



Appeal Decision

Site visit made on 7 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: 26 October 2011

Appeal Ref: APP/Q1445/A/11/2154871

130 Cowper Street, Hove, East Sussex, BN3 5BL

- 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 R Raggio, against the decision of Brighton and Hove City Council.
 - The application Ref BH2010/03782, dated 17 November 2010, was refused by notice dated 3 March 2011.
 - The development proposed is described as 'the change of use from offices/light industry to residential one unit'.
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Preliminary matters

1. The proposed development would see the demolition of the existing single storey commercial premises on the site and the erection of a two storey, 3-bedroom house, and so I have determined the appeal on this basis.
2. I have had regard to the Draft National Planning Policy Framework document, issued for consultation on 25 July, but as this document is still in draft form and subject to change, I have accorded its policies little weight.

Decision

3. The appeal is dismissed.

Main issues

4. The first main issue in this appeal is whether the proposed development would be consistent with planning policies relating to the provision of employment use. The other main issues are the effect of the proposed development on the character and appearance of the surrounding area, and the effect on the living conditions of existing occupiers.

Reasons

Employment policy

5. The premises are currently occupied by a car repair workshop. There is dispute between the main parties as to the lawful commercial use of the premises: B1 or B2. But in relation to the relevant employment policies of the Brighton & Hove Local Plan 2005 there is no material difference. Policy EM3 states that land in industrial use (defined as Use Classes B1, B2 and B8) will not be released for other uses unless the site has been assessed and found to be unsuited for modern employment needs. A set of criteria are listed against
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- which sites will be assessed. If a site is released, then the Policy continues to say that preference will be given to alternative industrial or business uses, followed by live-work units or affordable housing.
6. Policy EM6 of the Local Plan contains similar objectives specifically in relation to small industrial premises (B1, B2 and B8 use of 235sq m or less, a definition which includes the appeal premises). This Policy requires, amongst other matters, premises to be vacant and marketed.
 7. The use of the appeal site as open market housing would be contrary to Policy EM3, which sets out the preferred uses for employment land. The site is not vacant and has not been marketed and so is contrary to Policy EM6. The Local Plan clearly envisages robust evidence to be provided to demonstrate why land is unsuited for continued employment use, and I have not been provided with sufficient justification as to why the land is inherently unable to continue for employment purposes. I noted the existing premises on the site, but it is relevant that, should those premises be wanting, the Local Plan seeks that the land be put to alternative employment uses; and, indeed, permission has been granted for a first floor extension to the existing workshop in 2009 (ref. BH2009/01561).
 8. Due to the dispute relating to the lawful use of the premises I give little weight to the appellant's claim that the current activities are in B2 use and cause undue disturbance to neighbours; the Council state that a B2 use should not be occurring and so, if B1 use occupied the premises, then by definition no disturbance would occur.
 9. On the basis of the evidence submitted, the requirements of Policies EM3 and EM6 have not been satisfied that set out the clear preference for land in employment use to be retained in such use. Loss of the employment use to open market housing would be contrary to these policies, and so there would be conflict with the first main issue in this appeal.
 10. I am also mindful of the Ministerial Statement on Planning for Growth (March 2011), to which I attach significant weight. This states that the Government's top priority is to promote sustainable economic growth and jobs. Local planning authorities are required to support enterprise and facilitate housing, economic and other forms of sustainable development and, in determining planning applications, they should ensure they give appropriate weight to the need to support economic recovery and that applications securing sustainable growth are treated favourably. The expectations upon local planning authorities set out in the Ministerial Statement are clearly relevant to the case before me, in light of my comments in the preceding paragraphs regarding the Council's clear policies that favour retention of land in employment use. This reinforces my conclusion that the appeal would conflict with the aforementioned Local Plan policies.

Character and appearance

11. Cowper Street is a tightly built-up, predominately residential road of terrace housing that display a similar form and massing. The proposed dwelling is poorly detailed in its fenestration, with size, proportions and positioning of windows and door significantly at odds with the rest of the terrace. This difference is mainly evident in the ground floor of the proposed building, which differs from the design of the approved 2009 extension permission.

12. I agree with the Council that, when combined with the setting-forward from the building line of the terrace and with the different roof form to the adjoining houses, the dwelling would appear incongruous and discordant to the street. The existence of the large Church nearby does not present a comparable feature in the street scene that supports the design of the proposed house: the submission is lacking in such quality in its elevations. This would cause substantial harm to the character and appearance of the surrounding area, which would be contrary to Policies QD1, QD2 and QD3 of the Local Plan, which seek to ensure a high standard of design in all new development.

Living conditions

13. The proposed development would bring a two storey building closer to the short rear gardens of the adjoining Rutland Road houses. There would be an imposing impact upon the outlook of these houses. However, this relationship would be very similar to that which would exist upon implementation of the 2009 permission: the slightly further projection to the rear in the current scheme would not have any materially greater impact on the neighbouring properties.
14. Due to the existence of this fallback position, which I consider a realistic possibility, my conclusions on the third main issue must be that the current proposal would have no different effect upon the living conditions of adjoining occupiers than that which is likely to occur in any event through the Council's grant of permission for the extension in 2009. Thus, there would be no conflict with Policy QD27 of the Local Plan, which seek to ensure new development is not harmful to the amenity of existing residents.

Conclusions

15. I have had regard to the other matters raised in this appeal, but the principal issues are the three identified above. Due to the clear conflict that arises with the policies of the Local Plan arising from the first two main issues, no other matters in this appeal outweigh those findings. The appeal is therefore dismissed.

C J Leigh

INSPECTOR

