



Appeal Decisions

Site visit made on 19 September 2011

by J O Head BSc(Econ) DipTP MRTPI

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

Decision date: 8 November 2011

Appeal A: APP/Q1445/E/11/2154457

Medina House, King's Esplanade, Hove, East Sussex BN3 2WA

- The appeal is made under sections 20 and 74 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant conservation area consent.
- The appeal is made by Mr Sirius Taghan, Globe Homes against the decision of Brighton & Hove City Council.
- The application Ref BH2009/03120, dated 17 December 2009, was refused by notice dated 29 December 2010.
- The demolition proposed is that of the existing building at the site.

Appeal B: APP/Q1445/A/11/2154459

Medina House, King's Esplanade, Hove, East Sussex BN3 2WA

- 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 Sirius Taghan, Globe Homes against the decision of Brighton & Hove City Council.
 - The application Ref BH2009/03105, dated 17 December 2009, was refused by notice dated 29 December 2010.
 - The development proposed is a new build 9-storey development including 9 residential units, ground and first floor restaurant and basement parking.
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Decisions

1. **APPEAL A: The appeal is dismissed.**
2. **APPEAL B: The appeal is dismissed.**

Main Issues

3. The appeals relate to the proposed erection of a 9-storey building on the site of the existing Medina House, a locally listed Victorian building that is the surviving part of the former Hove (Medina) Baths. It is within the Cliftonville Conservation Area.
4. The main issue in both appeals A and B is whether the proposed development would preserve or enhance the character or appearance of the Cliftonville Conservation Area. In considering that issue, it is necessary to assess the contribution which the existing building makes to the character or appearance of the area, and the contribution that would be made by the proposed replacement building.

5. Further issues in Appeal B are the impact of the proposed development on the living conditions of the occupiers of the neighbouring properties, with particular reference to visual impact and sense of enclosure; and whether it has been adequately demonstrated that the site is unsuitable for modern employment needs.

Reasons

Impact on the Conservation Area (Appeals A & B)

6. The appeal site is at the corner of Sussex Road and King's Esplanade, in the far south-west corner of the Cliftonville Conservation Area. It forms the seafront end of an enclave of small cottages (Sussex Road and Victoria Cottages) lying behind Victoria Terrace, which fronts the south side of the main east-west Kingsway coastal road (A259). The majority of the conservation area consists of the residential streets to the north of Kingsway and the Conservation Area Character Statement makes no specific mention of the character of the somewhat different townscape in the vicinity of the appeal site. Nevertheless, in the context of the wider conservation area, the development to the south of Kingsway, in particular Courtney Terrace and Victoria Terrace, forms a terminal feature in views towards the sea and Sussex Road and Medina Terrace provide a physical link with King's Esplanade on the seafront.
7. The Victorian character of King's Esplanade has been eroded in more recent years by the erection of the large blocks of flats at Bath Court, Benham Court and Spa Court. This has left Medina House and its 3-storey neighbour "Marocco's" flanked by tall modern blocks that contribute little to the character or appearance of the conservation area. The appellant sees this as giving the appeal site an incongruous appearance and as an opportunity to provide a tall building that would provide a central accent to the architectural composition of the north side of King's Esplanade. That is a valid approach to take, particularly with respect to long distance views of the built frontage. However, it could equally validly be argued that the existing gap serves to frame and emphasise the appeal site and to provide a setting for the existing building. The latter approach will carry greater weight if the existing building contributes positively to the conservation area and is worthy of retention in its own right.

The contribution of the existing building

8. Medina House has not been lawfully occupied for about 18 years, having last been used by a diamond merchant. Its state of repair reflects that period of vacancy and also that there has been some intervening residential use by squatters. Nevertheless, the building appears to be generally wind and watertight. A former attached swimming pool to the east has been demolished, leaving that part of the appeal site vacant and untidy.
9. Local Plan Policy HE10 seeks to ensure the retention, maintenance and continued use of locally listed buildings, whether within or outside conservation areas. Policy HE8 deals specifically with proposals for the demolition of buildings, structures and features within conservation areas. These should be retained if they make a positive contribution to the character or appearance of the area and demolition will only be permitted if certain criteria apply. These include the submission of supporting evidence which demonstrates that the building is beyond economic repair; that viable alternative uses cannot be

found; and that the proposed redevelopment would preserve the area's character and would produce substantial benefits that would outweigh the building's loss.

