



## Appeal Decision

Site visit made on 20 April 2011

**by Sheila Holden** BSc MSc CEng TPP MICE MRTPI FCIHT

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

**Decision date: 4 August 2011**

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### **Appeal Ref: APP/Q1445/A/11/2144362**

### **14a Upper Hollingdean Road, Brighton BN1 7GA**

- 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 Leo Horsefield against the decision of Brighton & Hove City Council.
  - The application Ref BH2010/01497, dated 19 September 2010, was refused by notice dated 29 October 2010.
  - The development proposed is an amendment to original application BH2006/03532 for the new build dwelling registered as 14a Upper Hollingdean Road. The original approved existing drawings/section were incorrect. This application provides revised corrected drawings of the as-built new dwelling.
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### **Application for Costs**

1. An application for costs was made by Brighton & Hove City Council against Leo Horsefield. This application is the subject of a separate decision.

### **Decision**

2. The appeal is dismissed.

### **Procedural matters**

3. The appeal site has been the subject of extensive discussions between the appellant and the Council following the construction of a 3 bedroom property. Permission for a 2 bedroom dwelling, subject to a series of conditions, had previously been approved by the Council in 2007 as part of application Ref: BH2006/03532, which included the conversion and change of use of other buildings on a larger site. On the decision notice the Council describes the current proposal as "erection of a 3 bedroom dwelling (retrospective)".
  4. The development that has taken place appears to deviate from the plans approved as part of BH2006/03532 in several respects and the Council also contends that the appellant has failed to comply with a number of the conditions. In an effort to regularise the development the Council requested that a new application with accurate "as built" plans be submitted for consideration.
  5. The appellant contends that differences between the submitted plans and what has been constructed on the site are not significant. However, from the evidence presented and my observations at the site visit I do not agree. The
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actual size of two of the roof lights serving the wet room appeared to be larger than those shown on the drawings. The highest point of the building was above the eaves level of No. 14 whereas the elevations show it to be the same height and there are several pipes in the western most facing roof slope that are not clearly shown on either the plans or the elevations. I consider these differences to be sufficiently serious for me to conclude that I cannot accept the plans presented with the appeal as an accurate representation of the development that has been implemented. My role is, therefore, confined to a consideration of the plans that were listed on the Council's decision notice and I have determined the appeal on the basis that it is a new application for the erection of a 3-bedroom dwelling.

6. Three of the reasons for refusal on the Council's decision notice relate to the quality of the building that is now on the site and are therefore not relevant to my considerations. The fourth reason relates to the accuracy of the plans. In their statement the Council contends that the plans not only fail to accurately reflect the building that has now been constructed but also contain internal inconsistencies. It is these inconsistencies that I consider to be the main issue in determining this appeal. Following my site visit I have therefore undertaken a thorough examination of the plans submitted with the appeal. I have also sought clarification from both parties on them as I consider the accuracy of the plans to be critical to my considerations.
7. The Council sets out some of the inconsistencies within the plans in Appendix 7 of their statement, which refers to Drawing Nos. LH09-253-203 Rev A and LH09-253-201 Rev C. However, the status of these plans is unclear as they are not listed on the Council's decision notice. On these drawings horizontal dimensions are only given on the plans and vertical dimensions are only provided on the elevations. The horizontal dimensions, which the Council have added to the elevations in Appendix 7, seem to be their estimates from scaling them from the drawings. These estimates suggest that there are significant differences, possibly up to 0.5m, in the dimensions of the proposed dwelling taken from different drawings. Although it may not be appropriate to rely entirely on estimated dimensions it does, nevertheless, suggest that there are material inconsistencies within the drawings.
8. I have therefore looked carefully at the plans LH09-253-201 Rev A and LH09-253-203, which were those determined by the Council. From a visual inspection of these drawings it appears to me that there are inconsistencies in the dimensions of a similar nature to those described above. I therefore consider these discrepancies would make it difficult to assess whether or not a building had been constructed in accordance with these plans at a later date.
9. From my further examination of the plans, my main concern relates to the pitch of the roof on the western most section of the building. This is shown in a series of elevations on Drawing Nos. LH09-253-205 Rev B (Sections 1-1 and 2-2) and LH09-253-206 (South elevation D-D). It is shown to be steeper on elevation D-D than on Section 2-2. This part of the building would be a wedge shape and would be narrower at its southern end than at its northern end.
10. The appellant has confirmed that it is intended that the gutter would be at the same height along the length of the wall. However, I am of the view that if the pitch of the roof was to vary along its length, and yet remain flat, it would

result in the height to the eaves level at the narrower southern end being greater than that at the northern end. Alternatively, if the height were to remain the same along the length of the wall, it would be necessary for the roof to have a curved profile to accommodate the change in pitch. If the roof were not a flat plane it would not be possible to insert and secure the four proposed roof lights satisfactorily.

11. I consider this to be a fundamental flaw in the design that is shown on the appeal proposal. It would therefore be impossible to construct a building in a way that was compliant with the plans. The other internal inconsistencies between the plans and elevations that I have identified add weight to this conclusion. This leaves me with no choice other than to dismiss the appeal.

### **Other matters**

12. Having reviewed all the other written representations submitted with the appeal I am aware that neighbours have expressed concerns about the proposal on their living conditions, particularly in relation to loss of outlook and overlooking. However, many of these problems appear to have arisen because the building that is now on the site is not compliant with the conditions imposed on the permission granted under Ref BH2006/03532. These are not matters for me in the context of this appeal.

### **Conclusions**

13. For the reasons set out above, and having regard to all other matters raised by main and third parties, I find nothing to alter my conclusion that the appeal should be dismissed.

*Sheila Holden*

INSPECTOR

