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## Appeal Decision

Site visit made on 3 February 2014

**by D Lamont BSc(Hons) MBA MRTPI MCMi**

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

**Decision date: 6 March 2014**

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**Appeal Ref: APP/Q1445/A/13/2203681**  
**110 Queens Road, Brighton, BN1 3XF.**

- 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 Christos Demetriou against the decision of Brighton and Hove City Council.
  - The application Ref BH2012/03691, dated 20 November 2012, was refused by notice dated 29 May 2013.
  - The development proposed is the conversion and extension of existing vacant lower ground ancillary accommodation to form 2 x 1 bed residential flats.
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### Decision

1. The appeal is allowed and planning permission is granted for the conversion and extension of existing vacant lower ground ancillary accommodation to form 2 x 1 bed residential flats at 110 Queens Road, Brighton, BN1 3XF, in accordance with the terms of the application, Ref BH2012/03691, dated 20 November 2012 (as amended), 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: TA678/01A (Site and Block Plans); TA678/02A (Existing Floor Plans); TA678/03 (Existing Elevations / Section); TA678/10F (Proposed Floor Plans); TA678/11D (Proposed Elevations / Section) and TA678/13 (Proposed Elevations / Section).
    - 3) No development shall take place until samples of the materials (including colour, of render, paintwork and colourwash) to be used in the construction of the external surfaces of the development hereby permitted 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.
    - 4) Unless otherwise agreed in writing by the local planning authority, the dwellings hereby approved shall be constructed to Lifestyle Homes standards prior to their first occupation and shall be retained as such, thereafter.
    - 5) The development hereby permitted shall not come into use until the host building's rear windows at ground floor level have been obscure glazed and
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fixed shut and maintained as such, thereafter, to the satisfaction of the local planning authority.

- 6) 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 other than expressly authorised by this permission shall be carried out without planning permission obtained from the local planning authority.

### **Procedural Matters**

2. Although the development description refers to 2 x 1 bed residential flats, I note that while the apartment proposed for the extended element is a one bedroom apartment, the proposed floorplan for the basement conversion shows a studio apartment (with store room). I deal with the appeal on the basis of the proposed floorplans.
3. The appellant has submitted revised plans in response to the Council's concerns over levels of daylight to the proposed dwelling units and the effects of these levels on living conditions of future occupiers. These revisions represent very minor alterations to the subject appeal, increasing the area of glazing, so improve the living conditions of future occupants. As accepting them would not prejudice any other parties' interests I have determined to take them into account.

### **Main Issues**

4. The main issues are a) the effect of the proposed development on the character and appearance of the building and b) its effect on the living conditions of future occupiers.

### **Reasons**

#### *Building Character and Appearance*

5. The host property lies within a relatively high density inner urban area. It occupies a prominent position, a short distance from the city's railway station, on Queen Street which is a principal commercial street. The building has a traditional Georgian terraced three storey frontage incorporating a red brick facade with contrasting light horizontal banding. The building's traditional frontage makes a significant positive contribution to its character and appearance and to that of the area. However, as the appeal relates to the basement and rear of the property, the proposal would maintain the character and appearance of the building's Queen Street frontage
6. By contrast, the rear of the building is essentially concealed from public view by the buildings fronting North Road and Frederick Street, the substantial height of the adjacent Regis building and its rear extensions, and the lower level of Frederick Street. Private views of the rear of the building from adjacent properties are limited by the height and orientation of the Regis building's rear windows and there being only two significant oblique-facing windows to the south. Private views of the building from the rear are limited by the substantial height of the site's rear boundary wall and the low two storey properties fronting Frederick Street. As such, private views of the rear building are largely confined to those from the subject property's rear yard.

7. From the host property's rear curtilage, the character and appearance of the rear elevation is very modest, by contrast with the Queen Street facade. The brickwork is darker and the lintels are plain. The traditional fenestration detail has been replaced by more contemporary units. The effect is that the character and appearance of the rear elevation is simple, plain and essentially devoid of the architectural qualities which make such a positive contribution to the street facade. The exposure of the rear basement wall compounds the relative blandness of the rear elevation by its four storey height. The surface of the building's rear curtilage is essentially unkempt bare earth.
8. The proposal seeks to convert the lower ground floor to a studio apartment and excavate the rear curtilage to extend the building, at a similar grade, to provide a one bedroom dwelling, extending around a courtyard to be subdivided and landscaped to provide private open space for the two apartments. Alterations are also proposed to provide office and WC facilities for the ground floor cafe. The proposal would be restricted to a lower ground floor level extension and its height would be minimised by a flat roof. It would maintain the integrity, scale and proportion of the building's three principal upper floors and the character and appearance of the rear of the building.
9. The proposal would not be visible from any public views. Its effect on the character and appearance of the building from private views would also be mitigated by the dwarfing effect of the height of the adjacent Regis building rear projection and the height of the subject site's existing rear boundary wall. The character and appearance of the building would also be largely maintained from private views from the rear of the adjacent property to the south as there is no evidence of any meaningful use of its rear yard and, it only has two oblique facing windows and these are at an elevated height and one appears to serve a stairwell.
10. For these reasons, I conclude that the proposal would maintain the height, scale, bulk and design of the host building and its character and appearance, consistent with the key design principles of the Brighton and Hove Local Plan 2005 (Local Plan) Policy QD2. Although reference to Local Plan Policies QD1 and QD14 is made in the reason for refusal, these are not referred to in the officer report nor included in the Questionnaire; on this basis I too discount them in respect of the first main issue. I am also satisfied that the proposal is consistent with the provisions of the National Planning Policy Framework (the Framework) which encourages sustainable residential development which respects the built environment and local distinctiveness. I am also content that the relevant policies identified above are broadly consistent with those of the Framework in respect of design.

