



# Appeal Decision

Site visit made on 24 August 2010

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

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**Decision date:**  
**20 September 2010**

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## Appeal Ref: APP/Q1445/A/10/2124073

### 24a Westbourne Place, Hove, East Sussex BN3 4GN

- 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 Park Avenue Estates Ltd against the decision of Brighton & Hove City Council.
- The application Ref BH2009/02515, dated 16 October 2009, was refused by notice dated 19 January 2010.
- The development proposed is conversion of redundant and derelict outbuilding to a two-bedroom cottage.

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## Decision

1. I dismiss the appeal.

## Procedural matter

2. Following the Secretary of State's announcement on 9 June 2010 concerning the definition of previously-developed land, the parties have been consulted on the change. I have taken their responses into consideration in my decision.

## Main Issues

3. The main issues are:
  - a) Whether the proposed development would result in the unacceptable loss of a small premises capable of use for employment generation;
  - b) The effect of the proposed development on the living conditions of the existing occupiers of No 24, with particular reference to loss of outlook and amenity space;
  - c) Whether the proposed new dwelling would provide satisfactory living conditions for future occupants in respect of outlook.

## Reasons

4. Westbourne Place, which is within the Sackville Gardens Conservation Area, is characterised by terraced properties interspersed with workshop uses, some of which are to the rear and accessed through gated undercrofts beneath the first floors of the street fronting buildings. No 24a is a two storey workshop building in a very poor state of repair and has not been used for some considerable time. The proposal is to convert the workshop into a mews cottage by demolishing part of the rear building, undertaking major refurbishment of the remainder and altering the existing dwelling at No 24.

*Loss of small premises for employment use*

5. Saved Policy EM6 of the Brighton & Hove Local Plan specifically supports the retention of small industrial and business units in order to encourage new employment enterprises. The difficulty of identifying new sites for such uses is highlighted in the plan, providing a sound reason for retaining existing sites where possible. Whilst No 24a may not have been actively used for some 10 years it is my understanding that no alternative use of the site has been approved by the Council during that time. A change of use is normally only permitted if a series of criteria are met. I note that the appellant considers these to be mutually exclusive and that it should not be necessary to meet all of them. I disagree and consider that the objective of the policy is to ensure that a change of use is only considered acceptable when all the relevant criteria have been met. I will therefore consider each in turn.
6. No evidence was presented to demonstrate that purpose built units are available in the neighbourhood. Neither was any evidence of the current rental levels of comparable commercial properties in the area provided. I therefore consider that criteria (a) has not been met.
7. Criteria (b), relates to the whether or not the premises have been marketed at a price that reflects their condition. The appellant sought to demonstrate that such marketing is impractical, thereby justifying the building's proposed change of use. I accept that the building is currently in a dilapidated and unusable state and would need significant investment to make it attractive for business use. It would also require considerable investment to convert it into a residential dwelling. However, the only figures provided within the appellant's marketing report indicated that an investment of at least £45,000 might be required and that a refurbished building could command a rent of some £5,200 per annum. I consider this is insufficient evidence to demonstrate that it could not be made adequate to meet the needs of a local entrepreneur. Neither is it possible from this limited information to assess whether or not it could provide a viable return on an investment as a commercial building.
8. The report also suggested that it would be unwise to market the building in its current state but provided some positive suggestions about how to try and let the property. However, there was no evidence that the owner had undertaken even minimal repairs to halt the deterioration of the fabric of the building, which would then enable realistic attempts to be made to market the property for sale or rent. I consider these factors demonstrate that criteria (b) has not been met, rather than providing a reason for allowing a change of use, supported by robust evidence.
9. Given the wide spectrum of small businesses that operate in any urban area I see no reason why a use for this building and workshop could not be found that would not cause disturbance to neighbours. Criteria (c) is therefore not met. Access to the site is via a large set of double doors from a street which has some on-street parking and low volumes of traffic. I consider this access to be adequate to serve an employment use of some kind and therefore criteria (d) has not been met. The only criterion which is not applicable in this case is (e) since the building is not a building of architectural or historic interest.

