedestrian access added.

Debate and Decision Making Process

- (7) Councillor Steedman felt that it was a loss that the Local Education Authority was not interested in retaining the site given the problems in the city about where schools are located. However he noted that this building had been empty for many years and felt that these proposals were commendable and would bring the building back into a valuable use.
- (8) Councillor Mrs Theobald agreed and felt this was a good use for the site. She was concerned about the level of parking and felt it might create problems for parking in the area.
- (9) Councillor Carden felt the proposals were suitable and gave the hospital a chance to move forward with their own plans.
- (10) A vote was taken and on a unanimous vote minded to grant planning permission was granted subject to a Section 106 Agreement being entered into and the conditions and informatives listed in the report.

115.3 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in paragraph 8 of this report and resolves that it is minded to grant planning permission subject to a Section 106 agreement being entered into and the conditions and informatives listed in the report.

[Note: The Chairman noted the names of the current boarding houses and suggested that they be retained for their historical importance.]

C. Application BH2010/01966, Mitre House, 149 Western Road, Hove – Change of use of North block and addition of fourth storey contained within a mansard roof to form hotel (C1) with associated works.

- (1) This application was deferred from this agenda.

D. Application BH2010/00584, 227 Preston Road, Brighton – Change of use of car showroom/workshop (SG04) to 2 no. retail units (A1) incorporating installation of external condenser unit, air conditioning units and an ATM Cash Machine.

(1) This application was deferred for a site visit to take place.

E. BH2010/02247, 189 Dyke Road, Hove – Installation of railings to front and side of property.

(1) Ms Hurley introduced the application and demonstrated plans and elevational drawings. She noted that the surrounding area was characterised by low boundary treatments. The application was recommended for refusal as the proposed boundary treatment would be excessively high and in a prominent position, creating an overly dominant effect and enclosing the property.

Questions/Matters on Which Clarification was Sought

(2) The Chairman asked if there were any security issues on site that the applicant needed to consider and Ms Hurley replied that the site was used by a clinical pathologist.

(3) Councillor Mrs Theobald asked if there were any other sites in the area was similar boundary treatment and Ms Hurley replied there weren't any in the immediate vicinity. She added that the applicants had been advised that a lower boundary treatment would be more acceptable in this area.

(4) Councillor Alford asked what the distance was between the house and the nearest part of the railings and Ms Hurley replied that it was around 1 metre.

(5) Councillor Simson asked why a previous application had been withdrawn and Mr Walke replied that the applicants had been advised that it might be more acceptable to have a low boundary treatment on the frontage, where it was more prominent, but a higher treatment along the sides of the property, which were perhaps more of a security risk. The applicants had withdrawn to consider this but came forward with the current proposals instead.

(6) Councillor Simson asked if there was a boundary treatment next door and Ms Hurley replied that there was.

(7) Councillor Alford asked for further details on the design of the railings.

Debate and Decision Making Process

(8) Councillor Mrs Theobald felt the design was attractive, but believed the treatment was too high for the frontage of the property. She felt that 5'6 inches would be a more appropriate height.

(9) A vote was taken and on a vote of 6 for, 4 against and 2 abstentions planning permission was refused for the reasons given in the report.

115.4 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation and resolves to refuse planning permission for the reasons given in the report.

F. Application BH2010/01714, 16 Chartfield, Hove – Two storey front extension.

(1) The Area Planning Manager (West), Ms Hurley, introduced the application and demonstrated plans and elevational drawings. Applications had been refused on this site in 2009 and four objections had been received. Ms Hurley referred to an error in the report which stated that number 16 Chartfield had also objected to the application, which was not the case. The application was recommended for refusal on the grounds of impact on amenity, that it was out of keeping with the character of the other properties in the area and that its bulk, massing and scale were visually intrusive and inappropriate.

(2) The applicant, Ms Stewart, addressed the Committee and stated that the house had been adequate for her family's needs when it was first built, but now the family needed more room and in particular a home study and an extra bedroom. The property had a small garden, but this was not adequate to build an extension on and so the solution to build over the garage had been explored. There would be only a small increase in footprint and the property was not in a conservation area. The extension was designed to fit in with the existing street scene and would increase the sustainability of the home in terms of lifetime homes targets.

The agent, Mr Turner, addressed the Committee and stated that there would be no adverse impact on neighbouring properties as a result of the application. There were seven different house types in the immediate area and so it was incorrect to say that the extension would negatively affect the street scene, and materials would be chosen carefully to match and blend in with existing structures. The extension would improve what was a bland and uninteresting elevation and the proposals had been scaled back to ensure they were not over-dominant.

Questions/Matters on Which Clarification was Sought

(3) Councillor Mrs Theobald asked if there were similar forms of extensions in the surrounding area and Ms Hurley replied there were not.

(4) Councillor Alford asked if the overall footprint of the property would remain the same and Ms Hurley replied that it would be increased on the side of the garage by approximately 1.4 metres. The bulk of the extension would be over the garage.

Debate and Decision Making Process

(5) Councillor Mrs Theobald requested a site visit to assess the proposals and to see what other types of construction were already in existence in the area. A vote was taken and on a vote of 3 for, 5 against and 4 abstentions, the request to undertake a site visit fell.

- (6) Councillor McCaffery sympathised with the officer's view of the application but did not agree that the extension would detract from the street scene as the building was fairly well set back from the road.
- (7) Councillor Simson agreed and felt there was a mix of different styles in this area and the extension would not have a detrimental impact.
- (8) A vote was taken and on a vote of 2 for, 4 against and 6 abstentions, the Committee did not agree with the reasons for the recommendation to refuse planning permission.
- (9) Councillor McCaffery proposed an alternative recommendation to agree planning permission and was seconded by Councillor Simson. A second recorded vote was taken on a vote of 4 for, 2 against and 6 abstentions planning permission was granted.

115.5 **RESOLVED** - That the Committee has taken into consideration and does not agree with the reasons for the recommendation, and resolves to grant planning permission subject to the following conditions:

- 1. That the planning permission must be implemented within 3 years of the date of the granting of the permission.
- 2. That materials which match existing external materials must be used.
- 3. That obscured glazing will be used if such a condition is deemed necessary by the Deputy Development Control Manager.
- 4. That the development will be carried out in accordance with approved drawings.

[Note: Councillors Carden, Allen, McCaffery and Simson voted to grant the application. Councillors Smart and Mrs Theobald voted against granting the application. Councillors Hyde, Alford, Cobb, Davey, Phillips and Steedman abstained from voting.]

G. Application BH2010/02005, 30 Hove Park Road, Hove – Installation of part pitched and part flat roof to rear extension with ridge skylights, rooflight to rear elevation and alterations to patio doors and windows. Installation of raised deck.

- (1) This application was deferred for a site visit to take place.

H. Application BH2010/01610, 25 Hazeldene Meads, Hove – Roof extension to south end over existing garage, 2 front dormers, extended front porch and installation of 7 solar panels.

- (1) Ms Hurley introduced the application and demonstrated plans and elevational drawings. She noted that planning permission had been refused in 2010 for a gable extension on the grounds of excessive size and the solar panels being incongruous. An appeal was lodged with the Planning Inspectorate and dismissed, but the appeal letter referred to three dormers rather than two, which was part of the proposals. Officers were in communication with the Planning Inspectorate to resolve this issue. A certificate of lawfulness had been issued regarding a rear dormer extension that had been built under permitted development rights.

The new proposals now included a reduced number of solar panels. Objections had been received on the grounds of impact on appearance, amenity and character of the area. An extension to the side garage was sought, but it was the Officer's view that this would have no impact on amenity for neighbours. The solar panels could be fitted under permitted development rights if they were laid flat, however they would need planning permission if the projection off the roof was increased. The dormers at the front were modestly sized and in line with planning guidance.

Questions/Matters on Which Clarification was Sought

- (2) Councillor Simson asked what guidance the Inspector had given in their decision regarding the solar panels. Ms Hurley replied that nine panels would appear cluttered and would have extended beyond the ridge line of the roof and the Inspector felt that this was not proportionate.
- (3) Councillor Simson noted that the roof area had been reduced and so there were less panels, and asked if the remaining panels were spaced the same distance apart as the previous application. Ms Hurley replied that they were.
- (4) Councillor Hyde asked if the Inspector had indicated that the front dormer proposals would not reflect the style and character of the property, and Ms Hurley replied that she believed the issue was that three dormers would change the look of the bungalow. A reduction to two would be more appropriate and would be in accordance with guidance.
- (5) The Chairman asked if there were other properties with dormers in the area and Ms Hurley replied that there were, but not in the same road.
- (6) Councillor Mrs Theobald asked about the windows at the back of the property and Ms Hurley advised that these were installed under permitted development rights and so were not an issue to be taken into consideration.

Debate and Decision Making Process

- (7) Councillor Simson felt that the front dormers did not compare well with other properties in the area. She noted that the proposed solar panels would still extend above the roofline of the property and were still spaces the same distance apart, although there would be less of them.
- (8) Councillor Steedman felt that the visual aspects of the solar panels was a compromise that was acceptable and necessary given the issues around climate change. He therefore felt that the application was appropriate.
- (9) Councillor Alford felt that there were issues surrounding this application in terms of the incorrect decision from the Planning Inspectorate. He felt that this report needed to be clarified before this application was determined.

- (10) The Chairman noted the Inspectors views on the aesthetics of the application. Mr Vidler stated that when the original application had been refused the solar panels and front dormers had not been a reason for refusal, but they were issues raised separately by the Planning Inspectorate in their decision.
- (11) Councillor McCaffery also felt that a deferment was necessary to enable the Planning Inspectorate to clarify its decision.
- (12) Mr Vidler stated that the department was currently seeking further clarification on the error in the Inspectors decision, but essentially this application was based on only two dormers rather than three, which was a preferable reduction.
- (13) The Chairman felt it was necessary to defer the application to enable Officers to seek clarification on the Inspectors decision, and to assess whether that decision would have been any different if it had been based on two dormer windows rather than three.
- (14) The Committee agreed to a deferment on the terms above.

I. Application BH2010/01863, 37 Preston Drove, Hove – Change of use and conversion of existing out building with new single storey extension, to form additional nursery accommodation with an increase to 75 children.

- (1) Ms Hurley introduced the application and demonstrated plans and elevational drawings. She stated that the application was for a change of use and conversion to allow the nursery to expand by 15 extra children. Factors to consider were the impact of increased capacity at the nursery and the impact of the alterations on the building and the surrounding area. There had not been any history of noise complaints associated with the premises and the Early Years Team did not object to the proposals. It was expected that vehicle movements would increase by 45 over the course of the day but this would not harm the local road network. There were parking problems noted during the peak times of drop off and pick up and a condition for an updated travel plan to monitor this was suggested.

The application was not considered to be detrimental to the amenity of neighbours and would not cause significant harm. There would be no loss of light as a result of the application.

Questions/Matters on Which Clarification was Sought

- (2) Councillor Mrs Theobald asked what were the consequences should the travel plan, once produced, not meet with Officer expectations. Ms Hurley explained that the absence of a travel plan was not a valid reason for refusal of the application and Officers were able to ask for more details on the travel plan at a later date.
- (3) Councillor Smart asked if there were double yellow lines outside the nursery to prevent parking and waiting unnecessarily. Ms Hurley noted that there were concerns over instance of double parking, but it was the responsibility of drivers to park safely and considerately and not the responsibility of the Planning Department.

- (4) Councillor Smart asked if there was any living accommodation currently in the house and Ms Hurley believed there was a small studio apartment, but did not think this was currently being used.
- (5) Councillor McCaffery stated that she knew the site well and asked if there was enough room for the storage that would be moved out of the building that formed part of the application, and whether the nursery was able to cope with the increase in numbers. Ms Hurley replied that the storage would be moved to where cycles were currently stored and the nursery would have enough room to accommodate the increase.

Debate and Decision Making Process

- (6) Councillor McCaffery was surprised at the lack of a travel plan with the application and noted that issues around staffing levels had not be addressed. She felt the application would certainly have an effect on the traffic in the area and was unsure that the traffic assessment was accurate. The Principle Transport Planning Officer Mr Tolson, stated that the authority could request reasonable efforts to be made to stagger arrival times and for an improved travel plan. He noted that the current plan was not particularly effective and he would ensure that a better plan was created with the new application.
- (7) A vote was taken and on a vote of 10 for, 1 against and 1 abstention planning permission was granted subject to the conditions and informatives in the report.

115.7 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in paragraph 8 of the report and resolves to grant planning permission for the reasons and informatives listed in the report.

J. Application BH2010/00391, 37 - 41 Withdean Road, Hove – Demolition of three existing detached houses and construction of 3 new detached houses.

- (1) This application was deferred for a site visit to take place.

K. Application BH2010/01338, 5 Steine Street, Brighton – alterations to frontage (retrospective).

- (1) The Senior Team Planner (East), Mr Walke, introduced the application and demonstrated plans and elevational drawings. He noted that the area was a mixed use area and an application had been refused on site in 2008 on the grounds of visual appearance and noise. The current application would not change the use of the premises and would only relate to external building changes. The Environmental Health Team had been heavily involved in the application in terms of monitoring noise but they now felt that these were appropriately managed via the use of a noise limiter and so had not raised an objection to the application. Matters to consider therefore were the visual impact of the proposals and neighbouring amenity. It was felt that the proposals would significantly enhance the look of the building and the insulated glazing would help to contain noise breakout.

- (2) Mr Hainsworth addressed the Committee to object to the application and stated that he had registered extensive complaints about the noisy and intrusive operations of the club and had been in detailed correspondence with the local authority regarding noise nuisance. As recently as last weekend the Noise Patrol had witnessed gradually increasing levels of noise from the club which was unduly disturbing residents, and Mr Hainsworth felt that the owners of the premises had not complied fully with conditions imposed on them by the Licensing Committee. He asked that if the Committee were minded to grant the application, would they consider imposing three additional conditions: that the acoustic glass is upgraded to 84 decibels, to match the levels permitted by the sound limiter; that the film screening on the ground floor windows is maintained to protect residential amenity and privacy for residents of Dolphin Mews; and that the acoustic lobby, which was a condition imposed by the Licensing Committee, is created.

Questions/Matters on Which Clarification was Sought

- (3) Councillor Smart asked if the premises would remain a club and whether the ground floor was glazed. Mr Walke agreed that it would remain a club and that although the ground floor was glazed and there were fears of overlooking on residents of Dolphin Mews, this would create no more overlooking than passersby on the street, and was therefore deemed acceptable.
- (4) Councillor Mrs Theobald asked if there was a lobby into the building and Mr Walke replied that there was. He added that the Environmental Health Team had not raised noise issues as a concern for this application.

Debate and Decision Making Process

- (5) Councillor Steedman noted that the concerns of the residents were persistent and ongoing regarding this premises, and he felt that if the proposed conditions from Mr Hainsworth would assist in their entitlement to a peaceful life he would like the Committee to adopt them.
- (6) Councillor Allen agreed and felt there was little worse than noise intrusion. He felt that if these conditions were a way to remedy the problem then they should be adopted.
- (7) Councillor Smart agreed and felt the film screening was particularly important as the street was very narrow and the buildings close to each other.
- (8) Councillor Simson agreed and felt that the glass should be obscured to protect privacy.
- (9) Mr Vidler felt it would be difficult to impose conditions that related to the use of the property. He felt the suggested conditions would be difficult to control and noted that internal works to the lobby would not need planning permission. The level of the acoustic glass was a licensing issue and the Environmental Health Team had indicated that they were happy with the proposals. There was recourse to other powers should the premises become a statutory noise nuisance.