10. The Council's list of buildings of local interest describes Medina House as "strange and whimsical....with a heavily decorated Dutch gable.....Possesses some charm and character as well as historical significance." The building reflects the smaller scale of the enclave of cottages to the north whilst providing an appropriate and more imposing elevation to the seafront. Its quirky appearance is of visual interest and the site has historical significance in the Victorian development of Hove as a seaside resort. The view of the South East Regional Design Panel that the building's architectural and historic interest is "limited" does not imply that its contribution to the conservation area is a negative one. There is also no evidence that the Panel's "understanding" that its structural condition is "very poor" is based on any independent survey or inspection of the building.
11. For the above reasons and notwithstanding their present condition, Medina House and the remains of the adjoining swimming bath continue to make a positive contribution to the character of Kings Esplanade and the conservation area, even if, overall, the current state of the site makes a lesser contribution to its appearance. The 3 criteria of Policy HE8 must therefore be satisfied before demolition of the building is permissible.
12. As to the first of these criteria, the appellant's statement that the building is "well beyond economic repair" is not backed up by any detailed evidence of its structural condition nor any proper detailed estimates of repair costs. A brief visual inspection of the condition of the interior and exterior of the building at the site visit did not reveal anything out of the ordinary. Indeed, its condition appeared better than might be expected, having regard to the age of the building, its evident lack of maintenance and its exposure to the prevailing south-west winds. Information submitted with the planning application relates only to the costs of refurbishment of the building for office and/or industrial use and is estimated on a simple floorspace basis using figures from a building price book. Significantly more detailed information on the structural condition of the building and the costs of its repair would be needed before the relevant requirement of Policy HE8 could be complied with.
13. The question of viable alternative uses for the building (the second criterion of Policy H8) is considered as part of the third issue below.

The contribution made by the proposed development

14. The Council has published supplementary planning guidance (SPG) on Tall Buildings (SPGBH Note 15). This defines tall buildings as those over 18m or approximately 6 storeys. The appeal proposal, at 9 storeys and some 28m, constitutes a tall building and is covered by the guidance. The SPG identifies a number of corridors and areas suitable for tall buildings, including the Western Seafront/Kingsway. Whilst the appellant considers that the appeal site falls within this corridor, the Council points out that no precise boundary for the corridor has been defined. Kingsway forms a significant length of the main A259 road and the SPG refers to that stretch overlooking the Western Lawns and to the need for the creation of an appropriate height, form and scale on its north side. It mentions the opportunities for a different, taller, 'landmark' form to create a prominent and distinctive 'endstop' to Hove's Western Lawns. The

appeal proposal would not meet any of those objectives. Moreover, the SPG advises that the adjacent conservation areas and the scale and form of surrounding residential areas will make the development of tall buildings “challenging”.

15. That advice is particularly relevant at the appeal site because of the small and intimate scale of the adjoining residential development immediately to the north. The existing tall seafront blocks of flats at Bath Court and Benham Court do not have the same close relationship with the development to the north, being separated by open car parking areas and, in the case of Bath Court, by a 3-storey wing of smaller scale. Even so, the main block of Bath Court has a dominant impact in the street scene at the south end of Sussex Road that is relieved only to some extent by the openness above the appeal site.
16. The proposed building would be in the form of a 2-storey flat-roofed plinth with a further 7-storey tower at its south-west corner. The plinth would separate the tower from the cottages on the east side of Sussex Road and the site is set back behind parking bays at the south end of the road. Even so, that 2-storey section would be insufficient to create any meaningful buffer between the small dwellings in Sussex Road and Victoria Cottages and the 9-storey building proposed. There would be an abrupt change in height and the proposed building would loom above the cottages in these narrow streets and appear as a particularly intrusive and overbearing element in views towards the seafront. Much of the openness above the appeal site would be lost and a marked sense of enclosure would be created, particularly at the south end of Sussex Road, adding to the harm already caused by the tall block of Bath Court.
17. The height of the proposed building would also have an impact on views from further north within the conservation area. From the roads north of Kingsway, such as Osborne Villas, the buildings in the views to the south appear of a consistent scale, reflecting the surrounding residential development. The proposed building would be seen projecting above the frontage development on the south side of Kingsway and would be a disruptive element in the townscape. Although the tops of the existing blocks can be seen from Kingsway and some of the streets to the north, they are already disruptive to the townscape. They are not a justification for allowing further harm of that nature.
18. In the context of Kings Esplanade, there may be a justification in urban design terms for seeking to complete and unify the frontage development by the provision of a taller central feature. The impact of this would, however, mainly be evident from the beach and the views in Kings Esplanade would be angled ones. The height and general form of the proposed building would not appear inappropriate in that context. However, the detailing and design of the elevations, including large expanses of glazing, would create a building of larger apparent scale than its neighbours. This may, intentionally, draw attention to the building as a focal point, but would be at odds with the design of the existing blocks of flats as well as the smaller buildings to the north.
19. Overall, therefore, the proposed development would be an incongruous addition to the townscape at the southern edge of the Cliftonville Conservation Area and would not represent design of the standard required by Local Plan Policies QD1, QD2 and QD4. It would conflict with Policy HE6 and would fail to preserve or enhance the character or appearance of the conservation area.

