



Appeal Decision

Site visit made on 18 June 2009

by **J D Westbrook BSc(hons) MSc MRTPI**

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

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**Decision date:
23 June 2009**

Appeal Ref: APP/Q1445/A/09/2097936

Kitilear Court, Lansdowne Road, Hove, BN3 1FY

- 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 Kitlea Estates Ltd against the decision of Brighton and Hove City Council.
- The application (Ref BH2008/01741), dated 15 May 2008, was refused by notice dated 27 August 2008.
- The development proposed is the construction of a new additional storey to an existing building with the new floor to comprise four studio flats.

Decision

1. I allow the appeal and grant planning permission for the construction of a new additional storey to an existing building with the new floor to comprise four studio flats at Kitilear Court, Lansdowne Road, Hove, BN3 1FY, in accordance with the terms of the application Ref. BH2008/01741, dated 15 May 2008, and the plans submitted therewith, including plan ref: PL-03 Rev A, subject to the following conditions:
 - 1) The development hereby permitted shall begin before the expiration of three years from the date of this decision.
 - 2) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
 - 3) The development hereby permitted shall not commence until details of secure cycle parking facilities for the occupants of, and visitors to, the development have been submitted to and approved in writing by the Local Planning Authority. These facilities shall be fully implemented and made available for use prior to the occupation of the development hereby permitted and shall thereafter be retained for use at all times.
 - 4) The development hereby permitted shall not be commenced until details of sustainability measures have been submitted to and approved in writing by the Local Planning Authority. These details shall demonstrate how the development would be efficient in the use of energy, water and materials. The development shall be carried out in accordance with the approved details.

Main issue

2. I consider the main issue in this case to be the effect of the proposed additional storey on the character and appearance of Lansdowne Road, including the effect on the Brunswick Town Conservation Area.

Reasons

3. Kitilear Court is a three-storey block of flats situated on the north side of Lansdowne Road, which slopes down from east to west in the vicinity of the appeal site. The south side of Lansdowne Road marks the boundary of the Brunswick Town Conservation Area. Within the Conservation Area, the majority of the roads run on a north-south axis, and the south side of Lansdowne Road is typified by the side elevations of properties fronting these roads. The north side of Lansdowne Road comprises a wide variety of types of property with a range of architectural styles and no obvious prevailing character.
 4. Kitilear Court is a three-storey, brick built property with a flat roof. The adjacent property to the west, No 17 Lansdowne Road, is a two-storey semi-detached house with a hipped roof, the ridge of which is at approximately the same height as the appeal property. Somerhill Lodge, to the east, is a relatively modern block of flats comprising a basic three-storeys in red brick with a complex arrangement of one- and two-storey residential units above this base. This block forms a terminal vista when looking north along Lansdowne Place. The configuration of units on the top of Somerhill Lodge, combined with the effect of the slope along this part of Lansdowne Road, results in Somerhill Lodge appearing significantly higher and bulkier than Kitilear Court in the streetscene.
 5. The development proposed would involve the addition of a further floor to Kitilear Court. This would be contained within a mansard roof stepped in some 600mm from the current brick elevations, and partly hidden behind an extended rendered band above the third floor windows. This band would reflect a similar band at the top of the third floor of Somerhill Lodge. The windows within the front (south-facing) elevation of the mansard roof would be set centrally above the windows in the existing front elevation.
 6. In my opinion, the current appearance of Kitilear Court as a somewhat plain rectangular block with a flat roof, adds nothing to the existing character of this part of Lansdowne Road. I consider that the construction of an extra floor within a mansard roof would add some interest to its appearance, and would help to create a more appropriate stepped down approach to the roof line between Somerhill Lodge and No 17 Lansdowne Road. Views of the appeal property from both directions along Lansdowne Road are limited by virtue of the dominance of Somerhill Lodge and the existence of mature and semi-mature trees along the north side of the road. Furthermore, from the Conservation Area in general, and from Lansdowne Place in particular, it is Somerhill Lodge that is the dominant visual feature, and there is only a limited view of the appeal property from the very northern end of Lansdowne Place.
 7. For the above reasons, I find that the proposed development would enable Kitilear Court to integrate well into its immediate surroundings and would not harm the character and appearance of this part of Lansdowne Road. Furthermore, I have had regard to the fact that the appeal site lies adjacent to the northern boundary of the Brunswick Town Conservation Area and the requirements under Section 72 of the Planning (Listed Buildings and
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Conservation Areas) Act 1990 that special attention be paid to the desirability of preserving or enhancing the character or appearance of Conservation Areas. In this specific case, I do not consider that the proposed additional storey would have any adverse effect on the setting of the Conservation Area, and to that extent would preserve its character.

8. In the light of the above, I find that the proposal would not conflict with saved policies QD1, QD2, QD14, or HE6 of the Brighton and Hove Local Plan 2005 (LP). I have added a condition relating to the materials to be used in the development in order to protect the visual amenities of the area. I have also added a condition relating to sustainability measures to be incorporated into the design of the additional flats, in order to ensure that the proposed design, including measures outlined in the design and access statement, makes the development sustainable and resource efficient. I do not consider a specific condition relating to Lifetimes Homes Standards to be necessary in this case.

Other Matters

9. The Council has suggested a condition relating to the provision of sustainable transport infrastructure. In the context of a development of the scale proposed, I find the wording of this condition unacceptably vague. It would appear from a consultation reply provided by the transport planning section of the Council that this relates to a Local Transport Plan and policies within the LP of which I have no copy. The consultation reply indicates that small-scale developments might be expected to contribute towards the provision of sustainable transport infrastructure dependent on the scale of the development and its likely impact on the existing transport infrastructure. However, it is not possible to require a financial contribution by way of a planning condition. A Section 106 obligation would be needed in such a case.
10. Circular 05/2005: *Planning Obligations*, advises that they are intended to make acceptable a development which would otherwise be unacceptable in planning terms. I have been given no explanation of the impact that the formation of the additional units would have on existing transport facilities, although the Council has indicated that the development would not be significantly harmful to highway safety. In the light of the limited information before me, and no evidence of negotiations between the Council and the appellants on the matter, I am not persuaded in this case that contributions are necessary to make the proposal acceptable. I have, however, added a condition relating to the provision of cycle parking, in the interests of encouraging travel by means other than private motor vehicles.
11. Concern has been expressed by the occupier of 17 Lansdowne Road that the additional storey would result in increased overshadowing of her property. The appellants have provided "Sun studies" that indicate that any additional overshadowing would be insignificant. The Council concurs with these findings and, in the light of the orientation of the property together with the slope and set-back design of the mansard roof, so do I.

J D Westbrook

INSPECTOR