- (10) The Chairman proposed deferral of the application until further information from the Environmental Health Team regarding the suitability of the proposed condition regarding the acoustic glass could be gathered, and this was agreed.

L. Application BH2009/00161, 28-30 Newlands Road, Rottingdean – Erection of a three storey detached building to provide a 12 bedroom nursing home to form part of an existing home at 30-32 Newlands Road.

- (1) Mr Walke, introduced the application and demonstrated plans and elevational drawings. He stated that the current bungalow would be demolished to create a three storey detached nursing home that would be managed in conjunction with the adjacent home. Two parking spaces were proposed and the site had been the subject of an appeal in 2008, which was dismissed on the grounds of harming the character and appearance of the area, and the negative impact on the amenity of neighbours.

The new proposal had reduced the number of beds to 12 with a good level of amenity space provided for residents. Bay windows would offer vital outlooks and southern views would be restricted by solid walls to prevent overlooking of neighbours. The design of the building had also been revised to be more in keeping with the street scene. The scheme would meet a very good BREEAM rating.

Questions/Matters on Which Clarification was Sought

- (2) The Chairman asked what changes had been made to the design to make it less bulky and to improve the street scene, and also what materials would be used for the roof. Mr Walke replied that the scheme would have a reduced footprint and was set back from the road. A change in emphasis on the front elevation made the design less vertical in nature. He added that the proposed material for the roof was grey slate. The Chairman felt that a tile roof would be more appropriate and asked if this could form part of the conditions.
- (3) Councillor Simson asked if there was any overlooking from the proposals to the properties behind the building. Mr Walke stated that there would be around a 50 metre separation distance and did not believe this would give rise to overlooking.
- (4) Councillor Alford asked about the proposed footprint to the current one and Mr Walke stated that they were fairly similar in size, and the proposed was less vertical in nature and more set back than the proposals that had been dismissed on appeal.
- (5) Councillor Mrs Theobald agreed with the Chairman and felt that the proposed materials on the dismissed application were more appropriate to the application.
- (6) The Chairman asked that a red tile roof be used for the materials of the application.

Debate and Decision Making Process

- (6) A vote was taken and on a vote of 10 for, 1 against and 1 abstention minded to grant planning permission was granted subject to a S106 Agreement and the conditions and informatives listed in the report.

115.9 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in paragraph 8 of the report and resolves that it is minded to grant planning permission subject to the applicant entering into a Section 106 Agreement and to the conditions and informatives listed in the report, and an amended external materials condition to include the use of red tiles for the roof.

M. Application BH2010/02422, 39 Roedean Road, Rottingdean – Demolition of existing four storey four bed single dwelling house and erection of 1 no 3 bedroom, 4 no 2 bedroom and 2 no 1 bedroom flats with associated car parking and cycle spaces.

(1) Mr Walke, introduced the application and demonstrated plans and elevational drawings. He stated that the application site was currently occupied by a two storey dwelling with a blank and unattractive frontage and overly dominant views of the area, which was generally characterised by more traditional dwellings. The site had been the subject of three recent refusals.

Ten car parking spaces were proposed with the new application and a communal garden on the south side of the site. All the flats would have either a balcony or a patio as private amenity space and the design was much more traditional and had been significantly improved from the original applications. The flats would meet lifetime homes standards and overlooking would not be an issue due to the number of balconies already in existence in the area.

Questions/Matters on Which Clarification was Sought

- (2) Councillor Simson asked if the application was set further back than what was currently on site. Mr Walke replied that it would be around the same footprint.
- (3) Councillor Mrs Theobald asked why the application was better now than the three previous refusals. Mr Walke explained that the previous applications had gone to appeal and been dismissed, but only on the grounds of inappropriate design. As the design with the new application was so much better it was now felt that the application was acceptable.

Debate and Decision Making Process

- (4) Councillor Mrs Theobald did not like the design and felt it represented an overdevelopment of the site. She felt there would be a loss of housing and the application was not in keeping with the area and so could not support the application.
- (5) Councillor Smart disagreed and felt the application was a vast improvement on what was currently there. He felt able to support the application.
- (6) A vote was taken and on a vote of 8 for, 3 against and 2 abstentions minded to grant planning permission was granted subject to a S106 Agreement and the conditions and informatives listed in the report.

115.10 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in paragraph 8 of the report and resolves that it is minded to grant planning permission subject to the applicant entering into a Section 106 Agreement and to the conditions and informatives listed in the report.

N. Application BH2010/01264, The Outlook, 2 Roedean Path, Rottingdean –
Conversion and extension of existing garage to form habitable accommodation.

(1) Mr Walke introduced the application to the committee but did not give a presentation on the constituent elements of the scheme.

Questions/Matters on Which Clarification was Sought

(2) Councillor Cobb asked if the application would remain as ancillary to the main building and Mr Walke replied that it was a recommended condition that this was so.

(3) Councillor Mrs Theobald asked if this would prevent the application dwelling being used as holiday lets and Mr Vidler replied that a proposed condition would prevent the dwelling being used as a separate accommodation, but would not stop it being used as a holiday let.

Debate and Decision Making Process

(4) A vote was taken and on a unanimous vote full planning permission was granted subject to the conditions and informatives listed in the report.

115.11 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in paragraph 8 of the report and resolves to grant planning permission subject to the conditions and informatives listed in the report.

116. TO CONSIDER AND NOTE THE CONTENT OF THE REPORT DETAILING DECISIONS DETERMINED BY OFFICERS UNDER DELEGATED AUTHORITY

116.1 **RESOLVED** – That those details of applications determined by the Director of Environment under delegated powers be noted.

[Note 1: All decisions recorded in this list are subject to certain conditions and reasons recorded in the planning register maintained by the Director of Environment. The register complies with legislative requirements.]

[Note 2: A list of representations received by the Council after the Plans List reports had been submitted for printing was circulated by Members on the Friday preceding the meeting. Where representations are received after that time they should be reported to the Chairman and Deputy Chairman and it would be at their discretion whether they should in exceptional circumstances be reported to the Committee. This is in accordance with Resolution 147.2 of the then Sub Committee on 23 February 2006.]

117. TO CONSIDER ANY FURTHER APPLICATIONS IT HAS BEEN DECIDED SHOULD BE THE SUBJECT OF SITE VISITS FOLLOWING CONSIDERATION AND DISCUSSION OF ITEMS ON THE PLANS LIST

117.1 RESOLVED – That the following site visits be undertaken by the Committee prior to determination of the application:

Application:	Requested by:
BH2010/00391, 37-41 Withdean Road, Brighton	Committee
BH2010/02005, 30 Hove Park Road, Hove	Committee
BH2010/00584, 227 Preston Road, Brighton	Committee
BH2010/02012, 25-28 St James Street, Brighton	Deputy Development Control Manager

The meeting concluded at 5.25pm

Signed

Chair

Dated this

day of

APPEAL DECISIONS**Page****A. WITHDEAN****Application BH2010/00396, 11 Surrenden Crescent, Brighton.**

Appeal against refusal to grant planning permission for extension and remodelling of existing house. **APPEAL DISMISSED (delegated).**

B. WESTDENE

Application BH2010/01344, 45 Hillcrest, Brighton. Appeal against refusal to grant planning permission for the erection of a single storey rear extension and dormer window to the front. **APPEAL ALLOWED (delegated).**

C. BRUNSWICK & ADELAIDE

Application BH2009/01258, 7 Adelaide Crescent, Hove. Appeal against refusal to grant planning permission for erection of balcony on rear wall of property overlooking Holland Road. **APPEAL DISMISSED (delegated).**

D. HANOVER & ELM GROVE

Application BH2009/01499, 148 Lewes Road, Brighton. Appeal against refusal to grant planning permission for demolition of existing buildings and erection of 2 new dwellings with gardens and parking areas. **APPEAL ALLOWED (delegated).**

C. REGENCY

Application BH2010/00839, French Protestant Church of Brighton, Queensbury Mews, Brighton. Appeal against refusal to grant planning permission for a two storey extension and roof terrace. **APPEAL DISMISSED (delegated).**

D. WITHDEAN

Application BH2009/03004, 14 Bankside, Brighton. Appeal against refusal to grant planning permission for the erection of new 3no storey two bedroom dwellings incorporating solar panels. **APPEAL ALLOWED (delegated).**

E. GOLDSMID

Application BH2010/00665, 1 Furzedene, Furzedene Hill, Hove. Appeal against refusal to grant planning permission for a single storey extension. **APPEAL ALLOWED (delegated).**

F. ST PETERS & NORTH LAINE

Application BH2008/0099, 114 Hythe Road, Brighton. Appeal against an enforcement notice issued. **APPEAL DISMISSED (delegated).**

G. GOLDSMID

Application BH2009/01784, Janeston Court, 1-3 Wilbury Crescent, Hove. Appeal against refusal to grant planning permission for partial roof extension to provide 4 x two bedroom flats together with roof gardens, a new passenger lift structure and secure cycle storage building. **APPEAL DISMISSED (delegated).**

H. WESTBOURNE

Application BH2009/02151, 24a Westbourne Place, Hove. Appeal against refusal to allow planning permission for conversion of redundant and derelict outbuilding to a two bedroom cottage. **APPEAL DISMISSED (delegated).**

I. HANGLETON & KNOLL

Application BH2010/01328, 29 Honey Croft, Hove. Appeal against refusal to grant planning permission for front dormers. **APPEAL ALLOWED (delegated).**

J. ST PETERS & NORTH LAINE

Application BH2009/00979, 2a Basement Flat, Wykeham Terrace, Brighton. Appeal against refusal to grant planning permission for erection of 1 No galvanised back to wall ladder and 2 No sections of railing to the top of the ladder; these are connected to the party wall of No 1 Wykeham Terrace for fire escape access. **APPEAL ALLOWED (delegated).**

K. WITHDEAN

Application BH2010/00242, 25 Hazeldene Meads, Brighton. Appeal against refusal to allow planning permission for a roof extension to south end, 2 front dormer windows and extended porch structure, including 9 No PV solar panels on rear roof structure. **APPEAL DISMISSED (delegated).**

L. MOULSCOMBE & BEVENDEAN

Application BH2009/02624, 25 Lower Bevendean Avenue, Brighton. Appeal against refusal to allow planning permission for a new build dwelling on the side of existing property 25 Lower Bevendean Avenue. **APPEAL DISMISSED (delegated).**

M. WESTBOURNE

Application BH2009/02812, 130 Cowper Street, Hove. Appeal against refusal to allow planning permission for a rear extension at first floor to provide additional office space. **APPEAL DISMISSED (delegated).**



Appeal Decision

Site visit made on 31 August 2010

**by M A Champion BSc CEng FICE
FIStructE FCIHT FHKIE**

**an Inspector appointed by the Secretary of State
for Communities and Local Government**

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**Decision date:
20 September 2010**

Appeal Ref: APP/Q1445/A/10/2123109

Janeston Court, 1-3 Wilbury Crescent, Hove, BN3 6FT.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Anstone Estates Ltd against the decision of Brighton & Hove City Council.
- The application ref: BH2009/01784, dated 20 July 2009, was refused by notice dated 17 September 2009.
- The development proposed is: partial roof extension to provide 4 x two bedroom flats together with roof gardens, a new passenger lift structure and secure cycle storage building.

Decision

1. I dismiss the appeal.

Preliminary matters

2. With the appeal the appellant has submitted a revised floor plan drawing (No 3044/12/B). As this makes amendments to the internal layout to ensure compliance with Lifetime Homes standards and does not affect the external appearance of the proposed development I do not consider that any party would be prejudiced by its adoption. I shall therefore consider this drawing as part of the appeal in lieu of Drawing No 3044/20 and the floor plan shown on Drawing No 3044/23.

Main issues

3. The main issues are:
 - (i) the effect of the proposed development on the character and appearance of the street scene, the skyline and the surrounding area;
 - (ii) the effect of the proposed development on the living conditions of neighbouring and existing residents with particular regard to visual impact, daylight and sunlight;
 - (iii) whether the proposed development would be in accordance with Lifetime Homes standards.

Reasons

4. Policies QD1, QD2, QD3, QD4, QD14, QD27 and HO13 of the Brighton & Hove Local Plan 2005 deal with matters of design, extensions and alterations, protection of amenity and lifetime homes.

5. The appeal site lies in a residential area on the corner of Wilbury Crescent and Wilbury Villas. It comprises a purpose built five-storey block of flats and is surrounded by a mix of dwellings, being predominantly houses but with a small number of blocks of flats to the west. It is bounded on two sides by roads and to the south by a railway.
6. The proposal would construct an additional storey on the central part of the existing building, to be divided into four flats, with balcony access along the rear as on the existing floors. The remainder of the roof would form private gardens for these flats. A lift shaft would also be constructed at the rear of the building providing disabled access from the car-park (basement) level to the first, second, third and proposed fourth floors. The existing six garages would be reduced to four to facilitate the provision of improved cycle and refuse storage and to ensure continued vehicular access.

Effect on character and appearance

7. The proposal would add height to a building that is already taller than those around it. While the additional storey would reflect the existing design and would not occupy the full width of the building, it would add bulk at a high level, thus increasing the visual impact of the building. Having regard to the prominent corner location and the open aspect to the south afforded by the railway and the falling ground levels I consider that the height, scale, bulk and design of the proposal would result in a massive structure that would have a poor relationship with the nearby houses and dominate the street scene. It would rise significantly above the neighbouring buildings and would be at odds with the prevailing character of the area. In longer views it would be highly visible on the skyline to the detriment of the wider townscape.
8. I conclude on this issue, therefore, that the proposed development would adversely affect the character and appearance of the street scene, the skyline and the surrounding area, contrary to Policies QD1, QD2, QD3, QD4 and QD14.

Effect on living conditions

9. The appellant has submitted a daylight assessment which the Council accepts indicates that there would be no significant loss of daylight or sunlight to No 5 Wilbury Crescent. However, in view of the height, mass and proximity of the proposed lift shaft, as well as the additional storey, I consider that the proposed development would have an overbearing visual impact on this property.
10. Furthermore the projection of the lift shaft would lie close to the windows of the existing basement flats Nos 29 and 30, and would intersect the 45 degree lines drawn from the centres of the nearest windows resulting in loss of daylight and outlook. While it appears that the nearest windows in these units are to kitchens, the supporting text to Policy QD14 considers kitchens and habitable rooms equally in this respect. Indeed such rooms are often occupied for significant periods of time and for tasks requiring good lighting. I consider therefore that the loss of daylight, as well as the visual enclosure, is likely to have an adverse impact on the residents.
11. I conclude on this issue, therefore, that the proposed development would adversely affect the living conditions of the residents of 5 Wilbury Crescent by

way of visual impact; and of Flats 29 and 30 Janeston Court by way of visual impact and loss of daylight, contrary to Policies QD14 and QD27.

Lifetime Homes

12. The appellant contends, and the Council does not dispute, that the revised drawing provides internal accommodation in accordance with Lifetime Homes standards to overcome the objection in this respect. However, although the proposed development would not provide parking spaces that could be enlarged to 3.3 metres width, this standard usually only applies to houses and bungalows, while garages are exempt. In my opinion therefore the proposed development including the revised drawing would provide accommodation to Lifetime Homes standards and would therefore comply with Policy HO13.

Conclusion

13. Notwithstanding my conclusion on the third main issue I do not consider this sufficient to overcome the significant objections in respect of the first two main issues.

