



Appeal Decision

Site visit made on 6 September 2010.

by **B C Scott BA(Hons) Urban & Regional Planning MRTPI**

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

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Decision date:
21 September 2010

Appeal Ref: APP/Q1445/A/10/2125104

130 Cowper Street, Hove, East Sussex, BN3 5BL.

- 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 Raggio against the decision of Brighton & Hove City Council.
- The application Ref: BH2009/02812, dated 12 November 2009, was refused by notice dated 19 January 2010.
- The development proposed is a rear extension at first floor to provide additional office space.

Procedural Matters

1. The appeal premises have a lengthy planning history. The ground floor of the appeal building is in some commercial use that has varied over the years. Above it, the appeal scheme would enlarge an intended office development for which there is an extant planning permission (BH2009/01561). That permission follows a refusal of a scheme similar to the resultant development involved with this appeal (BH2009/00390).
2. Whereas just the appeal extension is before me, as the Council states, it would never exist on its own. In the circumstances, I examine the outcome of the proposed development upon the whole and the resultant impact. I bear in mind that the extant permission does not prevent me from dismissing an appeal for a scheme which is patently unacceptable in planning terms.
3. In its reason for refusal the Council includes reference to 'loss of light', but in its statement any concerns about sun-lighting and day-lighting are neither advanced nor sustained. Indeed, the Council states that these are specific issues not referred to in its reason for refusal.
4. The Appellant's drawings show that the intended office development would be just within the bounds of acceptability for internal natural light, having regard to the 45 degree guidance line identified in the Brighton & Hove Local Plan 2005 (LP). So too, would the appeal scheme be, due to its wedged design. Thus, I have no reason to question the merits of the appeal scheme on that ground.
5. In the circumstances, I take 'loss of light' to be a reference to outdoor shadowing, which can be associated with an overbearing impact.

Decision

6. I dismiss the appeal.

Main Issue

7. I consider the main issue in this case to be the effect of the proposed development on the living conditions of the adjoining occupiers, with particular reference to outlook.

Reasons

8. The appeal premises are in an urban residential area, placed tightly between the end of one housing terrace and the rear of another. The appeal building is fundamentally an elongated garage that runs across the back of rear gardens (Rutland Road), with a transverse pitched roof over its forward part.
9. The proposed development would lengthen the intended office development at first floor level; there is to be a longitudinal pitched roof over much of the appeal garage followed by a flat roof that would be extended with the appeal scheme at the rear. The thrust of saved LP policies QD14 and QD27 is to protect residential amenity, including such things as the outlook of affected occupiers.
10. The subject rear gardens in Rutland Road are stunted, being bounded by high walls at close quarters. Owing to its proximity, the roof form of the existing appeal building, in terms of its height and facing gable wall, is a dominant feature even though its ridge height is well below house eaves level.
11. During my visit to no.5, I experienced an enclosed feeling that fell short of claustrophobia because of the open sky areas available either side of the transverse pitched roof, above the common boundary wall. Sight of those areas would be lost with the intended office development that would have a lengthy, featureless flank wall to eaves level. Owing to the height, mass and shadowing effect of the flank wall involved, I am in no doubt that an unacceptable feeling of claustrophobia upon the adjoining occupiers would result from that development.
12. The proposed development before me would lengthen that flank wall further, albeit by a small amount. An additional loss of an open sky component would result and further shadowing would be experienced by the adjoining occupiers. Inescapably, irrespective of its flat roof and wedged design, it would amplify the overbearing nature of the intended office development and make matters noticeably worse. The small scale of the appeal scheme is no reason to allow such a harmful development.
13. I have considered all other matters that are raised. I fully understand the concerns of neighbours about the resultant development, but none alters my conclusion on the main issue that the proposed development would unacceptably affect the living conditions of the adjoining occupiers, in conflict with the aims of policies QD14 and QD27 of the Development Plan.

B C Scott
INSPECTOR