



Appeal Decision

Site visit made on 21 January 2013

by David Harmston FRICS DipTP MRTPI

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

Decision date: 30 January 2013

Appeal Ref: APP/Q1445/A/12/2184195

124 Lewes Road, Brighton, East Sussex 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 M & G Properties (Sussex) Limited against the decision of Brighton & Hove City Council.
 - The application (Ref BH2012/00211), dated 27 January 2012, was refused by notice dated 22 March 2012.
 - The development proposed is the change of the existing building and extension to second floor to create a retail (A1)/Professional Services (A2) unit at ground and lower ground floor and student accommodation (Sui Generis) at ground floor, first and second floor levels.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant has stated that since the appeal was made the building has been converted in accordance with planning permission Ref BH2012/00214. This was for the change of use of the existing building to create a retail (Class A1) and professional services (Class A2) unit at ground and lower ground floor levels with 8 units of student accommodation provided at ground and first floor levels with associated external alterations.¹ At the time of my site visit these works appeared to have commenced.
3. I note that in respect of the appeal the Council welcomes the introduction of a Class A1/A2 use at the property and the provision of student accommodation on the site, as a principle, is not objected to. The development is therefore acceptable to the Council under the terms of policy SR5 of the Brighton & Hove Local Plan in these respects. Having considered all the representations on this matter, I agree that the principle of the development of the site insofar as the proposed uses are concerned is acceptable and do not constitute a disputed issue in this case.
4. Similarly the Council raises no objections to the development on highways grounds, car parking provision or cycle storage areas, subject to conditions. Appropriate conditions would also be necessary concerning sustainability and air quality issues but there are no in principle objections to the scheme on any

¹ There is a slight discrepancy between the description of this development relating to the use of the ground floor as given by the Council and paragraph 1.1 of the appellant's 'Statement of Case'.

of these matters. Again, I agree with the Council that subject to the imposition of appropriate conditions there are no grounds to resist the development on these issues. There would therefore be no conflict between the proposals and policies SU9, TR1 and TR7 of the Local Plan in respect of these considerations.

5. As far as the provision of outdoor recreational space is concerned policy HO6 of the Local Plan lays down a requirement for new residential development to provide such an amenity. In default a financial contribution can be made towards the provision being made on a suitable alternative site. I am informed that a Unilateral Undertaking has been submitted by the appellant to the Council. It states that if the scheme had been deemed to be acceptable in all other respects then the contribution would have been sought. This would be used for improvements to the facilities in Saunders Park, close to the site.
6. On the basis of the information before me I am unable to apply the tests of Regulation 122 of the Community Infrastructure Regulations (2010) to the Undertaking. In any event, in view of my conclusions regarding the main issues in this appeal, it is not necessary for me to apply these tests as the appeal is dismissed on its substantive merits.
7. In July 2012 an appeal was dismissed for the change of use and extension of the premises at second and third floors to form 2 x flexible A1, A2 and B1 units on the ground floors with 11 units of student accommodation above (Ref APP/Q1445/A/12/2170303). That decision is a material consideration in this appeal and I have taken account of it in reaching my conclusions.

Main Issues

8. Having regard to the above, the outstanding main issues in this appeal are, firstly; the effects of the development on the character and appearance of the area and the host building and, secondly; its effects on the living conditions of the occupants of the adjacent residential properties.

Reasons

9. On the first main issue, the proposed extension to the building would be in the form of an additional storey of accommodation to be constructed above the existing two-storey element of the building, facing Melbourne Street. Projecting by some 2.5m above the predominant height of the existing structure the bulk and massing of the extension would appear out of scale and incongruous in this setting. It would introduce an overpowering and dominant mass of development into the streetscene and would cause material harm to the character and appearance of the area for these reasons.
10. In reaching this conclusion I have taken into account the presence of the seven and four storey high buildings situated to the east of the site and the appellant's description of the development as forming part of a 'gradual cascade' of structures decreasing in height towards Lewes Road. However, I identify the appeal site as visually integral to the frontage development situated along Lewes Road rather than as any part of the development to its hinterland. There is a clear distinction between these elements of the townscape and it is this relationship which would be unduly harmed by the introduction of an additional storey of building mass into this location.

11. I acknowledge that it is important for the fullest and most effective use of land to be made within the existing built-up areas². However, this should not be at the expense of the character and appearance of the area if undue harm were to be caused. The positive qualities of the local environment should be emphasised and enhanced taking into account local characteristics including the height, scale, bulk and design of the existing buildings and the impact of proposals on the skyline.³
12. I accept that the site is sustainably located and the Framework advises that planning permission should not be refused for buildings or infrastructure which promote high levels of sustainability because of concerns about incompatibility with an existing townscape, if those concerns can be mitigated by good design. In this proposal my conclusion is that the negative impacts of the development as I have described them would not be adequately mitigated by good design and the high level of sustainability of the site is insufficient in weight as a positive factor in favour of the development to overcome that consideration. In any event the Framework also states that developments should add to the overall quality of an area, responding to local character.⁴
13. In summary, I consider that the proposed addition to the rear of the existing building would be excessively dominant in the context of the streetscene, unsympathetic in scale and appearance to the existing building. It would introduce a discordant and visually intrusive feature into this prominent location. Additionally, the south elevation of the development would be featureless and would relate very poorly to the remainder of the terrace. For these reasons I consider that the proposals would be unacceptable and in conflict with policies QD1, QD2 and QD3 of the Local Plan and would fail to take into account the principles concerning good design set out in the National Planning Policy Framework.⁵
14. On the second main issue, Policy QD27 of the Local Plan seeks to protect occupiers of property from new developments which would cause them a material loss of amenity. Whilst No 125 Lewes Road would be adversely affected to a degree by the erection of the addition to its north, it already has a two-storey rear projection. The new development to the east produces an enclosing effect on the terrace and taking these considerations together I agree with the conclusions of my colleague in respect of the previous proposal that there would be no significant additional overbearing impact or loss of outlook over and above that already in existence. On this issue I find the proposals to be acceptable, in compliance with policy QD27 of the Local Plan.
15. I have considered everything else that has been put forward in support of the proposals but nothing is of sufficient weight to override my conclusions above on the first main issue and my reasons for dismissing the appeal.

David Harmston

Inspector

² Policy QD3 of the Local Plan

³ Policy QD2 of the Local Plan

⁴ Paragraphs 58 and 65

⁵ Paragraphs 56, 58 and 60