M A Champion

INSPECTOR



Appeal Decision

Site visit made on 6 September 2010.

by **B C Scott BA(Hons) Urban & Regional Planning MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

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Decision date:
9 September 2010

Appeal Ref: APP/Q1445/D/10/2132843

1 Furzedene, Furze Hill, Hove, East Sussex, BN3 1PP.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Ms Debbie Shannahan against the decision of Brighton & Hove City Council.
- The application Ref: BH2010/00665, dated 3 March 2010, was refused by notice dated 28 April 2010.
- The development proposed is a single storey rear extension.

Preliminary Matters

1. The appeal application follows a previously refused scheme of greater depth (BH2009/01780).
2. The window detail of the adjoining dwelling shown on drawing no. PP01/02A is incorrect. I noted the actual relationship during my site visit and I am satisfied that this is not a determinative matter; the error being inconsequential.

Decision

3. I allow the appeal, and grant planning permission for a single storey rear extension at 1 Furzedene, Furze Hill, Hove, East Sussex, BN3 1PP, in accordance with the terms of the application Ref: BH2010/00665, dated 3 March 2010, subject to the following conditions:
 - 1) The development hereby permitted shall be begun before the expiration of three years from the date of this decision.
 - 2) The external finishes of the development hereby permitted shall match in material, colour, style, bonding and texture those of the existing building.
 - 3) The development hereby permitted shall be carried out in accordance with the following approved plans: PP01/01; PP01/02A.

Main Issue

4. I consider the main issue in this case to be the effect of the proposed development on the living conditions of the adjoining occupiers, with particular reference to outlook.

Reasons

5. The appeal dwelling is an end three-storey town house, staggered forward and set lower than its adjoining neighbour. The rear shared boundary is short. The

- proposed development would occupy a major part of that boundary at a height prominently above that of the existing fence. The thrust of saved policies QD14 and QD27 of the Brighton & Hove Local Plan 2005 is to protect residential amenity, including such things as the outlook of affected occupiers.
6. To my mind, the most telling features in this case pertain to the adjoining house, being the shape of its rear garden and the availability of first floor daytime living accommodation.
 7. The adjoining rear garden is shaped as a trapezium, which means that at positions progressively farther away from the shared boundary there is significantly greater depth and increasing size. Whereas the proposed development would occupy a major part of the shared boundary, it would not be excessive in relation to the increasing extent of the adjoining garden and would have limited impact overall. The Appellant's photographs clearly illustrate that.
 8. I examined the adjoining garden from both the Appellant's first floor lounge and study. I formed the opinion that the outlook of the adjoining occupiers is chiefly rearwards, over a park. Although it would be prominently above the fence of the shared boundary, the proposed development would have a flat roof. Given its limited impact overall (above), the proposed development would not significantly interfere with the adjoining occupier's use and enjoyment of their garden through an overbearing effect.
 9. The adjoining ground floor rooms comprise a kitchen and dining room, with the kitchen being closest to the shared boundary. As most of the daytime living accommodation is situated away from the shared boundary (at a distance or above it), I consider that no unacceptable loss of outlook would result from the proposed development along part of it.
 10. I note the other example of rearward extension to which my attention is drawn, but find no reason to consider the appeal before me other than upon its individual planning merits.
 11. I have considered all other matters raised, but none alters my conclusion on the main issue that the proposed development would not unacceptably affect the living conditions of the adjoining occupiers, in accordance with policies QD14 and QD27 of the Development Plan.

Conditions

12. In addition to the standard condition concerning time limit, the Council suggests I impose a condition concerning matching materials. Given that the appeal dwelling is part of a terrace that backs onto a public park, I consider it particularly relevant and necessary to impose such a condition in order to prevent a discordant result. I impose also a standard condition listing the plans/drawings to which my decision refers, for the avoidance of doubt.

B C Scott
INSPECTOR



Appeal Decision

Site visit made on 24 August 2010

by **Roger Mather MA Dip Arch RIBA FRTPi**

an Inspector appointed by the Secretary of State
for Communities and Local Government

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Decision date:
15 September 2010

Appeal A-Ref: APP/Q1445/A/10/2121011

2A Basement Flat, Wykeham Terrace, Brighton BN1 3FF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is brought by Miss Pamela Webb against the decision of Brighton & Hove City Council.
- The application (Ref: BH2009/00979) dated 15 May 2009, was refused by notice dated 21 July 2009.
- The development proposed is erection of 1 No galvanised back to wall ladder and 2 No sections of railing to the top of the ladder; these are connected to the party wall of No 1 Wykeham Terrace for fire escape access.

Appeal B-Ref: APP/Q1445/E/10/2121013

2A Basement Flat, Wykeham Terrace, Brighton BN1 3FF

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990, as amended by the Planning and Compensation Act 1991, against a refusal to grant listed building consent.
- The appeal is brought by Miss Pamela Webb against the decision of Brighton & Hove City Council.
- The application (Ref: BH2009/00980) dated 15 May 2009, was refused by notice dated 21 July 2009.
- The works proposed are erection of 1 No galvanised back to wall ladder and 2 No sections of railing to the top of the ladder; these are connected to the party wall of No 1 Wykeham Terrace for fire escape access.

Application for Costs

1. An application for costs is made by Miss Pamela Webb against Brighton and Hove City Council. This application is the subject of a separate Decision.

Decisions

Appeal A-Ref: APP/Q1445/A/10/2121011

2. I allow the appeal and grant planning permission for the installation of a galvanised back to wall ladder and railing at 2A Basement Flat, Wykeham Terrace, Brighton BN1 3FF in accordance with the terms of the application (Ref: BH2009/00979) dated 15 May 2009, and the plans submitted with it, subject to the following condition:
 1. The galvanised wall ladder and associated fittings hereby permitted shall be removed within one month of the date of failure to submit within one month of date of this decision a painting scheme for the written approval of the local planning authority and the scheme shall include a timetable for its

implementation; the approved scheme shall be carried out in accordance with the approved timetable and thereafter retained in that colour.

Appeal B-Ref: APP/Q1445/E/10/2121013

3. I allow the appeal and grant listed building consent for installation of a galvanised back to wall ladder and railing at 2A Basement Flat, Wykeham Terrace, Brighton BN1 3FF in accordance with the terms of the application (Ref: BH2009/00980) dated 15 May 2009, and the plans submitted with it, subject to the following condition:
 1. The galvanised wall ladder and associated fittings hereby authorised shall be removed within one month of the date of failure to submit within one month of the date of this decision a painting scheme for the written approval of the local planning authority and the scheme shall include a timetable for its implementation; the approved scheme shall be carried out in accordance with the approved timetable and thereafter retained in that colour.

Procedural Matters

4. On 23 March 2010, the Government published Planning Policy Statement 5: Planning for the Historic Environment (PPS5). This replaces Planning Policy Guidance: Planning and the Historic Environment (PPG15), which is cancelled. I consider that insofar as is relevant to these appeals, there is no material change in national policy between the new PPS5 and PPG15 and there is no need to seek further views of the parties on the relevance of the change to their case. My consideration of the appeal is on that basis.
5. I have altered the description in the formal decision from that used on the application forms, amended by the Council, to more accurately reflect the precise proposals rather than the use and retrospective nature of the works.

Main Issues

6. I consider that these appeals raise two main issues. The first is whether the works carried out preserve the character of the building as one of special architectural or historic interest and whether they preserve or enhance the character or appearance of the Montpelier and Clifton Hill Conservation Area. The second is the effect on the living conditions of the occupier of the ground floor flat at 2 Wykeham Terrace, particularly in relation to outlook, loss of privacy and fear of crime.

Reasons for Decisions

7. For clarity, the relevant considerations are found in the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended, which requires, when considering whether to grant listed building consent for any works, and in considering whether to grant planning permissions for developments which affect a listed building or its setting, special regard shall be paid to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. The Act also states that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of conservation areas.

8. Relevant development plan policies reflect the statutory requirements. While such policies do not apply to decisions on applications for listed building consent, the development plan is generally regarded as a material consideration and I shall treat it in that context. However, the planning application (appeal A) must be determined in accordance with development plan policies, unless material considerations indicate otherwise.

Whether the character of the listed building and the character and appearance of the Montpelier and Clifton Hill Conservation Area would be preserved

9. The appeal dwelling is a two-bedroom basement flat, which lies within a two/three storey over basement terrace, all of which, including attached walls and railings, is listed in grade II. The principal elevation is of exceptional design but the backs of these properties make no material contribution to the architectural quality of the terrace; the wall ladder and railing, already installed, and are concealed within a small rear courtyard.
10. The works are plainly not wholly in keeping with the historic qualities of the listed building and the simple charm of the brick wall to which the ladder is fixed. It is though discreetly positioned in a corner of the courtyard, alongside the dwelling and is of neat appearance. The alternative means of escape would be either altering the layout of the flat, upgrading the fire detection and alarm systems, and internal fireproofing of walls and doors, or locating a fire escape staircase away from the house. The appellant contends that works to the layout of the flat or works to the building to allow re-entry would introduce undesirable permanent changes to the building's fabric and I am inclined to agree with that. I am told that a fire escape staircase elsewhere in this small courtyard would impede access to a mains sewer hatch.
11. Consequently, while the wall ladder and railing may not be the only option and not entirely in keeping with the character of the listed building, in all the circumstances of this particular case, I consider that it presents the most practical option, balancing a minimal visual impact with the demands of adequately safeguarding the occupants of the building. Accordingly, I find that the slight harm to the character of the building arising from the works is outweighed by the other considerations above, which will assist in the safe and beneficial use of the building. Its siting out of public view would have no damaging effect on the character or the appearance of the Conservation Area.
12. I therefore conclude on the first issue that the works unacceptably harm neither the character of the listed building nor its historic surroundings. It flows from this that I find no conflict with my duties under the Act, which is reflected in policies HE1 and HE6 of the Brighton and Hove Local Plan 2005, PPS5 and the Council's supplementary planning guidance in relation to fire precaution works to historic buildings.

Effect on living conditions

13. The Council is supportive of the concerns expressed by the occupant of the ground floor flat at 2 Wykeham Terrace in relation overlooking and loss of privacy and a possible security risk. However, the visit confirmed that the bedroom window alongside the wall ladder is obscure glazed and direct overlooking is avoided. While I understand that the perception of overlooking

may cause concern, there is no requirement to use the ladder except as a form of escape from the basement flat below. Fear of crime can be a material planning consideration but, in this particular case, no objective evidence has been put to me to support such a fear. Unfounded fear by itself is not a reason to justify the withholding of planning permission.

14. While the works visible from the kitchen and roof terrace of the ground floor flat, the visit confirmed that its appearance would be sufficiently unobtrusive to have no significant impact on outlook, provided it is painted to harmonise with rainwater goods and other pipe work. I therefore conclude on the second issue that subject to a painting scheme for the back to wall ladder and railing, the living conditions of the occupant of the ground floor flat would not be unduly harmed by its retention. That would satisfy the requirements of Local Plan Policies QD14 and QD27.

Conditions

15. The Council has not suggested any conditions, which it considers appropriate to impose, but the appellant considers that planning permission and listed building consent may reasonably include a condition to paint the ladder an agreed colour, within one month. I have been influenced in my decision by the appearance of the unpainted ladder from the ground floor flat and in order to minimize the visual impact in perpetuity, I shall impose a condition requiring it to be painted an agreed colour and retained in that colour.

Other matters

16. I have considered all of the other matters brought to my attention, including the history and conflicting evidence as to whether the ladder, as installed, would meet the requirements of other legislation, including the Building Regulations. Compliance with other legislation is a matter for the City Council. No other matter raised adds up to a compelling argument of such significance as to outweigh the considerations that led to my conclusions on the main issues. Consequently, I further conclude that these appeals should succeed.

Roger Mather
INSPECTOR



Costs Decision

Site visit made on 24 August 2010

by **Roger Mather MA Dip Arch RIBA FRTPi**

an Inspector appointed by the Secretary of State
for Communities and Local Government

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Decision date:
15 September 2010

Costs application in relation to Appeals Refs: APP/Q1445/A/10/2121011 & APP/Q1445/E/10/2121013

2A Basement Flat, Wykeham Terrace, Brighton BN1 3FF

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
- The application is made by Miss Pamela Webb for a full award of costs against Brighton & Hove City Council.
- The appeal was made against the refusal of planning permission and listed building consent for the installation of a galvanised back to wall ladder and railing.

Summary of Decision

1. The application is refused.

Reasons

2. Circular 03/2009 advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. It is clear that there was officer-level involvement over a period of time dating from July 2001 when the applicant met with a representative of the Council's Private Sector Housing Team, who was content with an escape ladder in this position. This was confirmed in March 2002. The ladder was erected in 2009, following which a different representative of the Private Sector Housing Team confirmed that the ladder was regarded as appropriate, in accordance with the advice given in 2002, but re-entry would be an acceptable alternative. In April 2009, the Council's Planning Department advised the applicant to submit planning and listed building consent applications to regularise the works.
4. While it is argued that there is a history of pre-application discussion with officers dealing with housing legislation, the appellant did not engage with the local planning authority prior to installing the wall ladder and railing. Subsequently, Building Control officers became involved when officers from the local planning authority were processing the applications.
5. Despite the criticisms, I find that the correct statutory procedure was followed and the decisions to refuse planning permission and listed building consent were made in light of comment by the Conservation and Design Team and the Council's Building Control and Private Sector Housing Teams. Given these circumstances, there is nothing to suggest that the local planning authority had

no regard to the sensitive history and advice given 8 years earlier, in arriving at its decision. It is not disputed that the Private Sector Housing Team failed to advise that planning permission and listed building consent would be required for the works, but parties should be willing to accept the possibility that a view taken in the past by officers dealing with other legislation may no longer be supported by the local planning authority. Moreover, although I have come to a different view, it was not unreasonable for the local planning authority to arrive at the decisions it did in the manner it did.

6. Allegations of mishandling applications through lack of communication between departments should appropriately be made to the City Council, which has its own complaints procedure: there is no remedy by a statutory right of appeal.
7. On the matter of the case officer's site visit and report, the local planning authority explains that it is normal practice to summarize comments made by consultees, which are factual and do not amount to discrepancies. In carrying out the site visit, it is unnecessary to enter the site if the relevant parts can be seen sufficiently to judge the works. While the applicant considers that the case officer's actions in viewing the works from the neighbouring flat might be unreasonable, it clearly did not lead to unnecessary costs being incurred.
8. I therefore find that unreasonable behaviour resulting in unnecessary expense, as described in Circular 03/2009 has not been demonstrated.

Roger Mather
INSPECTOR



Appeal Decisions

Site visit made on 5 August 2010

by **John Papworth** DipArch(Glos) RIBA

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Decision date:
2 September 2010

Appeal A: APP/Q1445/E/10/2121322

Flat 3, 7 Adelaide Crescent, Hove, East Sussex BN3 2JE

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
- The appeal is made by Mr Michael Kingston against the decision of Brighton & Hove City Council.
- The application Ref BH2009/01258, dated 1 June 2009, was refused by the Council by notice dated 27 July 2009.
- The works proposed are erection of balcony on rear wall of property overlooking Holland Road.

Appeal B: APP/Q1445/A/10/2121040

Flat 3, 7 Adelaide Crescent, Hove, East Sussex BN3 2JE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Michael Kingston against the decision of Brighton & Hove City Council.
- The application Ref BH2009/00818, dated 1 June 2009, was refused by the Council by notice dated 27 July 2009.
- The development proposed is erection of balcony on rear wall of property overlooking Holland Road.

