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## Appeal Decision

Site visit made on 14 December 2018

by **G Ellis BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 21<sup>st</sup> March 2019

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**Appeal Ref: APP/Q1445/W/18/3203553**

**67 Dyke Road, Brighton, BN1 3JE**

- 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 Ms Jo Weeks against the decision of Brighton and Hove City Council.
  - The application Ref BH2017/03879, dated 23 November 2017, was refused by notice dated 1 May 2018.
  - Extension above existing single storey shop to create 1 No maisonette. Rearrangement of and alterations to shopfront.
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### Decision

1. The appeal is dismissed.

### Preliminarily Matters

2. The description of the proposal is taken from the application form, however it is noted that during the course of the application a revised description of 'The erection of two-bedroom maisonette (C3) above existing shop (A1) with associated alterations' was agreed.

### Main Issues

3. The main issues are the impact of the development on: -
  - i) the character and appearance of the Montpelier and Clifton Hill Conservation Area and the setting of nearby listed buildings, and
  - ii) the living conditions of the adjoining properties 14 Clifton Road and 79 Dyke Road with regards to overshadowing, light and outlook, and the occupiers of proposed development with regards to light and outlook.

### Reasons

#### *Character and Appearance*

4. The site is located on the edge of The Montpelier and Clifton Hill Conservation Area which covers a wide area and contains mainly residential properties interspaced with groups of shops. Part of its character is from the hilly terrain and long rows of terrace/villa houses. Opposite the site is a large modern block of flats which extends up to 5 storeys on the corner.

5. The existing property is a single storey flat roofed retail unit located at the corner of Dyke Road and Clifton Road. It is at an intersection between the large residential properties along Clifton Road and the retail area on Dyke Road leading down to Seven Dials. Whilst the building in itself is not of any merit the site together with the adjoining single storey garage and retail unit provide a visual break in the street scene. The low-level buildings also enable views of the oak tree and the rear of the listed buildings in Montpelier Crescent over the existing building. It therefore plays a part in contributing towards the character and appearance of this part of the Conservation Area.
6. The proposed development would add two storeys to the building with the upper floor located within a mansard roof with dormer windows to the front and both sides. The proposal has been well designed to maximise the narrow slightly cranked triangular plot and incorporates traditional materials and features reflective of the area. Notwithstanding this, in my view the scale of the development, in particular the roof, would be bulky in the context of its plot and dominant in the street scene. Being a narrow building and detached from others of a similar height the scale and depth of the structure would be viewed from each side. While the windows and recess panels would provide details and rhythm to the expansive side elevations these would not sufficiently alleviate the harmful impact of the proposal on the setting of the neighbouring properties and street scene.
7. The design seeks to align the property with Clifton Road, however in my view the width and form of the building in this transitional location would not preserve the appearance of this part of the Conservation Area. The level of harm would be less than substantial, however the public benefits of providing additional housing to help meet the City's needs would not outweigh the identified harm.
8. The site backs onto the rear gardens of the Grade II\* listed buildings on Montpelier Crescent. The proposal would be some distance away from the less-important rear facades of the listed buildings and would share a similar relationship between the listed buildings and other three storey dwellings in Clifton Road. Thus, the proposal would have no material impact on the buildings' setting and I find no conflict with Brighton and Hove Local Plan (LP) policy HE3 in this regard.
9. I therefore conclude that the proposal would conflict with LP policy QD14 which requires extensions to take account of the relationship with the adjoining properties and character of the surrounding area. In addition, the proposal would conflict with LP saved policy HE6 and the general provisions of Brighton and Hove City Plan Part One, March 2016, policy CP15 which seek to preserve and enhance Conservation Areas.

#### *Living Conditions*

10. Due to the height and scale of the development introduced into an existing gap it would undoubtedly change the relationship with the neighbouring properties. 14 Clifton Road benefits from side windows at all levels which face the appeal site. The layout is such that windows on the side facing 14 Clifton Road serve either bathrooms or are secondary windows which could be obscurely glazed and therefore would not result in direct overlooking. However, given the proximity and depth of the building it would in my view have an overbearing impact and result in a loss of outlook for the occupiers of 14 Clifton Road.

11. To the north, 79 Dyke Road, is angled towards the site. There is a small garden with an oak tree which is located close to that building. The additional storeys would in my view further enclose and overshadow this area having an adverse impact on the living conditions of the occupiers of the basement apartment. Windows serving a bedroom and kitchen would also overlook the garden at 79 Dyke Road. Obscure glazing could be conditioned to mitigate any potential overlooking; however, this would result in a bedroom with no outlook to the detriment of the living conditions within the new dwelling. I therefore conclude that the proposal would conflict with LP policy QD27, which seeks to protect amenity, and policy QD14 which amongst other things requires extensions not to result in a loss of privacy, outlook daylight/sunlight or amenity to neighbouring properties.

#### *Other Matters*

12. The appellant has referred to other appeal decisions including a previous appeal on this site dated October 2006<sup>1</sup>. Whilst I agree that the proposed design is more traditional and in keeping, I find that it would still be bulky and visually dominant. Although the previous Inspector found no harm to privacy, the proposal in that case did not involve windows to a bedroom and kitchen facing 79 Dyke Road, as is the case here. In respect of the harm to character and appearance and the effect on outlook, the previous Inspector's concerns have not been overcome.
13. With reference to 26a West Hill<sup>2</sup> I have had regard to the Inspector's assessment in relation to the impact on the conservation area, however, the proposals are different, and I have considered this scheme on its own merits and specific site context.

#### **Conclusion**

14. Having regard to the matters set out above, and with due regard to all other matters, I conclude that the proposal conflicts with the development plan as a whole, and that the appeal should be dismissed

*G Ellis*

INSPECTOR

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<sup>1</sup> APP/Q1445/A/06/2014342

<sup>2</sup> APP/Q1445/A/13/2206383

