



Appeal Decision

by **Ken McEntee**

a person appointed by the Secretary of State for Communities and Local Government

Decision date: 2 May 2012

Appeal ref: APP/Q1445/C/12/2171055
Land at 100 St George's Road, Brighton, BN2 1EA

- 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 brought by Mr Mark Burnard-Epstein against an enforcement notice issued by Brighton and Hove City Council.
- The Council's reference is 2010/0576
- The appellants' agents are Messrs Lewis & Co Planning.
- The notice was issued on 30 January 2012.
- The breach of planning control as alleged is "Without planning permission the installation of double doors and erection of railings to form a roof terrace at first floor level".
- The requirements of the notice are: "1. Remove the double doors on the north elevation of the building at first floor level. 2. Remove the railings from the flat roof area above the ground floor café".
- The period for compliance with the requirements of the notice is "3 months after this notice takes effect".
- The appeal is made on ground (g) as set out in section 174(2) of the amended 1990 Act.

Summary of decision: The appeal is dismissed and the enforcement notice is upheld without variation.

Procedural matters

1. The Inspectorate's letter of 7 March 2012 confirmed that, because the correct fee was not paid within the specified period, the deemed application for planning permission had lapsed. The planning merits of the development cannot therefore be considered. I shall accordingly deal only with the appeal on ground (g).
2. I have considered the ground on which the appeal was made in the appeal form together with the Council's statement. As these representations have been made available to the parties, I do not intend to summarise them in detail. They have been carefully considered.

The Ground (g) appeal

3. The ground (g) appeal was made on the basis that the appellant requires more time to comply with the notice in order for a revised planning application to be considered and a subsequent appeal to be determined should it be refused. The appellant requests an extension of the compliance period to 9 months. The Council contend that they have already previously refused an identical application and assert the appeal should be dismissed.

4. I have carefully considered all the points made during the appeal. I note the point made by the appellant that the new application to be considered by the Council is not an identical one, but a revised one and I appreciate the appellant's desire for more time to allow this application to be considered, along with any subsequent appeal. However, this has to be weighed against the stated harm to the amenity of the surrounding area caused by the breach of planning control. I am also mindful that almost a further 3 months have elapsed since the appeal was made, with enforcement action effectively suspended. As the compliance period will begin again from the date of this decision, this should allow ample time for the new application to be decided, which was due to be determined by 27 March 2012. However, I cannot justify extending the period further on the possibility of an appeal being made, which in any event, can only be considered as a matter of speculation at this stage. I see no good reason to justify extending the compliance period further.
5. In view of the above, I consider it appropriate to return the control of development to the Council as soon as possible. I therefore take the view that the 3 months allowed for compliance of the notice is sufficient time to meet its requirements.
6. Bearing all these points in mind, I do not consider that an extension of the compliance period would be justified in this case. The ground (g) appeal fails accordingly.

Formal decision

7. For the reasons given above, and in exercise of the powers transferred to me, I hereby dismiss the appeal and uphold the enforcement notice.

K McEntee