#### *Living Conditions*

11. The glazing which would serve the studio would be limited to the north side of the apartment. However, it would provide a large expanse of glazing to the principle living room / bedroom area. Although the apartment would be served by windowless rooms to the west, they would be limited to bathroom and storage functions. Although the second apartment's glazing would also be restricted to facing its terrace it would be similarly extensive and be south and west-facing. This would provide extended glazing to the kitchen and living room and to the bedroom. Additionally, the appellant has made minor

adjustments to increase the extent of proposed glazing and submitted a daylight report which demonstrates that this would make appropriate daylight provision the two units.

12. The design of the proposed glazing installations have the capacity to be opened to provide generous amounts of natural ventilation to both units. Although the outlook from the apartments would be limited to their respective exterior open space this would be consistent with their relatively high density inner urban context and commensurate with their limited accommodation capacity. The quality of the outlook would be improved by the glazed areas' expanse, the privacy of the outdoor space onto which they front, and the occupants' ability to control and enhance the visual amenity of their respective courtyards.
13. At the time of my site visit, the host property's ground floor was operating as a cafe and the adjacent 'Subway' frontage unit onto Queen Street was operating and a sandwich shop. There was no evidence of any noise or odour issues from the host property's rear yard. There was no visual evidence of any significant extraction equipment mounted to the rear of the subject building. Although the 'Subway' sandwich bar fronts Queen Street it did not appear to extend into the substantial rear projection of the Regis building and there was no visual evidence of any significant extraction equipment in respect of the 'Subway' use on the rear of the Regis building or upon the expansive site-facing blank gable of its rear projection.
14. Although the top of the Regis building's rear element had the appearance of a substantial exterior plant enclosure, no noise or odours could be detected from the appeal site. Additionally, the roof-mounted plant enclosure is significantly higher than the lower basement level of the proposed apartments; and, as such, is much closer to the numerous rear windows of the Regis building and the subject appeal building's first and second floor level flats. Although two mechanical units are mounted to the rear wall of the property to the south (fronting North Road), they are separated from the appeal site by their host building's rear yard. They are similar in appearance to air conditioning units and the Council has suggested they are chiller units. I consider that there is an absence of any evidence of significant noise or odours, or the close proximity of plant indicating the propensity for such.
15. Within the context of the appeal site's established high density inner urban environment and the nature of the proposed one bedroom and studio apartments, I consider that there are no noise or odour issues which would cause substantial harm to the living conditions of the occupiers consistent with Local Plan Policy QD27. For the foregoing reasons, I also consider that the proposal would provide sufficient natural light, ventilation and outlook for residents' living conditions, consistent with Local Plan Policy SU2.
16. I have had regard to the suggestion that the studio's natural light and ventilation would be limited towards the rear of the principal room. However, as the deepest part of the room would be restricted to a largely open-plan area for kitchen activity, and the interim area to sleeping, I consider the associated daylight and ventilation would provide acceptable living conditions for the proposed studio accommodation. The bi-folding doors could also be constructed in such a manner as to incorporate minor natural ventilation detailing.

17. Although the planning officer reported noise and smells from nearby plant and extraction units, promoting an objection from the Council's Environmental Health Team, he was unable to identify these sources at the appeal site visit. The site lies close to a number of existing dwellings, including the host property's flats, above. Any noise and smells from local plant would be unlikely to cause harm to living conditions of the proposed apartments above that already experienced in neighbouring dwellings; and which might reasonably be expected in such an inner city context.
18. I acknowledge the concerns expressed by adjacent occupiers in respect of the impact of the development on their living conditions. However, I, like the Council, conclude that because of the established degree of enclosure of the site, no material harm to living conditions, in respect of noise, disturbance, loss of light or privacy, would result.

*Conclusion and Conditions*

19. For these reasons, and having had regard to all other matters, I conclude that the proposal would maintain the character and appearance of the building and make appropriate provision for the living conditions of future occupiers whilst avoiding harm to adjacent residential amenity. This would be consistent with the identified Local Plan policies and the Framework; and I allow the appeal.
20. In addition to the standard time limit condition, for the avoidance of doubt and in the interests of proper planning, I attach a condition requiring the development be carried out in accordance with the approved plans. In the interests of residents' living conditions and the character and appearance of the building, I have also attached conditions requiring that the host building's rear ground floor windows be obscure glazed and fixed closed, the submission of finishing materials details, the delivery of Lifetime Homes standards, and the removal of permitted development rights for building alterations.

*D Lamont*

INSPECTOR