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## Appeal Decision

Site visit made on 20 January 2015

**by Louise Phillips MA (Cantab) MSc MRTPI**

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

**Decision date: 17 February 2015**

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**Appeal Ref: APP/Q1445/A/14/2229012**

**7 Ship Street Gardens, Brighton, East Sussex BN1 1AJ**

- 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 Taylor Patterson Sipp against the decision of Brighton & Hove City Council.
  - The application Ref BH2014/02485, dated 23 July 2014, was refused by notice dated 10 October 2014.
  - The development proposed is the demolition of the existing buildings (comprising A1, A3 and D1) and erection of part one and two storey office building (B1).
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. I have taken the address of the appeal site from the application form, but the proposal involves the demolition of three adjoining buildings in different uses – Nos 7a – 7c. I have determined the appeal on this basis.
3. The description of development above is that given on the appeal form and decision notice. It more accurately describes the proposed works than the description provided on the application form.
4. A revised plan of the east-facing elevation (drawing No 1408-P-10-A1) was submitted during the appeal process. Whilst it was not before the Council when the application was determined, it simply depicts the profile of the existing boundary wall between the appeal site and No 6 Ship Street Gardens accurately. Having confirmed this with the parties on site, I have had regard to it in making my decision.

### Main Issue

5. The main issue is the effect of the proposed development upon the living conditions of neighbouring occupiers at Nos 5 and 6 Ship Street Gardens with particular regard to outlook.

### Reasons

6. The appeal site is located on the south side of Ship Street Gardens, a twitten within the Old Town Conservation Area. The twitten is a very narrow pedestrian route, comprising buildings in different uses and of various heights

and styles on both sides. The site is presently occupied by three vacant buildings which were previously in use as a café, a shop and a community facility. The Council is satisfied that their replacement with an office use would comply with development plan policy and, while I note the concerns of some interested parties, I agree with its reasoning.

7. The existing buildings at the front of the site are single storey with steep pitched roofs facing the twitten and sections of flat roof behind. The building at the rear is taller, but it also has a flat roof. All of the flat roofed area is below the height of the tall boundary wall that separates the buildings from the residential property, No 6 Ship Street Gardens, which adjoins the site to the east. This boundary wall is almost two storeys high.
8. No 6 and its terraced neighbour, No 5, are three-storey houses with small rear yards. These are divided by a standard boundary fence, but are otherwise surrounded by high walls on all sides. The yards are dark and enclosed as a result and were in full shade at midday despite being south-facing. Both houses also have rear terraces/balconies at first floor level, which benefit from more light and a less oppressive outlook by virtue of being higher up.
9. The replacement building proposed for the appeal site would be constructed of red brick beneath a pitched slate roof. It would be part single-storey and part two-storey and would be of traditional proportions. The Council considers that, subject to conditions to control matters of detail, it would preserve the character and appearance of the Conservation Area. My own view is that it would represent an enhancement of its immediate surroundings as compared to the outworn buildings now present on the site. The pitched roof design would contribute to its attractive appearance.
10. However, with respect to the living conditions of neighbouring occupiers, the new building would be arranged so that the two storey section would adjoin the rear yard of No 6 Ship Street Gardens for its entire length. Whilst the wall would be no higher than the existing boundary wall where it would abut the rear of No 6 itself, it would generally be around one metre taller. The roof ridge, which would run parallel to the boundary, would be over two metres higher again so that it would be level with the eaves of No 6. The roof would pitch away from the boundary, but the overall increase in mass above it would be considerable.
11. Notwithstanding the existing sense of enclosure in the rear yards of Nos 5 and 6 Ship Street Gardens, the proposed development would make the situation appreciably worse. The effect would be particularly apparent from the first floor balconies, from which it is presently possible to get an open and pleasant view of the surrounding rooftops. The bulk of the new building above the boundary would blot this out so that the outlook from both properties would be very limited indeed. It is also likely that development would reduce late afternoon/evening sun to the balconies which would further increase the feeling of being hemmed in.
12. Whilst the Council is most concerned about the impact of the proposal on No 6 Ship Street Gardens, I consider that its detrimental effects would be most pronounced at No 5. This is because the view towards the appeal site to the west is presently the only open aspect for the property. I do not accept that its already compromised outlook provides any good justification for an essentially unneighbourly development. Nor do I accept the appellant's suggestion that

the impact of the proposal on neighbouring living conditions alone is insufficient to justify its refusal.

13. Therefore, I conclude that the proposed development would be significantly harmful to the living conditions of neighbouring occupiers at Nos 5 and 6 Ship Street Gardens in respect of outlook. Thus it would conflict with Policy QD27 of the Brighton and Hove Local Plan 2005, which seeks to avoid loss of amenity to existing adjacent residents.

### **Other Matters**

14. In reaching my decision, I have taken account of the support for the proposal from some interested parties who consider that the new building would enhance the area. As explained above, I share this view in respect of character and appearance but this does not outweigh the harm that would be caused to the living conditions of neighbouring occupiers. I also acknowledge the concerns expressed by others in relation to security, but given my overall conclusion, my decision does not turn on this matter.

### **Conclusion**

15. For the reasons given above, I conclude that the appeal should be dismissed.

*Louise Phillips*

INSPECTOR

