



# Appeal Decision

Site visit made on 14 July 2010

by **Rob Huntley BSc MRTPI**

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

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**Decision date:**  
**1 September 2010**

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## Appeal Ref: APP/Q1445/A/10/2122248 148, Lewes Road, Brighton, BN2 3LG

- 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 P Spiers against the decision of Brighton and Hove City Council.
- The application Ref BH2009/01499, dated 6 August 2009, was refused by notice dated 2 November 2009.
- The development proposed is the demolition of existing buildings and erection of 2 new dwellings with gardens and parking areas.

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### Decision

1. I allow the appeal, and grant planning permission for the demolition of existing buildings and erection of 2 new dwellings with gardens and parking areas at 148, Lewes Road, Brighton, BN2 3LG in accordance with the terms of the application, Ref BH2009/01499, dated 6 August 2009, subject to the conditions set out in the schedule attached.

### Main issue

2. The main issue is the effect of the proposed development on the availability of employment land within the City.

### Reasons

3. The area surrounding the appeal site comprises closely spaced terraces of 2-storey houses with semi-basements, fronting a network of streets to the east of Lewes Road. The appeal site lies at the corner of 2 of these streets, Pevensey Road and Fairlight Place, to the rear of 148 Lewes Road. The 3-storey Fairlight Primary School lies opposite the Fairlight Place frontage of the appeal property, occupying the whole of the block bounded by Fairlight Place, Pevensey Road, St Leonards Road and Hastings Road.
4. Lewes Road has the character of a suburban high street, with retail, food and drink, service and financial establishments lining both sides, and along which frequent bus services operate. Notwithstanding its proximity to Lewes Road, the character of the area around the appeal site is essentially residential. The general lack of off-street parking provision, the relatively narrow roads and the absence of parking restrictions, restricts the effective carriageway widths. This, together with the closure, for vehicles, of the junction between Pevensey Road and Lewes Road and the narrowing of the junctions of neighbouring streets with Lewes Road, means that access to the appeal site by large commercial vehicles is constrained. The proximity of Fairlight School and the

absence of turning space at the end of Pevensey Road exacerbate these constraints.

5. The appeal site, presently occupied by a somewhat dilapidated single-storey building, contrasts with the otherwise continuous 2<sup>1</sup>/<sub>2</sub> to 3-storey built frontages to Fairlight Terrace and the surrounding streets. The Council acknowledges that the removal of the existing building would be an improvement and that the bulk, size and siting of the proposed dwellings would be satisfactory. I also note that the Council raises no objection to the proposed development in visual terms, or in relation to highways, parking, sustainability or the standard of accommodation proposed. From the information before me I see no reason to disagree with the Council's views in these respects.
6. Policy EM6 of the Brighton and Hove Local Plan 2005 (Local Plan) seeks the retention of small industrial, business and warehouse premises unless certain criteria are met. The appellant has drawn attention to the availability of a range of other small employment premises in the general area. Although I agree with the Council that this does not go so far as to demonstrate that there is an oversupply of such premises locally, I note that criterion a. of policy EM6 is not put in those terms. It refers to such premises being available, which the marketing material suggests is the case. Although I have no detailed information on rents sought or achieved at the appeal property or at the other units referred to, there is no suggestion that there would be any material difference beyond reflecting the constraints affecting the appeal site. For these reasons I conclude that criterion a. of the policy is met.
7. The premises have been vacant since July 2007 and had been marketed from early 2006, with the letting agent drawing attention to the poor prospects of attracting an occupier, without major upgrade or development, on account of difficulties of access and the poor condition of the property. Although the Council comments on the absence of evidence of continued marketing of the premises, I note that paragraph 5.33 of the Local Plan refers to a period of marketing of a year to 18 months as being appropriate in the case of small premises. I am satisfied that the terms of criterion b. of Local Plan policy EM6 are met in this case.
8. The constrained nature of the local road network, the small size of the site, the proximity of nearby residential properties and the likelihood that an employment-related use of the appeal premises would involve goods vehicles accessing the site, leads me to conclude that continued use for such purposes would cause undue disturbance to residential neighbours. Criterion c. of Local Plan policy EM6 is therefore met.
9. In the light of these considerations, I conclude that redevelopment of the site as proposed would be consistent with criteria a, b and c of Local Plan policy EM6 and that there would, therefore, be no conflict with the development plan.
10. The Council suggests that conditions be imposed to require the submission for approval of details of external materials, boundary treatment and facilities for the storage of cycles. I agree that these conditions are necessary to ensure a satisfactory appearance for the development and to ensure the provision of necessary facilities. As suggested by the Council, I agree that conditions to ensure the retention of the proposed parking spaces and refuse storage facilities are necessary, and that a condition removing permitted development

rights for extensions is, exceptionally, necessary in view of the small size of the curtilage of the proposed dwellings. A requirement that the proposed dwellings meet level 3 of the Code for Sustainable Homes is necessary in the interests of sustainability and I have combined the Council's suggested conditions 5 and 6 in this respect, in the interests of clarity. I have also imposed a condition stating the references of the plans to which the permission relates, in the interest of precision.

11. I have considered all other matters raised and I conclude, for the reasons I have given, that the appeal should be allowed.

*Rob Huntley*

INSPECTOR

### **Schedule of Conditions**

1. The development hereby permitted shall begin not later than three years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the approved plans, Nos NL/148LR/1 (proposed plans), NL/148LR/1A (proposed elevations), unnumbered 1:500 Block Plan and unnumbered existing site plan.
3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking, re-enacting or modifying that Order), no extension, enlargement or other alteration to the dwellings shall be constructed.
4. No development shall take place until samples of the materials to be used in the construction of the external surfaces of the dwellings hereby permitted (including the colour of any external paintwork or render), have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
5. No development shall take place until there has been submitted to and approved in writing by the local planning authority a plan indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed before the dwellings are occupied. The development shall be carried out in accordance with the approved details.
6. No development shall take place until there has been submitted to and approved in writing by the local planning authority details of secure cycle storage facilities. The cycle storage facilities shall be completed before the dwellings are occupied, and thereafter retained. The development shall be carried out in accordance with the approved details.

7. The dwellings shall not be occupied until the facilities for the storage of refuse and recyclable waste shown on the approved plans have been provided and made available for use. The facilities shall thereafter be retained.
8. The dwellings shall achieve Level 3 of the Code for Sustainable Homes. No dwelling shall be occupied until a final Code Certificate has been issued for it certifying that Code Level 3 has been achieved.