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# Appeal Decision

Site visit made on 4 October 2011

by **C J Leigh** BSc(Hons) MPhil(Dist) MRTPI

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

Decision date: 17 October 2011

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**Appeal Ref: APP/Q1445/D/11/2155636**  
**166 Portland Road, Hove, BN3 5QL**

- 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 Florida Property Holdings Ltd, against the decision of Brighton and Hove City Council.
  - The application Ref BH2010/03221, dated 6 October 2010, was refused by notice dated 26 January 2011.
  - The development proposed is the erection of a two storey 2 bedroom semi-detached house.
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## Decision

1. The appeal is allowed and planning permission is granted for a single storey rear extension at 166 Portland Road, Hove, BN3 5QL in accordance with the terms of the application, Ref BH2010/03221, dated 6 October 2010, subject to the following conditions:
    - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
    - 2) No development shall take place until a scheme for the storage of refuse and recycling has been submitted to and approved in writing by the local planning authority. The scheme shall be carried out in full as approved prior to first occupation of the development and the refuse and recycling storage facilities shall thereafter be retained for use at all times.
    - 3) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no extension, enlargement or other alterations of the dwellinghouse shall be carried out.
    - 4) The development hereby permitted shall not be occupied until the cycle parking facilities shown on the approved plans have been fully implemented and made available for use. The cycle parking facilities shall thereafter be retained for use by the occupants of, and visitors to, the development at all times.
    - 5) No development shall take place until details of the reinstatement of the footway and kerb have been submitted and approved in writing by the local planning authority, and the dwelling shall not be occupied until that work has been constructed in accordance with the approved details.
    - 6) No development shall take place until samples of the materials (including colour of render, paintwork and colourwash) to be used in the construction
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of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

- 7) No development shall commence until:
  - a) evidence that the development is registered with an accreditation body under the Code for Sustainable Homes and a Design Stage/Interim Report showing that the development will achieve Code level 3 for the dwelling has been submitted to and approved in writing by the local planning authority.
  - b) A Design Stage/Interim Code for Sustainable Homes Certificate demonstrating that the development will achieve Code level 3 for the dwelling has been submitted to, and approved in writing by, the local planning authority.
- 8) The dwelling hereby approved shall not be occupied until a Final/Post Construction Code Certificate issued by an accreditation body confirming that the dwelling built has achieved a Code for Sustainable Homes rating of Code level 3 has been submitted to, and approved in writing by, the local planning authority.
- 9) The development hereby permitted shall be carried out in accordance with the following approved plans: 11/457 & 11/457A.

### **Main issues**

2. The first main issue in this appeal is the effect of the proposed development on the character and appearance of the surrounding area. The second main issue is whether satisfactory living conditions would be provided for future occupants of the proposed house, with particular reference to amenity space.

### **Reasons**

#### *Character and appearance*

3. The proposed house would be erected through an extension to an existing two storey property that extends along Raphael Road, away from commercial premises fronting Portland Road. An existing garage would be demolished. Other properties along Raphael Road are residential and of an unassuming, suburban character.
4. The design and scale of the proposed house, and consequent extension to the existing row of buildings, would not upset the existing character of the area. The design shows a step-down in eaves and ridge height from the adjoining properties. This is an appropriate design approach that would provide a visual distinction to the new dwelling from the existing buildings, and reflects the step-down that currently exists from the Portland Road frontage. The slight projection from the existing building line would again provide definition to the extended frontage as seen from Raphael Road, and the incorporation of a bay is similar to the adjoining property.
5. These features would therefore provide a suitably-designed end to the extended terrace of buildings, creating a well-balanced and appropriate street scene. The existing gap to the adjoining Raphael Road property would be reduced to a certain degree, but not to the harm of the area: the retention of

the gap formed by the access to the garage court would maintain sufficient spaciousness in the street and ensure there would not be any cramped appearance to the area.

6. The proposed development would therefore not be harmful to the character and appearance of the area and so be consistent with the Council's policies that, amongst other matters, seek to ensure new development is of a high standard of design and makes a positive contribution to the visual quality of the environment, namely Policies QD1, QD2 and QD3 of the Brighton & Hove Local Plan 2005.

*Living conditions*

7. Policy HO5 of the Local Plan requires the provision of private useable amenity space in new residential development where appropriate to the scale and character of the development. The supporting text to the policy states that an element of usable private amenity space should be provided.
8. The proposed development shows a small balcony for the two bedroom house. The Council considers this is inappropriate. I have not been informed of any numerical requirements or standards that the Council seek for amenity provision, nor information relating to the provision of public open space in the area. I have therefore assessed this matter on the basis of the facts presented to me and the characteristics of the appeal site.
9. The proposed house would be located close to a busy commercial area on a site of limited dimensions, and future occupants would be aware of the absence of private amenity space, save for the balcony. There is a public recreation ground within close walking distance which I saw at my site visit. Given the size of the house and its location, I concur with the appellant that the limited amount of private amenity space in this instance would be appropriate to the scale and character of the development.
10. The proposed development would therefore provide satisfactory living accommodation for future occupants and so would satisfy Policy HO5 of the Local Plan.

*Other considerations*

11. The design of the proposed dwelling, the distance to adjoining properties and positioning of windows would ensure no loss of privacy or overbearing effect to adjoining existing residents. I note the Council's observation that the submitted drawings show a discrepancy on the rear elevation relating to windows at first floor; I have assumed the floor plan is the intended situation, since that shows a small bathroom ventilated by a fan.
12. The development would result in the loss of existing off-street parking but, with the reinstatement of the dropped kerb in front of the appeal site that serves the existing garage (as required by the Highways Authority), this would result in an on-street parking place. No on-site car parking would be provided for the new house, but cycle parking would be provided. The Highways Authority do not object to the proposed development. The appeal site is well located for reaching local facilities by means of travel other than the private car, and I find no reason to disagree with the Highways Authority that the absence of on-site car parking would not lead to any significant increase in parking demand in the

area or harm to highway safety. I note the Highway's Authority request for a financial contribution towards up-grading of dropped kerbs on Raphael Road, but no planning obligation has been submitted. Whilst information has been provided regarding the Council's general approach to seeking contributions towards sustainable transport measures, no evidence has been provided as to why up-grading of other dropped kerbs along the road is necessary to make the proposed development acceptable in planning terms or is directly related to the development. A payment as sought by the Highways Authority is therefore not necessary.

*Conclusions and conditions*

13. The proposed development would therefore be consistent with the objectives of the Local Plan for the reasons given and the appeal is allowed.
14. I have attached the Council's suggested conditions requiring submission of details relating to the submission of details for the refuse store and materials, to ensure a satisfactory appearance to the development. I agree that in this instance the removal of permitted development rights is appropriate, due to the limited dimensions of the site and the need to control future alterations.
15. I have attached a condition relating to the provision of the cycle parking facilities and the reinstatement of the dropped kerb in front of the appeal site, in the interests of parking provision and highway safety. I have attached conditions relating to the construction of the development to the Code for Sustainable Homes, since that is supported by Local Plan Policy SU2 and the Council's Supplementary Planning Document SPD08. Finally, I have also imposed a condition identifying the approved plans because, otherwise than as set out in this decision and conditions, it is necessary that the development shall be carried out in accordance with the approved plans for the avoidance of doubt and in the interests of proper planning. A number of conditions have been modified in the interests of precision and enforceability.

*C J Leigh*

INSPECTOR