Decisions

1. I dismiss both Appeal A and Appeal B.

Main Issues

2. The premises are a Grade II* listed building and the main issue in both appeals is the effect of the proposal on the architectural or historic interest of the building and its setting within the Brunswick Town Conservation Area.

Reasons

3. The proposal is as shown on the application drawings and set out within the Design and Access Statement. I cannot find reference to this being a 'decorative' balcony, as stated by the Council's conservation officer and it appears to me that the proposal is for a plain fixture similar to many that adorn the rear of this terrace.
4. However, that said, I find these other fixtures unattractive and to detract from the interest of the listed building and its setting. Unlike many rear walls, this one is readily seen in views within the designated area and the projecting part

- to which this balcony would be fitted is prominent and attractive for its relative plainness, with the window in question being an unadorned opening.
5. As advised in Planning Policy Guidance Note 15 "*Planning and the Historic Environment*" which was current at the time of the applications and decisions, and carried forward in the replacement Planning Policy Statement 5 "*Planning for the Historic Environment*", works to a listed building may be justified by benefits. Under the proportionate approach advocated, the greater the harm to the significance of the heritage asset the greater the justification needed for any loss. It appears to me that much of the existing metalwork could have been justified at the time as being required for fire escape purposes, which does not apply in this case. I note also the Council's view that another balcony cited by the appellant does not have the benefit of express consent.
 6. Returning therefore to the use of the word 'decorative', I do consider there to be a difference between a fixture that is required for an essential utilitarian use, a fire escape, and one that is sought for convenience or relaxation and the like. Whether or not that is the difference that the Council sought to imply by the use of the word, the proposals are before me to determine afresh. The appellant states that this balcony is to provide an amenity in the family home, that the appellant has a disability and that the design has been prepared such that inclusive access is available. Whilst I appreciate the use that the balcony would be put to, I find the harm in this case to be real and serious due to the location of the rear addition and the exposed position, and that in the balance required of this decision, I conclude that the proposal would fail to preserve the architectural interest of the listed building, with no justification sufficient to outweigh this harm.
 7. The tests in Section 16(2) and 66(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 that special regard is to be had to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses would not be met, similarly, there would be harm to the character and appearance of the conservation area contrary to Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 which requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of the conservation area. As a result, policies in the Local Plan listed by the Council would not be accorded with, they being HE1, HE3 and HE6 on the preservation of listed buildings, their setting and the conservation area. For the reasons given above I conclude that both appeals should be dismissed.

S J Papworth

INSPECTOR



Appeal Decision

Site visit made on 27 July 2010

by **John Chase** MCD Dip Arch RIBA MRTPI

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Decision date:
3 August 2010

Appeal Ref: APP/Q1445/D/10/2129813 11 Surrenden Crescent, Brighton, BN1 6WE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr James Oliver against the decision of Brighton & Hove City Council.
- The application Ref BH2010/00396, dated 13 February 2010, was refused by notice dated 30 April 2010.
- The development proposed is the extension and remodelling of the existing house.

Decision

1. I dismiss the appeal.

Main issue

2. I consider that the main issue is the effect of the development on the character and appearance of the area.

Reasons

3. Surrenden Crescent is composed of detached houses, of differing styles and materials, but within the overall context of traditional, post war, pitched roof design. The proposal is to transform the present chalet style house into a modern, rectilinear, flat roofed building of two storeys, extending back on the site to a secondary frontage onto Peacock Lane, at the rear.
4. Whilst the building would have an entirely different architectural treatment from its neighbours, this would not necessarily be a reason to reject the scheme. I also accept that there is a distinct break of character to the east of the site, where the house at No 13 Surrenden Crescent is some way separated from the appeal house, and elevated above it, as well as having a property to its rear, whereas the appeal site, and the others to the west, occupy the whole of the land between the roads.
5. However, the existing house is clearly associated with the line of properties on the west side, as they step up the hill, and particularly the neighbouring house at No 9 Surrenden Crescent, which is also a chalet style building. There is a relatively narrow gap between the houses, so that the new development would result in a sudden and unsympathetic change of appearance, compounded by the new two storey elevation standing above the eaves of the neighbour, to create a dominating impression when viewed from Surrenden Crescent. It would remain visible despite the avenue of trees along the street frontage.

6. The projection of the house towards the rear of the site would be evident on the eastern side, where there would be a long, one and two storey wall adjacent to the boundary. It would give the house a bulk and scale which would be out of keeping with the general character of housing in the area, which is typically composed of much shallower buildings, set within their plots.
7. I recognise the potential benefits of the scheme, in terms of making the best use of the land, and in creating a tidier appearance to the property when viewed from the rear. However, for the reasons given above I consider that the development would fail to satisfy Policies QD1, QD2 and QD14 of the Brighton and Hove Local Plan 2005, the broad thrust of which is to require a high standard of design, which is sympathetic to the prevailing character of the locality. Whilst I accept that the proposal is, in itself, an interesting and innovative design, with a balanced and well considered appearance, it does not take adequate account of its surroundings, for which reason I conclude on the main issue that the development would harm the character and appearance of the area.
8. I note the concerns of neighbours about the perceived damage to living conditions which would arise out of the development. The Council's Officers' Report has dealt with these matters in some detail, and I do not have reason to disagree with the conclusion that the proposal would be acceptable in these respects. However, this does not outweigh the harm which I have identified under the main issue, which indicates that the appeal should be dismissed.

John Chase

INSPECTOR



Appeal Decision

Site visit made on 16 August 2010

by **Katie Peerless Dip Arch RIBA**

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for Communities and Local Government**

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**Decision date:
7 September 2010**

Appeal Ref: APP/Q1445/A/10/2124369

Land to rear of 14 Bankside, Brighton BN1 5GN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Michael Letton against the decision of Brighton & Hove City Council.
- The application Ref BH2009/03004, dated 8 December 2009, was refused by notice dated 11 February 2010.
- The development proposed is erection of new 3no storey two bedroom dwelling incorporating solar panels.

Decision

1. I allow the appeal, and grant planning permission for the erection of a new 3 storey, 2 bedroom dwelling incorporating solar panels on land to the rear of 14 Bankside, Brighton BN1 5GN in accordance with the terms of the application, Ref BH2009/03004, dated 8 December 2009, subject to the conditions attached as Annex 1 to this Decision.

Main issues

2. I consider that the main issues in this case are the effect of the proposed development on the living conditions of occupiers of neighbouring properties and on the character and appearance of the surrounding area.

Site and surroundings

3. The appeal site consists of about half the rear garden area of the property at 14 Bankside, which is a semi-detached house in a street of similar properties. The garden slopes steeply up away from the house and the rear boundary fence is adjacent to the edge of the highway in Highbank, the residential road to the north.
4. Houses in the area are generally of a traditional design, typical of the second half of the last century, of brick under pitched tiled roofs. Many are on three levels which allows occupants to take advantage of the views across the roofs of the houses in the next street, into the valley below and residential development in Bankside and Highbank is generally on one side of the road only.
5. However, there is some development on the southern side of Highbank, close to the appeal site. There is a new house to the rear of No.8 Bankside, two parking spaces at street level on the adjacent plot to the rear of No.10 and an extant planning permission for another house to the rear of No.12.

Reasons

6. The proposed house would be of a contemporary design and would have a high standard of sustainability. It would be on three levels with the majority of the accommodation set below the street level of Highbank. The extent of the building that would be visible from this road would be limited to the single storey office/workshop/utility area that would have a pitched tiled roof, which would also extend over an open car port. One further car parking space would be available on the flat roof of the two lower floors and would be accessed across an existing dropped curve in the road of Highbank.
7. The intermediate floor would contain two bedrooms and a bathroom and the lower floor would contain the kitchen and living area. Windows from the rooms would face the bedroom windows in the rear of the properties in Bankside. The Council is concerned that there would be actual and perceived problems of overlooking into these windows and the rear gardens of the Bankside properties. However, the appellant maintains that the situation would be no worse than that already permitted on the adjacent site.
8. There is some confusion over the positioning of the proposed house on the site; the Council notes that the scaling from the plans gives a separation distance of 18.5m which is considered too close to maintain acceptable levels of privacy. The appellant states that the plans have been drawn with reference to those approved for the rear of No.12 (at No.19 Highbank) and must therefore have the same 21m separation as that scheme, as the rear walls of the houses would be on the same line. Notwithstanding the fact that the drawings are not dimensioned, I consider that it would be possible to ensure that this distance is achieved, through the imposition of a condition on any planning permission.
9. There are three levels of windows on the approved properties at Nos.17 and 19 Highbank and the floor levels of these houses are higher than those proposed at the appeal site. There would consequently be less opportunity for overlooking than on the permitted schemes, even taking into account the possibility of obtaining limited views from the car park area.
10. The appeal proposal is less bulky than the houses at Nos.19 and 17 and the visual impact would, in my view, be less than that of its immediate neighbours on this side of the road. This would more than compensate for the marginally smaller site area and result in a better plot ratio, preventing any perception of overdevelopment or the creation an over-imposing or un-neighbourly building.
11. in respect of the outlook from the properties in Highbank, I noted at the site visit that the main living area of these houses are at first floor level and occupiers would therefore still have views over the top of the car port/office area. I therefore conclude that the proposal would not result in unacceptable living conditions for occupiers of neighbouring properties in respect of loss of privacy or overbearing impact and would not conflict with the aims of saved policy QD27 of the Briton and Hove Local Plan 2005 which seeks to prevent such situations.
12. Turning to the effect on the character and appearance of the surrounding residential area, the Council has concerns that the design of the house would be inappropriate. This is because the palette of materials would be different from the majority of the dwellings in surrounding roads.

13. The new house would have a pitched tiled roof to the part of the property that projects above the Highbank street level but the flat roof of the car parking area would be obvious in views from the south. The elevations would be rendered rather than the brickwork found elsewhere in the area and would be very simply detailed.
14. The Council refers to the lack of design features on the front elevation, but from Highbank the only visible part of the house would appear similar to a small domestic garage and would not be particularly prominent. The main, solid wall of this part of the building would be set back from the highway at a distance similar to that of the adjacent properties and a degree of openness would be maintained, even though part of the roof would extend forward over the car port.
15. The south elevation would, I agree, be different from its neighbours but this would not necessarily be harmful to the character of the area. The existing houses are of an unremarkable design and the restrained detailing of the appeal proposal would not, in my opinion, compete unfavourably with its surroundings. This view of the property would be seen only in glimpses from limited public viewpoints in Bankside and beyond and would be softened by the vegetation in the intervening garden areas.
16. I therefore conclude that the appeal proposal would not cause harm to the character and appearance of the surrounding residential area and would meet the criteria of policies QD1, QD2 and QD3 of the LP.

Other matters

17. Local residents in Highbank have raised objections to the proposal on the grounds of highway safety, although this is not a matter addressed by the Council. The property would have two off street parking spaces and, although there is no pavement on this side of Highbank, it was concluded in a previous appeal decision that this would not constitute a safety risk for pedestrians.
18. I find no reason to disagree with this conclusion; the southern side of Highbank has double yellow lines, therefore on-street parking here is prohibited. Properties on the opposite side of the road have garages and driveways and, although I am told that there is pressure on parking spaces on the north side of Highbank, I am not persuaded that the addition of another two bedroom house with two dedicated parking spaces would necessarily add to the problem. I note the concern that the workshop/office could be used as another bedroom but this does not alter my findings on this matter.
19. I have also taken into account all the other representations made by local residents but they do not outweigh my conclusion that the appeal proposal is acceptable. I have also noted the recent Government guidance that garden land is no longer to be considered as previously developed land. This means that there is now no policy encouragement to make the best use of such land or increase its density. However, in this case, the scheme would not be 'backland' development as the site already fronts a residential street and the proposal accords with other policy criteria.

Conditions

20. I have considered the conditions suggested by the Council, in the event of the appeal succeeding, in accordance with the guidance given in Circular 11/95. I have amended the suggested wording where necessary to follow this guidance. In addition to the standard commencement condition and the need, noted above, to ensure that there is a separation of 21m between the new house and the rear of 14 Bankside, I shall impose conditions restricting permitted development rights, to prevent overdevelopment of the site and to protect the privacy of neighbouring occupiers.
21. A condition requiring the development to be constructed in accordance with the approved plans will be attached because, otherwise than as set out in this decision and conditions, it is necessary for the avoidance of doubt and in the interests of proper planning. I shall also require the submission of details of refuse storage and recycling provisions and cycle storage to be provided and implemented, to ensure that such facilities are satisfactory and made available.
22. To ensure the external appearance of the building is satisfactory, I shall require details of the materials and colour finish to be submitted to the local planning authority for approval. To ensure a satisfactory appearance of the site, I shall also impose landscaping conditions.
23. As one of the justifications for the scheme is its sustainable credentials, I shall impose conditions to ensure that a high standard of sustainability is achieved in the construction method. New homes should also be suitable for people with disabilities and I shall impose a condition to ensure that the proposal meets the Lifetime Homes standards in this regard.
24. The addition of a new dwelling will create additional journeys by road and the LP contains policies setting out how such pressures can be mitigated. I shall impose a condition calling for the submission of details of how this will be achieved.

Conclusions

25. For the reasons given above I conclude that the appeal should be allowed.

Katie Peerless

Inspector

Annex 1

Conditions to be attached to planning permission ref: BH2009/03004.

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: FW027-101Slp, FW027-101Blk, FW027-101FPE, FW027-101CE and FW027-101SS.
- 3) Notwithstanding the requirements of condition 2 above, no development shall take place until a dimensioned plan showing a distance of at least 21m between the south elevation of the development hereby permitted and the north (rear) elevation of the dwelling at 14 Bankside has been submitted to and approved in writing by the local planning authority. Development is to be carried out only in accordance with the approved plan.
- 4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no extension, enlargement or other alteration of the dwellinghouse hereby permitted shall be carried out without the prior grant of planning permission from the local planning authority.
- 5) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no windows/dormer windows, rooflights or doors other than those expressly authorised by this permission, shall be constructed without the prior grant of planning permission from the local planning authority.
- 6) No development shall take place until a scheme showing the details of the storage of refuse and materials for recycling has been submitted to, and approved in writing by, the local planning authority. Development shall be carried out fully in accordance with the approved details prior to the first occupation of the dwelling hereby approved and retained thereafter for use at all times.
- 7) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the building hereby permitted (including the colour of the render, paintwork and colourwash) have been submitted to and approved in writing by the local planning authority. Development shall be carried out only in accordance with the approved details.
- 8) Unless otherwise agreed in writing with the local planning authority, the dwelling hereby permitted shall be constructed to Lifetime Homes standards prior to its first occupation and shall be retained as such thereafter.
- 9) Unless otherwise agreed in writing with the local planning authority, no residential development shall commence until:

- (a) evidence that the development is registered with an accreditation body under the Code for Sustainable Homes and a Design Stage/Interim Report showing that the development will achieve Code level 3 have been submitted to the local planning authority; and
 - (b) a Design Stage/Interim Code for Sustainable Homes Certificate demonstrating that the development will achieve Code level 3 has been submitted to, and approved in writing by, the local planning authority. A completed pre-assessment estimator will not be acceptable.
- 10) Unless otherwise agreed in writing by the local planning authority, the dwelling shall not be occupied until a Final/Post Construction Code Certificate, issued by an accreditation body confirming that the unit has achieved a Code for Sustainable Homes rating of Code level 3 has been submitted to, and approved in writing by, the local planning authority.
- 11) No development shall take place until details of a scheme to provide sustainable transport infrastructure to support the demand for travel generated by the development has been submitted to, and approved in writing by, the local planning authority, This scheme shall include a timetable for the provision to be made and shall be carried out in accordance with the approved details.
- 12) The development hereby permitted shall not be commenced until details of secure cycle parking facilities for the occupants of, and visitors to, the development hereby permitted have been submitted to and approved in writing by the local planning authority. The approved facilities shall be fully implemented and made available for use prior to the first occupation of the dwelling hereby permitted and shall thereafter be retained for use at all times.
- 13) No development shall take place until there has been submitted to, and approved in writing by, the local planning authority a scheme of landscaping, which shall include hard surfacing, means of enclosure, planting of the development, indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development.
- 14) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; any trees or plants which, within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation. All hard landscaping and means of enclosure shall be completed before the development is first occupied.



