



Appeal Decision

Site visit made on 4 January 2010

by **Michael Evans BA MA MPhil DipTP MRTPI**

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

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Decision date:
12 January 2010

Appeal Ref: APP/Q1445/A/09/2109627

Land at rear of 240 Portland Road, Hove BN3 5QT

- 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 Chris Constable against the decision of Brighton and Hove City Council.
- The application Ref: BH2009/01174, dated 29 April 2009, was refused by notice dated 3 July 2009.
- The development proposed is the construction of a single storey building for D1 medical or educational use with resurfacing of the access from Hogarth Road.

Decision

1. I dismiss the appeal.

Main issues

2. I consider that the main issues in this appeal are:
 - The effect of the proposal on the character and appearance of the area.
 - The effect on the living conditions of the occupiers of adjacent dwellings.
 - The implications for highway safety.

Reasons

3. The appeal site comprises part of the land to the rear of the property at 240 Portland Road, which is reached by an existing vehicular access off Hogarth Road. Including that at 240 there are ground floor commercial uses in Portland Road. The development would be adjacent to but outside the predominantly residential area to the south of the access and be closely related to the adjacent commercial uses. As a result the proposed use would be appropriately located despite the introduction of a separate use into the land to the rear of the frontage buildings in Portland Road.
4. There is a dilapidated and somewhat unsightly garage at the appeal site that would be removed to accommodate the development. The new building would have a greater footprint and scale than the existing garage and extend closer to Portland Road but these factors do not, in themselves, equate to a harmful impact. In any case, the flat roof single storey height would be below that of the ridge of the existing garage. The floor area of about 26 sq m would also be relatively modest. These factors would ensure that the new building was subordinate in scale to the adjacent two and three storey buildings in the neighbouring streets and it would not be overly dominant.

5. As a result of these factors, I conclude that the proposal would not harm the character or appearance of the area. In this regard the proposal complies with Brighton and Hove Local Plan 2005 policies QD2, QD3, and HO19, which seek to prevent such adverse effects.
6. A condition controlling the hours at which the proposed use would be open to customers would ensure related movements did not occur at particularly unsocial times of the day. Subject to this control I consider that the vehicle and pedestrian activity associated with the use need not result in undue noise and disturbance given the existing levels of activity in this urban environment. The proposal would not therefore be harmful to the living conditions of the occupiers of the adjacent dwellings and complies with Local Plan policies QD27 and HO19, which seek to avoid such detrimental effects.
7. There would be insufficient space within the site for vehicles to turn so that motorists would need to either reverse into or out of the site. This would result in unacceptable conflict with vehicles and pedestrians in Hogarth Road. In the context of such a relatively busy urban location and despite the existing crossover, I consider this to be inherently unsafe. It has been suggested that parking in the site would be prevented by the use of bollards but no plans showing this have been provided. In any event, the track is shared and there is a nearby garage so that it is not clear how customers of the proposed use would be prevented from driving into the application site while retaining access for the adjacent properties.
8. Furthermore, visitors would be encouraged to drive into the site because the nearby on street parking is pay and display or residents only. The Appellant acknowledges that there has been little vehicular activity at the site for some time. There is no reason to believe that were the appeal dismissed this would be likely to change. I am therefore satisfied that the introduction of the new use would result in a significant intensification in the use of the access. In consequence, I conclude that the proposal would unacceptably compromise highway safety in conflict with the aims of Local Plan policy TR7.
9. A unilateral undertaking regarding a payment towards sustainable transport measures has been submitted. However, there is no information before me that would justify the need for this payment so that this document can not be accorded any significant weight. The permitted development on land to the rear of 60-62 Boundary Road appears to have had more space within the site to enable vehicles to turn and therefore lends no significant support to the appeal. The proposal would be located in a relatively sustainable and accessible urban location. Nevertheless, I conclude that none of the above, or any other matter raised, including the absence of harm in relation to character and appearance and living conditions would justify permitting a proposal that would have such a detrimental effect on highway safety. For all the above reasons and taking account of all other matters raised, the appeal is dismissed.

M Evans

INSPECTOR
