



---

# Appeal Decision

Site visit made on 1 May 2012

**by Gareth Symons BSc(Hons) DipTP MRTPI**

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

**Decision date: 14 May 2012**

---

**Appeal Ref: APP/Q1445/C/11/2163026**

**159 Edward Street, Brighton, East Sussex, BN2 2JB**

- 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 Mr A Lavender against an enforcement notice issued by Brighton & Hove City Council.
- The Council's reference is 2009/0500.
- The notice was issued on 9 September 2011.
- The breach of planning control as alleged in the notice is without planning permission the construction of two roof dormers and an increase in height of the roof and the installation of an extraction flue.
- The requirements of the notice are: Remove the two roof dormers on the eastern roof slope; Remove the extraction flue on the eastern roof slope; Reduce the height of the roof and its pitch so that it accords with plan 070902 004 submitted as part of planning application Ref: BH2010/02944; Remove all resultant debris from the land.
- The period for compliance with the requirements is 6 months.
- The appeal is proceeding on the grounds set out in section 174(2) (a) and (f) of the Town and Country Planning Act 1990 as amended.

**Summary of Decision: The appeal under ground (a) succeeds, the enforcement notice is quashed and planning permission is granted, as set out below in the Formal Decision.**

---

## Procedural Matter

1. The site visit should have been carried out with both parties present. Unfortunately the Council representative failed to attend. However, in terms of the main issue in this appeal I was able to see the roof of the building, its dormers and the extraction flue from the road and the adjoining Dorset Gardens Peace Park. With the agreement of the appellant and his agent I therefore proceeded to see the site without the Council. No injustice has been caused to either party by this change of procedure.

## The ground (a) appeal

2. The main issue is whether the development has preserved or enhanced the character or appearance of the East Cliff Conservation Area.

## Reasons

3. In 2007 planning permission was granted to insert two dormer windows and an extraction vent in the east facing roof slope of the appeal building. There have been various deviations from the approved scheme. These include the ridge of the roof being raised and moved slightly over to the west; the eaves on the

- east elevation are deeper; the dormers are different and sit higher up on the roof slope; the vent cowl is different.
4. The increase in the height of the roof and its push over to one side are very slight differences. The roof does not project above the parapet wall facing Edward Street. From the road and the park these changes are barely noticeable. The east wall of the building has a stepped depth. The eaves more or less line up with the outermost face of the wall and therefore do not look unduly deep. The east facing roof is not bulky or disproportionately large as a result of these changes.
  5. It is accepted that the revised dormers come closer to the ridge than the approved dormers and that from within the park there is a perception that they 'break' the ridgeline. Nevertheless, they do not come up to or rise above the roof ridge level. The dormers are also not disproportionately large. They are well positioned, set back from the eaves and have ample spaces between them and to their sides. Along with their style, design and black finish, that complements the darkness of the slates; the revised dormers sit comfortably within the roof. They are not prominent and do not detract from the character of the building.
  6. The vent cowl is a small and very minor addition to the roof that can only be briefly seen when walking down Edward Street. Coming up the road views of it are obscured by the parapet wall. Its black colour also means that it does not catch the eye. The overall appearance of the building has not been harmed.
  7. Looking across at the appeal site from Dorset Gardens the alterations to the building do not look out of place. The building also occupies a discrete position tucked up in the corner of the park. In this context the setting of the park, which was formerly private gardens to the houses in Dorset Gardens, has not been compromised. The building also retains a simple unobtrusive character that does not conflict with the grandeur of the properties in Dorset Gardens. Views of the appeal site from Edward Street are restricted by a high wall and trees. Although the dormers and the vent are visible when coming down Edward Street, they do not impact adversely on the character of the area.
  8. Changes to the roof of the building have already been accepted. The differences between the approved scheme and what has been built are acceptable as they preserve the character and appearance of the East Cliff Conservation Area. As such, the appeal development accords with the design and conservation aims of policies QD1, QD2, QD14 and HE6 from the Brighton and Hove Local Plan and the Council's Supplementary Planning Guidance on Roof Alterations and Extensions. The aims of the policies from the LP are consistent with the National Planning Policy Framework in that they require good design and the historic environment to be conserved. I have therefore given the policies full weight in reaching my decision.
  9. Having regard to all other matters raised, I conclude that the alleged breach of planning control should be granted planning permission. Consequently the ground (a) appeal succeeds and I intend to quash the enforcement notice. It is therefore not necessary for me to consider the ground (f) appeal.

### **Formal Decision**

10. I allow the appeal and direct that the enforcement notice be quashed. I grant planning permission, on the application deemed to have been made under

section 177(5) of the 1990 Act as amended, for the construction of two roof dormers and an increase in height of the roof and the installation of an extraction flue at 159 Edward Street, Brighton, East Sussex, BN2 2JB.

*Gareth Symons*

INSPECTOR

