



## Appeal Decision

Site visit made on 23 August 2011

**by Ann Skippers BSc (Hons) MRTPI**

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

**Decision date: 14 September 2011**

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### **Appeal Ref: APP/Q1445/A/11/2152215**

### **181 Church Road, Hove, East Sussex BN3 2AB**

- 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 K.C and J.C. Patel against the decision of Brighton and Hove City Council.
  - The application Ref BH2011/00480, dated 17 February 2011, was refused by notice dated 18 April 2011.
  - The development proposed is 'application to renew lapsed application BH2004/00674/FP change of use from storage on lower ground floor to two bedroom self-contained flat to include extension (approved 12/05/2004)'.
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### **Decision**

1. The appeal is allowed and planning permission is granted for the change of use from storage on lower ground floor to two bedroom self-contained flat to include extension at 181 Church Road, Hove, East Sussex BN3 2AB in accordance with the terms of the application, Ref BH2011/00480, dated 17 February 2011, subject to the following 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 following approved plans: AP/CRP/03/012B and AP/CRP/03/013B.
    - 3) The materials to be used in the construction of the external surfaces of the extension hereby permitted shall match those used in the existing building.
    - 4) All new windows shall be painted softwood, double hung vertical sliding sashes with concealed trickle vents and shall be retained as such thereafter unless otherwise agreed in writing by the local planning authority.
    - 5) No development shall take place until details of secure bicycle storage and refuse storage 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 and shall be retained as such thereafter unless otherwise agreed in writing by the local planning authority.
    - 6) No development shall take place until an investigation and risk assessment to assess the nature and extent of any contamination on the site, whether or not it originates on the site, has been completed in accordance with details submitted to and approved in writing by the local planning authority. In the
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event that contamination is found to exist, a scheme for remediation to bring the site to a condition suitable for the intended use must be submitted to and approved in writing by the local planning authority. The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the local planning authority. Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced and is subject to the approval in writing of the local planning authority.

## **Reasons**

2. 181 is a three storey property with basement located on the corner of Church Road and Connaught Road. At present the ground floor of the premises is in use as a pharmacy whilst upper floors appear to be in residential use. The proposal seeks to convert the lower ground floor (basement) level into a self-contained flat and to add a modest extension. This lower ground floor level is presently used for storage and staff facilities, but both parties agree that this area is surplus to requirements.
3. The site falls within the Old Hove Conservation Area. The Council has not raised any objection to the development on the basis of its Conservation Area designation and I agree that the development would preserve or enhance the character or appearance of the Conservation Area. Therefore the main issue in this case is the effect of the proposal on the living conditions of future occupiers of the proposed development with particular regard to outlook and light.
4. The proposed flat would be accessed via steps from street level along Connaught Road which leads directly into a courtyard area. A modest extension is proposed and this would infill a small area to the rear of the existing building and the retaining brick wall. Various internal alterations would reconfigure the space to provide two bedrooms of a good size, two shower rooms and an open plan lounge, dining area and kitchen.
5. The Council is rightly concerned about the living conditions of future occupiers as often conversions of this nature can lead to a poor living environment. However, in this particular case both bedrooms would have relatively large windows facing onto the courtyard. This area is of a reasonable size and could be made into a pleasant space with planting providing adequate amenity space as the Council concurs. In addition the second bedroom would have a door with direct access onto the courtyard with glazing in it providing more natural light. Even though the rear of the property is north facing, an adequate level of natural light would be achieved and the outlook from these windows and door onto the courtyard would be pleasant.
6. With respect to the kitchen, dining room and lounge, the lounge area has a window which would overlook the courtyard and I agree with the Council's assessment that this part of the open plan living area would be served satisfactorily with natural light. It would also have an acceptable outlook to the courtyard. The kitchen and dining area located towards the front of the property would be less well served by natural light, but the kitchen would have

two windows and a door and whilst the outlook from these windows would be to a retaining wall, they would afford the room some natural light gained from lightwells at street level. Therefore some natural light would be available throughout the flat and at both ends of this open plan living area. Given the nature of the living space and its configuration, I consider that, on balance, this would provide a satisfactory level of amenity for future occupiers.

7. I have also had regard to a previous approval for this proposal on the site ref Bh2004/00674/FP which has lapsed. I appreciate that since the date of that decision the Brighton and Hove Local Plan (LP) has been adopted in 2005. The Council also refer to another case dismissed on appeal, but I have found the appeal proposal to be acceptable on its own merits.
8. A neighbour has raised concern about the loss of privacy to a nearby day nursery. However, the relationship between the two properties would not result in any undue overlooking.
9. Accordingly, the proposal would not have a materially harmful effect on the living conditions of future occupiers of the proposed development with particular regard to outlook and light. The proposal would accord with the objectives of LP Policy QD27 which seeks to protect amenity.
10. I have considered the conditions put forward by the Council in the light of the advice in Circular 11/95. In addition to the standard commencement condition, I have added a condition requiring the development to be carried out in accordance with the approved plans for the avoidance of doubt and in the interests of proper planning. I agree with the Council that it is necessary to add a condition about window detailing, and I will also add a condition relating to materials because of the extension, bearing in mind the site's location in a conservation area. Cycle storage facilities and refuse provision are also required, but not shown on the plans. The courtyard area would satisfactorily accommodate both these elements and therefore I will add a condition covering these matters in the interests of proper planning. A consultee response also points to the need to investigate potential contamination because of previous uses of the site and I will add a condition to this effect in order to protect the health and wellbeing of future occupiers.
11. For the reasons given above and having had regard to all other matters raised, the appeal should be allowed.

*Ann Skippers*

INSPECTOR