Appeal Decision

Site visit made on 24 August 2010

by Sheila Holden
BSc MSc CEng TPP MICE MRTPI FCIHT

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Decision date:
20 September 2010

Appeal Ref: APP/Q1445/A/10/2124073
24a Westbourne Place, Hove, East Sussex BN3 4GN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Park Avenue Estates Ltd against the decision of Brighton & Hove City Council.
- The application Ref BH2009/02515, dated 16 October 2009, was refused by notice dated 19 January 2010.
- The development proposed is conversion of redundant and derelict outbuilding to a two-bedroom cottage.

Decision

1. I dismiss the appeal.

Procedural matter

2. Following the Secretary of State's announcement on 9 June 2010 concerning the definition of previously-developed land, the parties have been consulted on the change. I have taken their responses into consideration in my decision.

Main Issues

3. The main issues are:
 - a) Whether the proposed development would result in the unacceptable loss of a small premises capable of use for employment generation;
 - b) The effect of the proposed development on the living conditions of the existing occupiers of No 24, with particular reference to loss of outlook and amenity space;
 - c) Whether the proposed new dwelling would provide satisfactory living conditions for future occupants in respect of outlook.

Reasons

4. Westbourne Place, which is within the Sackville Gardens Conservation Area, is characterised by terraced properties interspersed with workshop uses, some of which are to the rear and accessed through gated undercrofts beneath the first floors of the street fronting buildings. No 24a is a two storey workshop building in a very poor state of repair and has not been used for some considerable time. The proposal is to convert the workshop into a mews cottage by demolishing part of the rear building, undertaking major refurbishment of the remainder and altering the existing dwelling at No 24.

Loss of small premises for employment use

5. Saved Policy EM6 of the Brighton & Hove Local Plan specifically supports the retention of small industrial and business units in order to encourage new employment enterprises. The difficulty of identifying new sites for such uses is highlighted in the plan, providing a sound reason for retaining existing sites where possible. Whilst No 24a may not have been actively used for some 10 years it is my understanding that no alternative use of the site has been approved by the Council during that time. A change of use is normally only permitted if a series of criteria are met. I note that the appellant considers these to be mutually exclusive and that it should not be necessary to meet all of them. I disagree and consider that the objective of the policy is to ensure that a change of use is only considered acceptable when all the relevant criteria have been met. I will therefore consider each in turn.
6. No evidence was presented to demonstrate that purpose built units are available in the neighbourhood. Neither was any evidence of the current rental levels of comparable commercial properties in the area provided. I therefore consider that criteria (a) has not been met.
7. Criteria (b), relates to the whether or not the premises have been marketed at a price that reflects their condition. The appellant sought to demonstrate that such marketing is impractical, thereby justifying the building's proposed change of use. I accept that the building is currently in a dilapidated and unusable state and would need significant investment to make it attractive for business use. It would also require considerable investment to convert it into a residential dwelling. However, the only figures provided within the appellant's marketing report indicated that an investment of at least £45,000 might be required and that a refurbished building could command a rent of some £5,200 per annum. I consider this is insufficient evidence to demonstrate that it could not be made adequate to meet the needs of a local entrepreneur. Neither is it possible from this limited information to assess whether or not it could provide a viable return on an investment as a commercial building.
8. The report also suggested that it would be unwise to market the building in its current state but provided some positive suggestions about how to try and let the property. However, there was no evidence that the owner had undertaken even minimal repairs to halt the deterioration of the fabric of the building, which would then enable realistic attempts to be made to market the property for sale or rent. I consider these factors demonstrate that criteria (b) has not been met, rather than providing a reason for allowing a change of use, supported by robust evidence.
9. Given the wide spectrum of small businesses that operate in any urban area I see no reason why a use for this building and workshop could not be found that would not cause disturbance to neighbours. Criteria (c) is therefore not met. Access to the site is via a large set of double doors from a street which has some on-street parking and low volumes of traffic. I consider this access to be adequate to serve an employment use of some kind and therefore criteria (d) has not been met. The only criterion which is not applicable in this case is (e) since the building is not a building of architectural or historic interest.

10. For all these reasons I conclude that the proposed development would result in an unacceptable loss of employment generating accommodation which would conflict with the aims and objectives of the development plan as set out in Policy EM6. I consider this a sufficient reason alone to dismiss the appeal.

Living conditions of the occupants of No 24

11. No 24 is a modest dwelling with a small rear kitchen/dining room. The proposal would result in the window of this room being lost and replaced with a roof light. Although this would provide the occupants with adequate light I consider that the lack of outlook would make the room feel much more enclosed and therefore a less pleasant place in which to prepare and eat meals. The glazed door which serves the hall and provides access to a very small amenity space immediately to the rear of the property would also be lost, making this part of the house appear more enclosed. Similarly, the rear window of the master bedroom would be blocked up which would reduce the spacious, light and airy appearance of this good sized room. Taken together it seems to me that the effects of all these alterations would be to significantly alter the feel of the interior of this dwelling, reducing its outlook and increasing a sense of enclosure. I am of the view that this would adversely affect the living conditions of the occupiers.
12. The amenity space to the rear of the dwelling is very small. However, on my site visit I saw that it provided a safe area in which a child could play and be watched through the kitchen window. I consider that the loss of this amenity space would be detrimental to the occupants, notwithstanding its size.
13. The appellant suggested that the alterations to No 24 could be undertaken as permitted development and this may be the case. However, in order for me to give weight to this suggestion I would have to be satisfied that there is a reasonable prospect of them being carried out, if the appeal failed. There was no evidence that this would be the appellant's intention, since the main reason for carrying out the works would be to prevent overlooking as part of a scheme to provide an additional dwelling on the site. Furthermore, I am not persuaded that I should allow a proposal that would rely on something which I consider to be materially harmful, even if the appellant could undertake these alterations without planning permission. I therefore give this matter little weight in my overall consideration of the proposal.
14. For the reasons set out above I conclude that the proposal would be harmful to the living conditions of the occupiers of No 24, contrary to saved Policies QD14 and QD27 of the local plan which seeks to protect the living conditions of residents.

Living conditions of future occupants

15. The proposed dwelling would be on a very restricted site with windows only provided on the eastern elevation. The assessment submitted with the application demonstrates that adequate daylight and sunlight would reach the converted outbuilding. However, the only outlook would be on a small courtyard and parking space and towards the altered rear elevation of No 24. It would not even be possible to see the main street due to the retention of the entrance gates. In my view a dwelling with only a single aspect and such a restricted outlook would appear very enclosed for the occupants.

16. I acknowledge that potential occupiers would have a choice about whether or not the layout and outlook of the dwelling would meet their needs. However, in this case I consider the outlook would fall below the standards that the Council is seeking to provide in new accommodation. I conclude that the proposal would not provide satisfactory living conditions for the future occupants and would fail to comply with the aims and objectives of saved Policy QD27 of the Local Plan.

Other matters

17. I acknowledge that the appellant has designed a dwelling which would have adequate amenity space, which would meet the Lifetime Homes Standards and would include measures to secure a sustainable development. The proposal would not adversely affect the character or appearance of the Conservation area, which would be preserved. The transport needs of the development could be accommodated satisfactorily through the imposition of conditions to secure parking and cycle storage and there were no objections to the proposals from neighbours. However, none of these positive attributes of the scheme overcomes my concerns in relation to the main issues.

Conclusions

18. Government policy is to encourage efficient use of previously-developed land in urban areas. However, even taking into consideration the recent changes to Planning Policy Statement 3: *Housing*, announced by the Secretary of State, it does not necessarily follow that a residential use is suitable for this site. In this case I consider that the benefits that would accrue from the provision of an additional dwelling would not outweigh the loss of an existing site identified for employment use, the harm to the living conditions of the occupants of No 24 and the unsatisfactory living conditions that would be created for the occupants of the new dwelling.

19. For these reasons and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Sheila Holden

INSPECTOR



Appeal Decision

Site visit made on 24 August 2010

by Sheila Holden
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Decision date:
20 September 2010

Appeal Ref: APP/Q1445/A/10/2125995 25 Hazeldene Meads, Brighton BN1 5LR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Steve McLean against the decision of Brighton & Hove City Council.
- The application Ref BH2010/00242, dated 28 January 2010, was refused by notice dated 25 March 2010.
- The development proposed is roof extension to south end, 2 front dormer windows and extended porch structure, including 9 No PV solar panels on rear roof structure.

Decision

1. I dismiss the appeal.

Procedural matters

2. The spelling of the address was changed on the appeal form. I have used the corrected address, "Hazeldene," on this appeal decision. The application form on the file was undated. I have therefore referred to the date on which the Council received the application on this decision.
3. On the Council's decision notice the proposed development is described as "hip to gable roof extension to south including 3 No. dormers, 1 No. rooflight and pitched roof porch extension at front elevation. Installation of 9 No. Solar Panels to rear over existing dormer." I consider this to be a more accurate description of the development and have used this in my determination of the appeal.
4. The Council based its decision on drawing Nos. 29762/1 & 2A, dated 10/09 and submitted on 28 January and 29762/3, dated 01/10 and submitted on 8 March 2010. No 2A, which is described as the existing situation, shows the rear dormer window before any works were undertaken but shows velux rooflights on the front roof slope which are not present on the existing building. The rear dormer has already been enlarged slightly and a porch has been constructed at the front. The Council has confirmed that these works are permitted development. None of the drawings submitted with the application or the appeal accurately illustrate this situation.
5. After the application had been determined the appellant sought to amend the scheme, reducing the size of the rear dormer and replacing the third front dormer with a roof light. This scheme is also shown on drawing No 29762/3 but has amendments on it dated 3 March and 28 June. I understand that the Council intend to make a separate decision in relation to this scheme. I have

not taken it into consideration in my determination of this appeal which relates solely to the scheme illustrated on the original drawing No 29762/3 and refused by the Council on 25 March 2010. I confirmed this approach with the main parties at the site visit.

Main Issue

6. The main issue is the effect on the character and appearance of the host property and the surrounding area of the:
 - a) hip to gable roof extension;
 - b) extension of the rear dormer window;
 - c) insertion of three dormer windows and a rooflight in the front roof slope;
 - d) installation of 9 solar panels.

Reasons

7. Hazeldene Meads is characterised by detached bungalows and two-storey houses on modest sized plots. Many of the bungalows have an identical form with a protruding gable facing the road and the remainder of the front elevation set back and having an extended pitched roof. The bungalows are frequently set out as mirrored pairs with either the gables or the pitched roof element adjacent to each other. Whilst gaps between the buildings are generally small the estate, nevertheless, has a spacious appearance enhanced by the presence of mature gardens and grass verges. Although there are features that provide rhythm and uniformity to the street scene extensions and alterations have been undertaken which now provide the area with greater variety and an increased sense of individuality to some of the properties. The details of the proposals are set out in some detail above and I will deal the effects of each element in turn.

The hip to gable roof extension

8. No 25 is a bungalow which was originally identical in its design to many others on the estate. It is mirrored with No 27. However, whereas the other mirrored pairs on the opposite side of the street remain in their original state, No 27 has already been substantially extended. The alignment of the road and the space between it and No 29 allowed No 27 to add a double width garage with a gabled roof. Some of the symmetry between Nos. 25 and 27 has therefore been lost.
9. On the other side No 23 is a two storey detached house. It has also been enlarged with the construction of a two-storey extension comprising a double garage with accommodation above. This has significantly closed the gap between it and No 25. The proposed hip to gable extension would be above and the same width as the existing garage of No 25. It would further close the gap between the two properties but there would still be a distance of approximately 3.5m between the buildings. Such a separation distance is not dissimilar to others on the estate. Furthermore, I consider that the difference in the shape and form of the two properties, combined with the set back of the extended pitched roof would reduce the appearance of a terracing effect arising from the reduction in the gap between the buildings. I am therefore not

persuaded that this element of the proposal would result in harm to the character and appearance of the area.

Extension of the rear dormer window

10. The rear dormer window is a dominant feature of the rear elevation of the house which occupies almost the full width of the roof slope. It has already been extended and now protrudes beyond the slope of the gable so that it can also be seen from the front. In my view it is a bulky feature which detracts from the appearance of the building and pays little regard to the scale and proportions of the existing dwelling. Whilst it may not be highly visible from the street scene it seems to me that it could be seen from the gardens of a number of the surrounding properties given the layout of the estate and the relatively shallow rear gardens. Any enlargement of it would therefore also be apparent, increasing its prominence from the surrounding area.
11. The Council has approved guidance on roof alterations and extensions which is relevant in this case: Supplementary Planning Guidance: *Roof Alterations and Extensions*, (SPG). It sets out a number of design guidelines emphasising the importance of ensuring that roof extensions must respect the character of the host building and be carefully related to it. The guidance illustrates the harm that can be caused by unduly bulky dormers.
12. In this context I consider that the existing dormer does not comply with the current guidance, notwithstanding that the enlargement already undertaken is permitted development. I am therefore of the opinion that any further extension of this dormer window would be harmful to the character and appearance of the host property and the surrounding area even though its visibility from the public domain is limited.

Insertion of 3 dormer windows and a roof light in the front roof slope

13. The dormers proposed for insertion into the front roof slope appear to have been designed in accordance with the principles set out in the SPG. They would be set centrally above existing windows and doors and would be of appropriate proportions. I note that whilst the Council has not raised any objection to them a number of neighbours have expressed concern. None of the bungalows in the immediate vicinity of No 25 and which share its original design and overall shape, have front facing dormer windows. On my site visit I saw an example of a single small dormer on a property in The Beeches. However, the original design of this house is different to No 25 and the window was inserted into a secondary elevation set back further from the road and much less visible than would be the case here. I therefore consider it not to be comparable with the appeal proposal.
14. In my view the insertion of three dormer windows would fundamentally change the appearance of this bungalow, making it look much more like a two storey house and introducing features which would be alien and incongruous in the context of the immediately surrounding street scene. Added to this I consider that the proposed rooflight would be too deep as it would sit immediately below the ridge of the roof and its glazing would be prominent in its position above the front porch. For these reasons I consider that the front dormer windows and rooflight would fail to reflect the style and character of the other

bungalows in the vicinity of No 25 and would be harmful to the appearance of the surrounding area.