10. For all these reasons I conclude that the proposed development would result in an unacceptable loss of employment generating accommodation which would conflict with the aims and objectives of the development plan as set out in Policy EM6. I consider this a sufficient reason alone to dismiss the appeal.

*Living conditions of the occupants of No 24*

11. No 24 is a modest dwelling with a small rear kitchen/dining room. The proposal would result in the window of this room being lost and replaced with a roof light. Although this would provide the occupants with adequate light I consider that the lack of outlook would make the room feel much more enclosed and therefore a less pleasant place in which to prepare and eat meals. The glazed door which serves the hall and provides access to a very small amenity space immediately to the rear of the property would also be lost, making this part of the house appear more enclosed. Similarly, the rear window of the master bedroom would be blocked up which would reduce the spacious, light and airy appearance of this good sized room. Taken together it seems to me that the effects of all these alterations would be to significantly alter the feel of the interior of this dwelling, reducing its outlook and increasing a sense of enclosure. I am of the view that this would adversely affect the living conditions of the occupiers.
12. The amenity space to the rear of the dwelling is very small. However, on my site visit I saw that it provided a safe area in which a child could play and be watched through the kitchen window. I consider that the loss of this amenity space would be detrimental to the occupants, notwithstanding its size.
13. The appellant suggested that the alterations to No 24 could be undertaken as permitted development and this may be the case. However, in order for me to give weight to this suggestion I would have to be satisfied that there is a reasonable prospect of them being carried out, if the appeal failed. There was no evidence that this would be the appellant's intention, since the main reason for carrying out the works would be to prevent overlooking as part of a scheme to provide an additional dwelling on the site. Furthermore, I am not persuaded that I should allow a proposal that would rely on something which I consider to be materially harmful, even if the appellant could undertake these alterations without planning permission. I therefore give this matter little weight in my overall consideration of the proposal.
14. For the reasons set out above I conclude that the proposal would be harmful to the living conditions of the occupiers of No 24, contrary to saved Policies QD14 and QD27 of the local plan which seeks to protect the living conditions of residents.

*Living conditions of future occupants*

15. The proposed dwelling would be on a very restricted site with windows only provided on the eastern elevation. The assessment submitted with the application demonstrates that adequate daylight and sunlight would reach the converted outbuilding. However, the only outlook would be on a small courtyard and parking space and towards the altered rear elevation of No 24. It would not even be possible to see the main street due to the retention of the entrance gates. In my view a dwelling with only a single aspect and such a restricted outlook would appear very enclosed for the occupants.

16. I acknowledge that potential occupiers would have a choice about whether or not the layout and outlook of the dwelling would meet their needs. However, in this case I consider the outlook would fall below the standards that the Council is seeking to provide in new accommodation. I conclude that the proposal would not provide satisfactory living conditions for the future occupants and would fail to comply with the aims and objectives of saved Policy QD27 of the Local Plan.

### **Other matters**

17. I acknowledge that the appellant has designed a dwelling which would have adequate amenity space, which would meet the Lifetime Homes Standards and would include measures to secure a sustainable development. The proposal would not adversely affect the character or appearance of the Conservation area, which would be preserved. The transport needs of the development could be accommodated satisfactorily through the imposition of conditions to secure parking and cycle storage and there were no objections to the proposals from neighbours. However, none of these positive attributes of the scheme overcomes my concerns in relation to the main issues.

### **Conclusions**

18. Government policy is to encourage efficient use of previously-developed land in urban areas. However, even taking into consideration the recent changes to Planning Policy Statement 3: *Housing*, announced by the Secretary of State, it does not necessarily follow that a residential use is suitable for this site. In this case I consider that the benefits that would accrue from the provision of an additional dwelling would not outweigh the loss of an existing site identified for employment use, the harm to the living conditions of the occupants of No 24 and the unsatisfactory living conditions that would be created for the occupants of the new dwelling.

19. For these reasons and having regard to all other matters raised, I conclude that the appeal should be dismissed.

*Sheila Holden*

INSPECTOR