



Appeal Decisions

Site visit made on 20 December 2010

by Graham Dudley BA (Hons) Arch Dip Cons AA RIBA FRICS

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

Decision date: 9 February 2011

Appeal A: APP/Q1445/C/10/2138935 &

Appeal B: APP/Q1445/C/10/2138937

Land at rear of 19 and 21 Lloyd Road, Hove BN3 6NL

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeals are made by Mr Tim Harding (Appeal A) and Mrs Harding (Appeal B) against an enforcement notice issued by Brighton & Hove City Council.
 - The Council's reference is 2010/0050.
 - The notice was issued on 9 September 2010.
 - The breach of planning control as alleged in the notice is (a) the installation of solar panels raised at an angle to the roof of the dwellinghouse and (b) failure to clad a section of the dwellinghouse in cedar timber in accordance with details approved under application BH2007/00029.
 - The requirements of the notice are 1) apply cedar timber cladding in accordance with condition 4 of the approval BH2007/00029 to the south-west, north-west and north-east elevations of the 'garage' section at the north-western end of the development, to match the approved drawings 203 and 207 of application BH2007/00029 that were approved on 22nd March 2007 and 2) lay the solar panels flat on the roof of the dwellinghouse in accordance with drawing number 203 of application BH2007/00029 that was approved on 22nd March 2007.
 - The period for compliance with the requirements is three months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a) and (f) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period for Appeal B, the application for planning permission deemed to have been made under section 177(5) of the Act as amended does not fall to be considered. The application for planning permission deemed to have been made under section 177(5) of the Act as amended is to be considered for Appeal A.
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Decision

Appeal A - Ground (a)

1. The main issue is the effect of the development on the character and appearance of the surrounding area and the effect of the solar panels on the living conditions of neighbouring occupiers, with particular respect to glare.

Character and Appearance

2. The development plan includes the Brighton and Hove Local Plan [LP] 2005. LP Policy QD1 relates to design and quality of development and notes that design aspects will take into account the quality of materials and visual interest, particularly at street level. LP Policy QD2 relates to key principles for design for neighbourhoods.

3. The building generally is an attractive modern design, but it is a long, large structure with a substantial area of white-rendered walls and no visible roof to provide relief and balance. While there is some relief provided by the articulation of the elevations, the dominant feature is the 'hard' white rendered surfaces and the articulation of the elevations is not sufficient to relieve the visual impact of this large mass of building. This is more important as the end part of the building is taller than the majority of the building and some relief of this part of the building is necessary to provide some visual interest to the building. Given the scale and variety of designs and materials used in other nearby buildings where there is generally a minimum of roof and wall materials, I consider the current arrangement is harmful to the character and appearance of the surrounding area.
4. While I note that a significant part of the design ethos is the clean lines and articulated elevations, the cladding would not significantly alter those lines or the shadows produced by the articulation. The 'softer' material of the cladding with natural surface variation would provide contrast and visual relief, balancing the 'hard' and large areas of white render. In my view, the lack of the cedar cladding results in a large, unrelieved block and the render finish throughout does not provide sufficient visual interest as required by LP Policy QD1.
5. I accept that the building is set behind other buildings, but it is visible from these surrounding buildings and part of the building is visible through the entrance position from the road, including the part that should be clad with cedar.
6. I conclude that the building without the cedar cladding unacceptably harms the character and appearance of the surrounding area and conflicts with the aims and objectives of LP Policies QD1 and QD2. In this respect the appeal on ground (a) fails.

Living Conditions

7. LP Policy QD27 relates to protection of amenity and notes that planning permission should not be granted where it would cause material nuisance and loss of amenity to adjacent residents or occupiers. The solar panels were originally placed at an angle of about 45^o, which resulted in complaints from the neighbouring property about reflective glare from the panels. This was demonstrated by a photograph and I acknowledge that this has harmed neighbours' living conditions.
8. The appellant argues that the council has failed to provide an analysis of the impact of the solar panels. However, evidence has been provided by an interested party that harm has been caused and it is for the appellant to demonstrate on the balance of probability that the harm identified is not occurring or does not warrant the enforcement action taken.
9. The appellant has realigned the panels and reduced the angle of incline to about 35^o. I accept that this is likely to have a significant effect on the likely incidence of glare being caused to neighbours, but without detailed information or testing of the situation, I am unable to conclude that the alterations will have satisfactorily resolved the problem and that glare will not continue to be harmful to neighbours' living conditions.

10. I conclude, given the significant potential benefits of providing efficient alternative means of energy, that it is reasonable, as put forward by the appellant, to allow the appeal, but with a condition limiting the permission to 12 months. This will enable the alterations to be tested over a full year. In this respect the appeal on ground (a) succeeds.

Ground (f)

11. The appellant's ground (f) case relates to the solar panels. As I have allowed the appeal in relation to these under ground (a), there is no need to consider this aspect.

Decision

12. I direct that the enforcement notice be varied by deleting from Section 3 - paragraph (a) and from Section 5 - paragraph 2. I allow the appeal on ground (a) insofar as it relates to the solar panels and I grant 'temporary' planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended, for the installation of solar panels raised at an angle to the roof of the dwellinghouse, subject to the condition that the solar panels hereby permitted shall be laid flat on the roof of the dwellinghouse in accordance with drawing number 203 of application BH2007/00029 that was approved on the 22 March 2007, on or before 1 January 2012 and thereafter maintained in that situation.

13. I dismiss the appeal and uphold the enforcement notice as varied insofar as it relates to the failure to clad a section of the dwellinghouse in cedar timber in accordance with details approved under application BH2007/00029, and I refuse planning permission in respect of the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Graham Dudley