Installation of 9 solar panels

15. I appreciate that the appellant is totally committed to refurbishing his property to create a zero-carbon dwelling and that to do so would require a large number of solar panels. I also recognise that the orientation of No 25 means that it would be necessary to position the solar panels at particular angles in order that they would be able to capture the sun's energy efficiently. On my site visit I saw that solar panels are already a feature of a number of the surrounding properties and that in some cases they are positioned prominently on the buildings. There is therefore no objection in principle to the use of solar panels on No 25.
16. I saw that one of the panels had been installed at the correct angle on the flat roof of the dormer and in isolation it seems to me that this single panel was not visually intrusive. However, I consider that the positioning of 9 such panels across the full width of the dormer would accentuate their visibility above the ridge line and would make the roof appear cluttered. Furthermore, the quantity that is proposed within this development would be significantly different from that which I saw on other dwellings in the area where the number of panels was either more restricted or more proportionate to the size, height and scale of the buildings hosting them. I am therefore of the view that the introduction of so many solar panels along the ridge of this bungalow would be harmful to the character and appearance of the host dwelling and the surrounding area.

The overall proposals

17. I appreciate that the appellant has been working for a number of years to make his home an exemplar of sustainability which does not require the use of any external energy sources. The Local Plan supports proposals which demonstrate efficient use of energy, water and materials provided that they accord with other development plan policies. Similarly, generation of energy from renewable resources is supported subject to similar caveats. However, the laudable desire to make a development sustainable does not mean that other material planning considerations should not also be taken into account as part of the overall assessment of a proposal.
18. Drawing the threads of my assessment together I conclude that, on balance, the harm that would be caused by the extension of the rear dormer, the introduction of dormer windows and a rooflight in the front elevation together with the proliferation of solar panels which would be seen along the ridge of the roof would outweigh the lack of harm arising from the hip to gable extension on the southern side of the bungalow. I therefore conclude that the proposal would result in harm to the host property and to the character and appearance of the area, contrary to saved Policies QD1, QD2 and QD14 of the Brighton & Hove Local Plan and the Councils' SPG: *Roof Alterations and Extensions*, all of which require extensions and alterations to be of a high standard that respects the layout and character of the area.

Other matters

19. The Council has confirmed that the front porch, which has already been constructed, is permitted development. In any event its form and scale mirrors that which has been constructed at No 27 and I consider it to be acceptable, notwithstanding the concerns raised by neighbours.
20. I acknowledge that other extensions and alterations, including the enlargement of No 23, have been carried out to other properties within Hazeldene Meads and The Beeches in recent years and I took the opportunity on my site visit to look at various features in the locality. However, I do not have full details of any of the individual schemes or how they were assessed by the Council. I therefore consider them not to be directly comparable with this proposal which I have assessed and determined in the light of the evidence presented, my observations at the site visit and having regard to the development plan.
21. I note the appellant's concern that the Council has given insufficient weight to the aim of creating a zero-carbon development and that the decision to refuse the application has been overly influenced by neighbours who have expressed opposition to his proposals. However, it is not for me to comment on the way in which the Council has handled this application in the context of a Section 78 appeal. My role in this matter is confined to considering the appeal proposals afresh on their planning merits.

Conclusions

22. For the reasons given above and having regard to all other matters raised by main and third parties, I find nothing in them either individually or collectively, outweighs the decision I have reached to dismiss the appeal.

Sheila Holden
INSPECTOR



Appeal Decision

Site visit made on 6 September 2010.

by **B C Scott BA(Hons) Urban & Regional Planning MRTPI**

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Decision date:
21 September 2010

Appeal Ref: APP/Q1445/A/10/2125603

25 Lower Bevendean Avenue, Brighton, BN2 4FE.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr G Abelwhite against the decision of Brighton & Hove City Council.
- The application Ref: BH2009/02624, dated 26 October 2009, was refused by notice dated 12 January 2010.
- The development proposed is a new build dwelling on the side of existing property 25 Lower Bevendean Avenue.

Procedural Matters

1. The Appellant submits for my consideration revisions to the appeal application scheme (namely: a different parking alignment for space no.1; and, an enlarged ground floor that incorporates a WC) in place of the scheme upon which the Council took its decision. Those revisions are shown on drawing no. 'page 3, revision 3'. Both revisions seek to address particular objections that the Council does not sustain in its Appeal Statement.
2. The revised parking scheme is a minor adjustment (albeit to address the important matter of highway/pedestrian safety) that does not materially alter the nature of the proposed development.
3. The ground floor enlargement would be at the rear corner of the proposed dwelling and very much subordinate to it. The scale and appearance of the enlargement would not alter the overall impact of the original appeal scheme, in terms of the street scene or the effect upon neighbours. Thus, I consider it not to be an alteration that consideration of which would jeopardise the interests of third parties.
4. In the circumstances, I address the revised appeal scheme in my decision and take the Council's objections about parking safety and lifestyle homes no longer to be determinative matters in this case. That said, my comments in paragraphs 18, 19 & 20 apply.

Decision

5. I dismiss the appeal.

Main Issues

6. I consider the three main issues in this case to be the effect of the proposed development on; firstly, the character and appearance of the area; secondly,

the living conditions of adjoining occupiers, with particular reference to outlook; and lastly, transport infrastructure.

Reasons

Character and appearance

7. The appeal house is a generic style 1930s/50s semi-detached house in a suburban area. The area is similarly developed as a housing estate, with a few exceptions; notably the more recent adjoining building comprising a number of purpose built flats ('the flat building'). The proposed development would enlarge the appeal building into a short terrace, at the expense of a side garden and detached garage. Policies QD1 and QD2 of the Brighton & Hove Local Plan 2005 (LP) require a high standard of design concerning the positive qualities of the area and local characteristics, embracing such things as architectural detailing and the layout of streets and spaces.
8. For the style of appeal building involved on such a suburban estate as this, it is not uncommon to see characteristic short terraces of the type proposed. However, each house in the appeal building has typical half-bay windows. Whereas the proposed development would closely match the design of the appeal building with a fully integrated addition, bay or half-bay windows would be oddly missing in the architectural detail and result in a discordant facade.
9. The suburban houses of the appeal estate are generally closely spaced and there is a strong uniformity and rhythm in the street scene. I saw that that pattern pleasantly combines with a substantial central green area (a distance away from the appeal site) and results in a distinctive spacious character and appearance. In the appeal location, however, the flat building occupies the acute space between road junctions and, in my view, even with the side spaces of the appeal house and that behind it (no.44 Upper Bevendean Avenue) to complement its setting, the street rhythm is weakened here. The proposed development would worsen that situation as it would look cramped and out of place, due to the loss of the side space, compounded by the creation of a discordant façade to the appeal building.
10. Where and how cars are parked is critical to the quality of a housing area. The proposed forecourt parking would follow other examples in the appeal road. Here, in the appeal case with three spaces proposed alongside each other and occupying the whole available depth of the resultant frontage, the proposed parking arrangement would fail to be a visual amenity for residents and would not enhance the appearance of the built form of the surrounding development.
11. Thus, I conclude on the first issue that the proposed development would be harmful to the character and appearance of the area, in conflict with policies QD1 and QD2 of the Development Plan.

Living Conditions

12. Various flats face towards the appeal side space, over a grassed communal amenity area. LP Policy QD27 seeks to protect the amenity of residents, in terms of such things as outlook.

13. I examined the appeal side space from the communal amenity area of the flats. Given the distances and orientations involved, I came to the view that the replacement of the sizeable detached garage with an end, hipped roofed two-storey elevation would not look overly bulky and proximate to the adjoining occupiers. In the circumstances, I conclude on the second issue that the proposed development would not unacceptably affect the outlook of the adjoining occupiers, in accordance with the requirements of Policy QD27 of the Development Plan.

Transport infrastructure

14. The proposed development would create a new dwelling and result in additional travel demand due to the potential occupiers.
15. LP Policy TR1 expects development to provide for the demand for travel it creates and LP Policy SU15 seeks an appropriate financial contribution towards, or the direct provision of, the necessary services or infrastructure. LP Policy QD28 makes clear that where these things are to be achieved through a planning obligation, it should satisfy a number of tests concerning its provenance.
16. The Parties dispute the need for a financial contribution towards transport infrastructure. I acknowledge that no scheme to provide sustainable transport infrastructure to support the demand for travel generated by the proposed development is produced by the Appellant. Even so, the Council does not identify the construction or implementation of any scheme in its Local Transport Plan that would be necessary, directly related to the proposed development and fairly and reasonably related in kind to it. Under LP Policy TR1 the maximum use of public transport, walking and cycling is sought. The appeal site is in an accessible built-up area, with regular bus services nearby. There is plenty of scope to provide cycle storage within the appeal site.
17. In the circumstances, in the absence of evidence to the contrary, I conclude that the proposed development would not be harmful to transport infrastructure, in accordance with the requirements of Policy TR1, SU15 and QD28.

Other considerations

18. The proposed parking arrangement would comprise spaces of minimum required size. The revised alignment of space no.1 would place its outside flank somewhere beyond the limit of the donor, appeal house and its residual plot. Moreover, it would virtually abut the front door of the appeal house.
19. To my mind, space no.1 would have a negligible 'comfort margin' for fully reaching the front of the space having regard to potential over-shoots; a driver may park short and overhang the footway. So too with the other spaces, especially no.3. In my opinion, this would be an unsatisfactory arrangement that brings into question the feasibility of the proposed parking arrangement. That situation is compounded by potential obstruction by the street lamp on the rear edge of the footway and the effect of the speed bump in the road.
20. The questionable feasibility of the proposed parking arrangement adds to my conclusion on the first issue.

21. I have considered all other matters raised, including the efficient use of the appeal plot, but none alters my conclusion that the proposed development would be harmful to the character and appearance of the area.

CONCLUSION

22. Notwithstanding my conclusion on living conditions and my finding on transport infrastructure, my conclusion on the first issue (character and appearance) is sufficient reason to dismiss this appeal.

B C Scott

INSPECTOR



Appeal Decision

Site visit made on 18 September 2010

by **Stuart M Reid** D Arch (Hons) RIBA

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Decision date:
22 September 2010

Appeal Ref: APP/Q1445/D/10/2134474 29 Honey Croft, Hove, East Sussex BN3 8EZ

- The appeal is made under section 78 of the *Town and Country Planning Act 1990* against a refusal to grant planning permission.
- The appeal is made by Mr Edward James against the decision of Brighton & Hove City Council.
- The application Ref BH2010/01328, dated 2 May 2010, was refused by notice dated 25 June 2010.
- The development is proposed front dormers.

Decision

1. I allow the appeal, and grant planning permission for proposed front dormers at 29 Honey Croft, Hove, East Sussex BN3 8EZ in accordance with the terms of the application, Ref BH2010/01328, dated 2 May 2010, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: numbers 477/01 and 477/02.
 - 3) The materials to be used in the construction of the external surfaces of the dormers hereby permitted shall match those used in the existing building.

Main issue

2. The main issue is the effect that the proposed dormers would have on the character and appearance of the appeal building and thus on the surrounding urban area.

Reasons

3. Honey Croft is on the northern edge of Hove, and is a typically hilly road with a variety of house designs and styles, mainly 2 storey. Due to the slope across the road, some dwellings are effectively 3 storeys with a built-in garage at ground floor level. The appeal building is one half of a semi-detached pair and a similar pair is next door. The building has a garage at ground floor level, living accommodation at first floor level, and bedrooms at second floor level in the roof. They are currently lit by a dormer window at the rear and rooflights at the front, to the street.

4. The adjoining dwelling has an existing single dormer at roof level, and the adjoining pair of dwellings has a single dormer to each dwelling at roof level, which are of differing designs, locations and dimensions. These 3 dwellings seem to be untypical of the road in that they were built as bungalows above the garage level, and now appear to have further accommodation added at roof level. The Officer's Report states that "... the aforementioned dormers in the vicinity of the application property are presumed to have been constructed under permitted development ..." It is a matter of record that, if they have been constructed as permitted development, it is because Parliament has found them to be acceptable, and thus deemed permission was granted. Even if they were not permitted development, the Council has not found it expedient to take enforcement action. They are, in any case, perfectly acceptable in views in the street, as dormers are not uncommon in achieving daylight to rooms in the roof, and usually not visually unacceptable or harmful.
5. The proposal is, by contrast, for a pair of dormers. They repeat the window pattern at first floor level, with a flat felt roof over, and plain tile hanging to their cheeks. They therefore respect the design of the existing house by repeating the window pattern and using tiles which are characteristic of the street, where brick, render and tile predominate as the local materials of choice. The Council's concerns about visual unbalance are not supported by any evidence as to the harm that it would cause. Indeed, I saw that many dwellings in the area, and not only semi-detached dwellings, have an asymmetric design, which is very much in keeping with local character, and brings welcome richness and variety to the street scene, without harm.
6. Furthermore, as 2 separate dormers as opposed to the full width dormer at the rear, they would be smaller and less obtrusive, and in keeping with the scale of the existing dormers on the front elevations. They would have scarcely any impact in views up and down the street, and would certainly not have a harmful impact in those views. In addition, function is an important component of design, and the dormer windows would clearly improve the living conditions at second floor level, with increased daylight and views, without causing harm to either the appeal building or to the surrounding area. The fact that other designs and types of house may not have this functional need for daylight and view at this level should not be allowed to prevent an acceptable design being permitted in these particular circumstances.
7. The street benefits from its diversity of design within a restrained overall palette of simple materials and designs, and it is appropriate for each proposal to be considered on its merits including function as well as form. With conditions to control materials, and to ensure that the scheme is built in accordance with the approved plans, for the avoidance of doubt and in the interests of proper planning, I consider that the proposed dormers are wholly acceptable and appropriate, would fit in well with the streetscene, and thus they would accord with Policies QD1, QD2, and QD14 of the Brighton and Hove Local Plan, and the Council's Supplementary Planning Guidance **SPG^{BH}** note 1. For the reasons given above I conclude that the appeal should be allowed.

Stuart M Reid

INSPECTOR



Appeal Decision

Site visit made on 31 August 2010

**by M A Champion BSc CEng FICE
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**Decision date:
8 September 2010**

Appeal Ref: APP/Q1445/D/10/2132783 45 Hillcrest, Westdene, Brighton, BN1 5FP.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Jon Rangecroft against the decision of Brighton & Hove City Council.
- The application ref: BH2010/01344, dated 29 April 2010, was refused by notice dated 30 June 2010.
- The development proposed is: the erection of a single storey rear extension and dormer window to front.

Decision

1. I allow the appeal and grant planning permission for the erection of a single storey rear extension and dormer window to front at 45 Hillcrest, Westdene, Brighton, BN1 5FP, in accordance with the terms of the application, ref: BH2010/01344, dated 29 April 2010, subject to the following conditions:
 - 1) The development hereby permitted shall be begun not later than the expiration of three years from the date of this permission.
 - 2) The development hereby permitted shall be carried out in accordance with Drawings No 01/Rev 0 and 02/Rev 0, both dated April 2010.
 - 3) All materials and finishes to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.

Main issue

2. The main issue is the effect of the proposed development on the character and appearance of the building and the street scene.

Reasons

3. Policy QD14 of the Brighton & Hove Local Plan 2005 deals with extensions and alterations, and is supported by Supplementary Planning Guidance *SPGBH1: Roof Alterations and Extensions*.
4. The appeal site lies in a residential area on the southern side of Hillcrest. It comprises a semi-detached bungalow and is surrounded by a mix of similar bungalows and houses.

5. The proposal would construct a rear extension and a dormer on the front roof slope. The Council does not object to the rear extension and I can find no planning reason to do so.
6. While I concur with the Council that individual front dormers generally detract from the appearance of a uniform street scene, particularly when semi-detached properties predominate, each case should be considered on its own merits.
7. In this instance the southern side of the road consists largely of similar semi-detached bungalows, a significant number of which have had alterations to the roof slope by means of dormers, roof lights and hip to gable conversions. Although the Council states that none has been constructed with planning permission since 1999, these alterations nevertheless exist. The number of these alterations, which I observed are distributed along the road, is such that, in my opinion, they form part of the street scene and further similar alterations could not, in principle, be said to be out of keeping.
8. The proposed dormer would be set below the ridge and well above the eaves with significant space on each side. The roof would reflect the design of the main roof while the window would align with that on the ground floor below and be of similar style. With the use of matching materials, which could be secured by condition, it would, I consider, appear as a well proportioned addition to the building adding interest to its appearance. It would not be so bulky as to detract from the character of the dwelling or to have an adverse effect on the street scene.
9. I acknowledge that it would result in an unbalanced semi-detached pair in this respect, but the roofline of its neighbour, No 47, has already been altered so that the original symmetry no longer remains. Having regard to the size, design, location and materials of the proposed dormer it would not, in my opinion, result in significantly increased harm to this pair of dwellings. On the contrary, I consider that it would be well designed, sited and detailed in relation to the dwelling, adjoining properties and the surrounding area.
10. Neighbouring residents express their concern at the demolition of the existing garage, excavation close to their boundaries, construction of a boundary fence, damp ingress, future maintenance and the removal of internal walls. These, however, are either not part of the appeal before me, or are not material planning considerations but are subject to other legislation.
11. I conclude, therefore, that the proposal would not adversely affect the character and appearance of the building or the street scene, and would comply with Policy QD14.

Conditions

12. I have considered the need for conditions, and those suggested by the Council, in the light of Circular 11/95: *The Use of Conditions in Planning Permissions*. A condition is required as it is necessary that the development shall be carried out in accordance with the approved plans, for the avoidance of doubt and in the interests of proper planning.

13. I shall also impose a condition requiring the use of matching materials in the interests of character and appearance.

14. I base all conditions on the model conditions of the Circular.

M A Champion

INSPECTOR



Appeal Decision

Site visit made on 31 August 2010

by **M A Champion BSc CEng FICE
FIStructE FCIHT FHKIE**

an Inspector appointed by the Secretary of State
for Communities and Local Government

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Decision date:
17 September 2010

Appeal Ref: **APP/Q1445/C/10/2119935**

Land at **114 Hythe Road, Brighton, BN1 6JS.**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Ms Lindsey Shakoori against an enforcement notice issued by the Brighton & Hove City Council.
- The Council's reference is 2008/0099.
- The notice was issued on 1 December 2009.
- The breach of planning control as alleged in the notice is:
Without planning permission the construction of a roof terrace, with balustrade, to the rear first floor.
- The requirements of the notice are:
 1. Cease the use of the first floor flat roof as a terrace.
 2. Remove the balustrade from the first floor flat roof.
 3. Remove the door access to the first floor flat roof and reinstate the window which existed prior to the unauthorised development (to match the rear first floor window and blockwork at No 112 Hythe Road – See Appendix 1 [of the notice]).NB. For the avoidance of doubt the terrace referred to is accessed from the half landing which leads to the first floor and is therefore described as the first floor terrace.
- The period for compliance with the requirements is three months.
- The appeal is proceeding on the grounds set out in sections 174(2) (a) and (f) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal is dismissed and the enforcement notice upheld with variation.

The appeal on ground (a) and the deemed application

Main Issues

1. The main issues are the effect of the development on the character and appearance of the building, and on the living conditions of neighbouring residents with particular regard to overlooking and privacy, and noise and disturbance.

Policies

2. Policies QD14 and QD27 of the Brighton & Hove Local Plan 2005 deal with extensions and alterations and protection of amenity.

Reasons

3. The appeal site lies in a residential area on the south side of Hythe Road. It comprises a three-storey mid-terraced house with a basement that leads to the rear garden owing to falling ground levels, and a roof conversion with a large rear dormer and Juliet balcony. A first floor terrace has been constructed over

the existing ground floor rear projection and is accessed from a half-landing on the stairway.

4. My attention has been drawn to appeal ref: APP/Q1445/A/09/2114717 dismissed in March 2010 for the same development. This is a recent decision and I have not been made aware of any change of policy or circumstance since. Although screens were included in the previous application they had not been installed at the time of the previous appeal. Neither had they been fitted at the time of my visit.
5. The previous Inspector found that overlooking from the terrace was significantly more harmful than from the upper floor rear windows within the building. He also considered that the likely low level of use of the terrace would not result in unacceptable noise and disturbance, but that the proposed screens would harm the character and appearance of the area.
6. While I have no reason to disagree with these views, I consider additionally that, if use of the terrace were to increase beyond the low level assumed in the earlier appeal, then, in view of the open aspect to the rear and the height above rear garden level, the living conditions of neighbouring residents would be adversely affected by noise and disturbance.
7. Furthermore, for the same reasons, the terrace is in a highly prominent position and visible from the rear windows and gardens of many neighbouring properties. It is, in my opinion, an incongruous feature which detracts from the appearance of the building.
8. I conclude, therefore, that the development harms both the character and appearance of building and the living conditions of neighbouring residents by way of overlooking and loss of privacy, and potentially noise and disturbance, contrary to Policies QD14 and QD27. The appeal on ground (a) fails.

The appeal on ground (f)

9. This ground of appeal is that the steps required to comply with the notice are excessive and that lesser steps would overcome the objections. The appellant states that reinstating the window is excessive as the door could remain but with the balustrade railings reconstructed as a Juliet balcony.
10. The existing door opens outwards, and such permanently fixed railings would not permit the door to open sufficiently to allow access to the terrace. As this proposal would also reflect the appearance of the dormer above, I do not consider that it would be out of keeping. I shall vary the notice accordingly. The appeal on ground (f) succeeds to this extent.

Conclusions

11. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the notice with variation and refuse to grant planning permission on the deemed application.

Formal Decision

12. I direct that the enforcement notice be varied by the deletion from paragraph 3 of the words

“Remove the door access to the first floor flat roof and reinstate the window which existed prior to the unauthorised development (to match the rear first floor window and blockwork at No 112 Hythe Road – See Appendix 1)”

and the substitution therefor of the words

“EITHER

Remove the door access to the first floor flat roof and reinstate the window which existed prior to the unauthorised development (to match the rear first floor window and blockwork at No 112 Hythe Road – See Appendix 1)

OR

Permanently install railings (to the same design, height, spacing, size, materials and finish as the existing railings to the Juliet balcony in the rear roof dormer) across the outside of the door and fixed to the wall on either side in such a position as to prevent the door being opened and to prevent access to the first floor flat roof”.

13. Subject to this variation I dismiss the appeal and uphold the enforcement notice. I refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

M A Champion

INSPECTOR



Appeal Decision

Site visit made on 6 September 2010.

by **B C Scott BA(Hons) Urban & Regional Planning MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

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Decision date:
21 September 2010

Appeal Ref: APP/Q1445/A/10/2125104

130 Cowper Street, Hove, East Sussex, BN3 5BL.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Raggio against the decision of Brighton & Hove City Council.
- The application Ref: BH2009/02812, dated 12 November 2009, was refused by notice dated 19 January 2010.
- The development proposed is a rear extension at first floor to provide additional office space.

Procedural Matters

1. The appeal premises have a lengthy planning history. The ground floor of the appeal building is in some commercial use that has varied over the years. Above it, the appeal scheme would enlarge an intended office development for which there is an extant planning permission (BH2009/01561). That permission follows a refusal of a scheme similar to the resultant development involved with this appeal (BH2009/00390).
2. Whereas just the appeal extension is before me, as the Council states, it would never exist on its own. In the circumstances, I examine the outcome of the proposed development upon the whole and the resultant impact. I bear in mind that the extant permission does not prevent me from dismissing an appeal for a scheme which is patently unacceptable in planning terms.
3. In its reason for refusal the Council includes reference to 'loss of light', but in its statement any concerns about sun-lighting and day-lighting are neither advanced nor sustained. Indeed, the Council states that these are specific issues not referred to in its reason for refusal.
4. The Appellant's drawings show that the intended office development would be just within the bounds of acceptability for internal natural light, having regard to the 45 degree guidance line identified in the Brighton & Hove Local Plan 2005 (LP). So too, would the appeal scheme be, due to its wedged design. Thus, I have no reason to question the merits of the appeal scheme on that ground.
5. In the circumstances, I take 'loss of light' to be a reference to outdoor shadowing, which can be associated with an overbearing impact.

Decision

6. I dismiss the appeal.

Main Issue

7. I consider the main issue in this case to be the effect of the proposed development on the living conditions of the adjoining occupiers, with particular reference to outlook.

Reasons

8. The appeal premises are in an urban residential area, placed tightly between the end of one housing terrace and the rear of another. The appeal building is fundamentally an elongated garage that runs across the back of rear gardens (Rutland Road), with a transverse pitched roof over its forward part.
9. The proposed development would lengthen the intended office development at first floor level; there is to be a longitudinal pitched roof over much of the appeal garage followed by a flat roof that would be extended with the appeal scheme at the rear. The thrust of saved LP policies QD14 and QD27 is to protect residential amenity, including such things as the outlook of affected occupiers.
10. The subject rear gardens in Rutland Road are stunted, being bounded by high walls at close quarters. Owing to its proximity, the roof form of the existing appeal building, in terms of its height and facing gable wall, is a dominant feature even though its ridge height is well below house eaves level.
11. During my visit to no.5, I experienced an enclosed feeling that fell short of claustrophobia because of the open sky areas available either side of the transverse pitched roof, above the common boundary wall. Sight of those areas would be lost with the intended office development that would have a lengthy, featureless flank wall to eaves level. Owing to the height, mass and shadowing effect of the flank wall involved, I am in no doubt that an unacceptable feeling of claustrophobia upon the adjoining occupiers would result from that development.
12. The proposed development before me would lengthen that flank wall further, albeit by a small amount. An additional loss of an open sky component would result and further shadowing would be experienced by the adjoining occupiers. Inescapably, irrespective of its flat roof and wedged design, it would amplify the overbearing nature of the intended office development and make matters noticeably worse. The small scale of the appeal scheme is no reason to allow such a harmful development.
13. I have considered all other matters that are raised. I fully understand the concerns of neighbours about the resultant development, but none alters my conclusion on the main issue that the proposed development would unacceptably affect the living conditions of the adjoining occupiers, in conflict with the aims of policies QD14 and QD27 of the Development Plan.

B C Scott
INSPECTOR



Appeal Decision

Site visit made on 14 July 2010

by **Rob Huntley BSc MRTPI**

an Inspector appointed by the Secretary of State
for Communities and Local Government

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Decision date:
1 September 2010

Appeal Ref: APP/Q1445/A/10/2122248 148, Lewes Road, Brighton, BN2 3LG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr P Spiers against the decision of Brighton and Hove City Council.
- The application Ref BH2009/01499, dated 6 August 2009, was refused by notice dated 2 November 2009.
- The development proposed is the demolition of existing buildings and erection of 2 new dwellings with gardens and parking areas.

Decision

1. I allow the appeal, and grant planning permission for the demolition of existing buildings and erection of 2 new dwellings with gardens and parking areas at 148, Lewes Road, Brighton, BN2 3LG in accordance with the terms of the application, Ref BH2009/01499, dated 6 August 2009, subject to the conditions set out in the schedule attached.

Main issue

2. The main issue is the effect of the proposed development on the availability of employment land within the City.

Reasons

3. The area surrounding the appeal site comprises closely spaced terraces of 2-storey houses with semi-basements, fronting a network of streets to the east of Lewes Road. The appeal site lies at the corner of 2 of these streets, Pevensey Road and Fairlight Place, to the rear of 148 Lewes Road. The 3-storey Fairlight Primary School lies opposite the Fairlight Place frontage of the appeal property, occupying the whole of the block bounded by Fairlight Place, Pevensey Road, St Leonards Road and Hastings Road.
4. Lewes Road has the character of a suburban high street, with retail, food and drink, service and financial establishments lining both sides, and along which frequent bus services operate. Notwithstanding its proximity to Lewes Road, the character of the area around the appeal site is essentially residential. The general lack of off-street parking provision, the relatively narrow roads and the absence of parking restrictions, restricts the effective carriageway widths. This, together with the closure, for vehicles, of the junction between Pevensey Road and Lewes Road and the narrowing of the junctions of neighbouring streets with Lewes Road, means that access to the appeal site by large commercial vehicles is constrained. The proximity of Fairlight School and the

absence of turning space at the end of Pevensey Road exacerbate these constraints.

5. The appeal site, presently occupied by a somewhat dilapidated single-storey building, contrasts with the otherwise continuous 2¹/₂ to 3-storey built frontages to Fairlight Terrace and the surrounding streets. The Council acknowledges that the removal of the existing building would be an improvement and that the bulk, size and siting of the proposed dwellings would be satisfactory. I also note that the Council raises no objection to the proposed development in visual terms, or in relation to highways, parking, sustainability or the standard of accommodation proposed. From the information before me I see no reason to disagree with the Council's views in these respects.
6. Policy EM6 of the Brighton and Hove Local Plan 2005 (Local Plan) seeks the retention of small industrial, business and warehouse premises unless certain criteria are met. The appellant has drawn attention to the availability of a range of other small employment premises in the general area. Although I agree with the Council that this does not go so far as to demonstrate that there is an oversupply of such premises locally, I note that criterion a. of policy EM6 is not put in those terms. It refers to such premises being available, which the marketing material suggests is the case. Although I have no detailed information on rents sought or achieved at the appeal property or at the other units referred to, there is no suggestion that there would be any material difference beyond reflecting the constraints affecting the appeal site. For these reasons I conclude that criterion a. of the policy is met.
7. The premises have been vacant since July 2007 and had been marketed from early 2006, with the letting agent drawing attention to the poor prospects of attracting an occupier, without major upgrade or development, on account of difficulties of access and the poor condition of the property. Although the Council comments on the absence of evidence of continued marketing of the premises, I note that paragraph 5.33 of the Local Plan refers to a period of marketing of a year to 18 months as being appropriate in the case of small premises. I am satisfied that the terms of criterion b. of Local Plan policy EM6 are met in this case.
8. The constrained nature of the local road network, the small size of the site, the proximity of nearby residential properties and the likelihood that an employment-related use of the appeal premises would involve goods vehicles accessing the site, leads me to conclude that continued use for such purposes would cause undue disturbance to residential neighbours. Criterion c. of Local Plan policy EM6 is therefore met.
9. In the light of these considerations, I conclude that redevelopment of the site as proposed would be consistent with criteria a, b and c of Local Plan policy EM6 and that there would, therefore, be no conflict with the development plan.
10. The Council suggests that conditions be imposed to require the submission for approval of details of external materials, boundary treatment and facilities for the storage of cycles. I agree that these conditions are necessary to ensure a satisfactory appearance for the development and to ensure the provision of necessary facilities. As suggested by the Council, I agree that conditions to ensure the retention of the proposed parking spaces and refuse storage facilities are necessary, and that a condition removing permitted development

rights for extensions is, exceptionally, necessary in view of the small size of the curtilage of the proposed dwellings. A requirement that the proposed dwellings meet level 3 of the Code for Sustainable Homes is necessary in the interests of sustainability and I have combined the Council's suggested conditions 5 and 6 in this respect, in the interests of clarity. I have also imposed a condition stating the references of the plans to which the permission relates, in the interest of precision.

11. I have considered all other matters raised and I conclude, for the reasons I have given, that the appeal should be allowed.

Rob Huntley

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall begin not later than three years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the approved plans, Nos NL/148LR/1 (proposed plans), NL/148LR/1A (proposed elevations), unnumbered 1:500 Block Plan and unnumbered existing site plan.
3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking, re-enacting or modifying that Order), no extension, enlargement or other alteration to the dwellings shall be constructed.
4. No development shall take place until samples of the materials to be used in the construction of the external surfaces of the dwellings hereby permitted (including the colour of any external paintwork or render), have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
5. No development shall take place until there has been submitted to and approved in writing by the local planning authority a plan indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed before the dwellings are occupied. The development shall be carried out in accordance with the approved details.
6. No development shall take place until there has been submitted to and approved in writing by the local planning authority details of secure cycle storage facilities. The cycle storage facilities shall be completed before the dwellings are occupied, and thereafter retained. The development shall be carried out in accordance with the approved details.

7. The dwellings shall not be occupied until the facilities for the storage of refuse and recyclable waste shown on the approved plans have been provided and made available for use. The facilities shall thereafter be retained.
8. The dwellings shall achieve Level 3 of the Code for Sustainable Homes. No dwelling shall be occupied until a final Code Certificate has been issued for it certifying that Code Level 3 has been achieved.



Appeal Decision

Site visit made on 24 August 2010

by Sheila Holden
BSc MSc CEng TPP MICE MRTPI FCIHT

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Decision date:
1 September 2010

Appeal Ref: APP/Q1445/D/10/2130866
French Protestant Church of Brighton, Queensbury Mews, Brighton
BN1 2FE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Haydn Hughes against the decision of Brighton & Hove City Council.
- The application Ref BH2010/00839, dated 24 March 2010, was refused by notice dated 24 May 2010.
- The development proposed is a two storey extension and roof terrace.

Decision

1. I dismiss the appeal.

Main Issues

2. The main issues are:
 - a) Whether the proposed development would preserve or enhance the character or appearance of the Regency Square Conservation Area;
 - b) The effects of the proposed roof terrace on the living conditions of occupiers of adjoining properties with particular reference to overlooking.

Reasons

Character and appearance

3. The Former French Protestant Church is a delightful example of a small 19th century church with well-proportioned features including a steeple, a five sided apse, a steeply sloping slate roof, an attractive main entrance and numerous stain glass windows. It has recently been tastefully converted internally into a residential dwelling whilst retaining its external appearance from the surrounding streets.
4. It is located on an island site adjacent to the Metropole Hotel and its exhibition hall to the east and north. The church's northern and eastern elevations are blank rendered façades indicating where it abutted previous development. However, in my view, its attractive southern and western elevations are important elements of this part of the Conservation Area, which is otherwise dominated by the large brick walls and façades of the hotel. The steeple, main roof and apse are visible from Queensbury Mews and their steep slopes create a visual link between the mass of the hotel and the street.

5. The proposal is for a two storey extension and roof terrace on the northern elevation. The walls which currently enclose the courtyard on the northern and eastern side of the site would be increased in height creating two box shaped additions using a significant amount of glazing. These would virtually obliterate views of the apse and would detract from the shape of the roof making the northern elevation appear lop-sided. The blank façade of the eastern elevation would be extended in width and height so that it would protrude above the coping of the existing building. The increased size of these walls and the shape of the extension would appear as an incongruous, bulky addition which would detract from the original features and architectural interest of the host building. The western elevation would include large areas of glazing. However, their size and shape would not relate well to the church with its steeply pitched roof, nor appear as a subservient addition to it.
6. I acknowledge that designing a contemporary extension to this unique building, which is on a very constrained site, presents significant challenges. However, I consider that the appeal proposal would dominate the original building detracting from its character, appearance and visual charm. For these reasons I conclude that the proposed extension would be harmful to the character and appearance of the host property and the Regency Square Conservation Area, contrary to saved Policies QD1, QD2, QD14 and HE6 of the Brighton & Hove Local Plan. These policies all require high standards of design that respect the scale, character and features of existing buildings and their setting, especially in areas protected for their historic interest.

Living conditions

7. The first and second floor terraces of the proposed extension would face west. The building immediately opposite does not have windows in this elevation and has a garage at ground level; other windows which look onto Queensbury Mews are further away. In my view that the extension would not give rise to any harmful overlooking of them. On the eastern side of the proposed second floor terrace there would be a wall and it seems more likely to me that occupants would look westwards rather than towards the hotel. I agree with the suggestion that, if the proposal was otherwise acceptable, a condition to provide adequate screening would ensure that there was no harmful overlooking towards hotel rooms on the lower floors. I conclude that the proposed extension would not give rise to overlooking which would be harmful the living conditions of occupants of surrounding buildings. In this respect the proposal would comply with saved Policy QD14 of the Local Plan which seeks to protect residential amenity.

Conclusions

8. I understand that the appellant wishes to increase the size of his home, providing more natural light and an outside amenity space. However, although I have found there would be no harm to the living conditions of neighbours I have concluded that the character and appearance of the building and the Conservation Area would be harmed. For this reason and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Sheila Holden

INSPECTOR

WARD**APPLICATION NUMBER****ADDRESS****DEVELOPMENT DESCRIPTION****APPEAL STATUS****APPEAL RECEIVED DATE****APPLICATION DECISION LEVEL****SOUTH PORTSLADE**

BH2010/02045

First Floor Flat, 32 St Andrews Road, Portslade, Brighton

Loft conversion incorporating rear dormer and 2no front facing rooflights.

APPEAL LODGED

02/09/2010

Delegated

WARD**APPLICATION NUMBER****ADDRESS****DEVELOPMENT DESCRIPTION****APPEAL STATUS****APPEAL RECEIVED DATE****APPLICATION DECISION LEVEL****HANOVER & ELM GROVE**

BH2010/00940

128 - 129 Lewes Road, Brighton

Change of use of basement from retail storage to 1no 1 bed flat and 1no studio. Excavation at front to form new entrance steps to basement with lightwell and associated metal balustrading. Alterations to front and rear fenestration.

APPEAL LODGED

06/09/2010

Delegated

WARD**APPLICATION NUMBER****ADDRESS****DEVELOPMENT DESCRIPTION****APPEAL STATUS****APPEAL RECEIVED DATE****APPLICATION DECISION LEVEL****WOODINGDEAN**

BH2010/00856

10 Ravenswood Drive, Brighton

Erection of a two storey rear extension and a single storey rear/side extension.

APPEAL LODGED

08/09/2010

Delegated

WARD**APPLICATION NUMBER****ADDRESS****DEVELOPMENT DESCRIPTION****APPEAL STATUS****APPEAL RECEIVED DATE****APPLICATION DECISION LEVEL****WESTBOURNE**

BH2010/01431

36 Walsingham Road, Hove

First floor rear extension to form new one bedroom flat. Remodelling of existing first floor flat including minor alterations and loft conversion incorporating 4 new rooflights.

APPEAL LODGED

08/09/2010

Delegated

NEW APPEALS RECEIVED

WARD

APPLICATION NUMBER

ADDRESS

DEVELOPMENT DESCRIPTION

APPEAL STATUS

APPEAL RECEIVED DATE

APPLICATION DECISION LEVEL

CENTRAL HOVE

BH2009/02421

The Coach House, Norton Close, Norton Road, Hove

Demolition of garages and alterations to existing coach house to form 1no. dwelling and creation of 2no. single storey dwellings.

APPEAL LODGED

14/09/2010

Non determination

WARD

APPLICATION NUMBER

ADDRESS

DEVELOPMENT DESCRIPTION

APPEAL STATUS

APPEAL RECEIVED DATE

APPLICATION DECISION LEVEL

HOVE PARK

BH2010/00819

First Floor Flat A 1 Frith Road Hove

Loft conversion with rear dormer and 2 no front velux rooflights

incorporating reinstatement of a slate roof.

APPEAL LODGED

14/09/2010

Delegated

WARD

APPLICATION NUMBER

ADDRESS

DEVELOPMENT DESCRIPTION

APPEAL STATUS

APPEAL RECEIVED DATE

APPLICATION DECISION LEVEL

WOODINGDEAN

BH2010/00828

116 The Ridgway, Brighton

Erection of single storey rear extension and loft conversion incorporating increased ridge heights, hip to barn front and hip to gable rear roof extensions with additional windows, side dormers and rooflights and associated external alterations.

APPEAL LODGED

16/09/2010

Delegated

WARD

APPLICATION NUMBER

ADDRESS

DEVELOPMENT DESCRIPTION

APPEAL STATUS

APPEAL RECEIVED DATE

APPLICATION DECISION LEVEL

WITHDEAN

BH2010/00840

250 London Road, Preston, Brighton

Erection of detached garage to replace existing

APPEAL LODGED

15/09/2010

Delegated

WARD

APPLICATION NUMBER

ADDRESS

DEVELOPMENT DESCRIPTION

APPEAL STATUS

APPEAL RECEIVED DATE

APPLICATION DECISION LEVEL

WISH

BH2010/01960

304 Portland Road, Hove

Conversion of roofspace to form 1no studio flat.

APPEAL LODGED

20/09/2010

Delegated

NEW APPEALS RECEIVED

<u>WARD</u>	ST. PETER'S & NORTH LAINE
<u>APPLICATION NUMBER</u>	BH2010/00510
<u>ADDRESS</u>	Downs Filling Station, 134 Ditchling Road, Brighton
<u>DEVELOPMENT DESCRIPTION</u>	Display of 1no internally illuminated pole mounted advertisement unit (Retrospective).
<u>APPEAL STATUS</u>	APPEAL LODGED
<u>APPEAL RECEIVED DATE</u>	15/09/2010
<u>APPLICATION DECISION LEVEL</u>	Delegated

<u>WARD</u>	QUEEN'S PARK
<u>APPLICATION NUMBER</u>	BH2010/00477
<u>ADDRESS</u>	Flat 2, 12 St Georges Terrace, Brighton
<u>DEVELOPMENT DESCRIPTION</u>	Replacement of 1no rear and 1no side window with new UPVC windows.
<u>APPEAL STATUS</u>	APPEAL LODGED
<u>APPEAL RECEIVED DATE</u>	20/09/2010
<u>APPLICATION DECISION LEVEL</u>	Delegated

<u>WARD</u>	ST. PETER'S & NORTH LAINE
<u>APPLICATION NUMBER</u>	BH2009/03126
<u>ADDRESS</u>	2 Camden Terrace, Brighton
<u>DEVELOPMENT DESCRIPTION</u>	Replacement of single glazed timber windows with double glazed UPVC windows.
<u>APPEAL STATUS</u>	APPEAL LODGED
<u>APPEAL RECEIVED DATE</u>	20/09/2010
<u>APPLICATION DECISION LEVEL</u>	Delegated

<u>WARD</u>	WITHDEAN
<u>APPLICATION NUMBER</u>	BH2010/01814
<u>ADDRESS</u>	85 Valley Drive, Brighton
<u>DEVELOPMENT DESCRIPTION</u>	Erection of single storey rear extension, roof extension incorporating hip to gable end to rear, additional dormer to East and associated works.
<u>APPEAL STATUS</u>	APPEAL LODGED
<u>APPEAL RECEIVED DATE</u>	20/09/2010
<u>APPLICATION DECISION LEVEL</u>	Delegated

<u>WARD</u>	ST. PETER'S & NORTH LAINE
<u>APPLICATION NUMBER</u>	BH2010/02066
<u>ADDRESS</u>	56 North Road, Brighton
<u>DEVELOPMENT DESCRIPTION</u>	Replacement of timber windows to front elevation with UPVC sash windows.
<u>APPEAL STATUS</u>	APPEAL LODGED
<u>APPEAL RECEIVED DATE</u>	21/09/2010
<u>APPLICATION DECISION LEVEL</u>	Delegated

NEW APPEALS RECEIVED

WARD

APPLICATION NUMBER

ADDRESS

DEVELOPMENT DESCRIPTION

APPEAL STATUS

APPEAL RECEIVED DATE

APPLICATION DECISION LEVEL

WITHDEAN

BH2010/01814

85 Valley Drive, Brighton

Erection of single storey rear extension, roof extension incorporating hip to gable end to rear, additional dormer to East and associated works.

APPEAL LODGED

20/09/2010

Delegated



**Brighton & Hove
City Council**

INFORMATION ON HEARINGS / PUBLIC INQUIRIES 13th October 2010

This is a note of the current position regarding Planning Inquiries and Hearings

28 Marine Drive, Rottingdean

Planning application no: BH2009/02228

Description: Demolition of existing dwelling and erection of a block of six flats and two town houses (8 units in total) together with associated parking and bin store.

Decision: Committee

Type of appeal: Informal Hearing

Date: TBC

Location: TBC

7 Victoria Road, Brighton

Planning application no: BH2010/00346 (householder consent)

BH2010/00347 (listed building consent)

Description: Alterations to roof to form a hidden sunken external roof space incorporating removal and replacement of external features (householder consent).

Decision: Delegated

Type of appeal: Informal Hearing

Date: TBC

Location: TBC

Enforcement Appeal

Block K, New England Quarter, Brighton

Enforcement no: BH2010/0494

Description: Breach of condition 4 of planning application BH2005/05142.

Decision:

Type of appeal: Public Inquiry

Date: TBC

Location: TBC

Information on Pre-application Presentations and Requests

Date	Address	Ward	Proposal
17 March 2010	Former Nurses Accommodation, Brighton General Hospital	Hanover & Elm Grove	Demolition of the former nurses accommodation buildings and the construction of three residential apartment blocks comprising 95 units and a 105 square metre community facility with associated car parking and landscaping.
27 April 2010	N/A	N/A	N/A
18 May 2010	N/A	N/A	N/A
8 June 2010	N/A	N/A	N/A
29 June 2010	Former Royal Alexandra Children's Hospital, Dyke Road, Brighton	Regency	<i>A) Conversion scheme</i> Conversion of a retained main building to provide 118 units. The scheme is 100% private housing and does not include provision of a GP surgery. <i>B) New building scheme</i> Demolition of all existing buildings with a new development comprising 136 units with 54 affordable units (40%) and a GP surgery.
20 July 2010	The Keep, Wollards Field, Lewes Road, Brighton	St Peter's & North Laine	A new historical resource centre for East Sussex, Brighton & Hove.
10 August 2010	Former Sackville Hotel, Kingsway, Hove	Westbourne	Construction of 47 flats (mix of 1, 2, 3, & 4 bed units) within 6 to 9 floor building, and to incorporate basement parking of 49 spaces, and 2 spaces at ground floor level.

NOTE: The Pre Application Presentations are not public meetings and as such are not open to members of the public. All Presentations will be held in Hove Town Hall on the date give after scheduled site visits unless otherwise stated.

Date	Address	Ward	Proposal
31 August 2010	N/A	N/A	N/A
21 September 2010	3Ts	East Brighton	3T's (teaching, tertiary & trauma). Comprehensive redevelopment of southern half of RSCH on Eastern Road to provide replacement modern clinical facilities over three phases.
12 October 2010	Astoria	St Peter's & North Laine	Demolition of existing listed building and proposed erection of part 6 and part 2 storey building. The 2 storey element will contain smaller starter units whilst the 6 storey element will provide flexible B1 office floorspace with a café on the ground floor. The scheme also proposes to make improvements to Blenheim Place.
2 November 2010	Park House	Hove Park Ward	Demolition of former residential language school buildings and the residential redevelopment of the site by way of flats in buildings of between 4 and 5 storeys
23 November 2010			
14 December 2010			
11 January 2011			
1 February 2011			
22 February 2011			

Date	Address	Ward	Proposal
15 March 2011			
26 April 2011			
17 May 2011			