Whilst the proposal would make efficient and effective use of this partly derelict urban site to provide additional housing and a seafront restaurant there would, on balance, be insufficient benefit to outweigh the harm that would be caused by the loss of the existing Medina House building. Accordingly, the third criterion of Policy HE8 would not be complied with.

Impact on neighbouring properties (Appeal B)

20. Moving to the second issue, the overbearing impact and sense of enclosure that would be created by the proposed building in views south along Sussex Road would be repeated in the small rear garden or yard areas of the cottages to the north in Sussex Road and Victoria Cottages. The height of the building and the lack of any significant buffer of open space between it and the adjoining terraced cottages would result in a substantial reduction in the value of the gardens as an external amenity space for the occupiers of the dwellings.
21. North facing windows on the proposed tower would have the potential to overlook the rear of the cottages, causing significant loss of privacy. The resulting harm could, as the Council suggests, be lessened if the windows (serving secondary bedrooms, en-suite bathrooms, studies and the communal staircase) were to be obscure glazed and this could be ensured by condition if the appeal were to be allowed. However, obscure glazing is not conducive to a pleasant environment in bedrooms, and the potential for downward views from the top floor balcony would also need to be addressed. Notwithstanding any obscure glazing, the size and number of windows overlooking the rear of the cottages would be likely to create a strong perception of overlooking that would be disturbing to their occupiers. Windows on the east and west elevations of the proposed building would face some existing windows at Bath Court and Benham Court, but the resulting standards of mutual privacy would not be unusual for an urban location.
22. As to loss of light to adjoining properties, both the appellant and the residents of Bath Court and Benham Court have commissioned daylight and sunlight reports using the methodology in the BRE Guide *Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice*. Both reports indicate that the proposed development would result in a noticeable loss of daylight to a significant number of surrounding windows. The Schroeders Begg report indicates that the most affected windows would be at Bath Court during the morning and that there would be overshadowing of the rear of Sussex Road, Victoria Cottages and the west elevation of Benham Court later in the day. The appellant's report (by Gould & Co) concludes that, if it is appropriate for the appeal site to be developed at a relatively high density, the proposal would have a less harmful impact than a lower rise building of greater built depth and that it would be an acceptable compromise having regard to the advice in the BRE Guide.
23. Bearing in mind the conclusions on the first issue above, it has not been established that a high density of development at the appeal site would be appropriate, nor that any benefits of the appeal scheme would be sufficient to justify the extent of loss of light revealed by the survey reports. The loss of light that would result to neighbouring properties, the actual and perceived overlooking and loss of privacy to those properties, and the overbearing impact and increased sense of enclosure that would be created for the dwellings to the

north would cause a material loss of amenity that would conflict with Local Plan Policy QD27. That loss of amenity would be significant and harmful to the living conditions of the occupiers of those neighbouring properties.

Suitability of the site for employment use (Appeal B)

24. As to the third issue, Local Plan Policy EM3 says that land in industrial (B1, B2 & B8) use will not be released for other purposes unless the site has been assessed and is unsuitable for modern employment needs. A similar policy (EM5) applies to sites and premises in office use. Part of this assessment is evidence of marketing to attract different types of employment uses. No marketing has taken place in the case of the appeal site and Medina House.
25. The Council says that the building provides about 300 square metres of B1 floorspace, although it is clear that this could not be brought back into use without significant investment in refurbishing the accommodation to make it suitable for modern needs. Policy EM3 refers to a number of other criteria to be considered before sites can be released, including the location of the site, its accessibility and proximity to trunk routes, and other uses in the neighbourhood. The seafront location of the appeal site, its remoteness from trunk routes and the narrowness of the roads serving it are factors weighing against its continued industrial or commercial use, as is its location in a primarily residential area.
26. The Council has not suggested that there is any particular need for industrial or office floorspace in the vicinity of the appeal site, although a general need to retain office sites in the City is noted. Even though no marketing has been carried out there appears, on balance, to be no good reason for seeking to retain an industrial or office use at the site at the expense of a suitable alternative residential or seafront-related development (such as the restaurant proposed in the appeal scheme) that would be more in keeping with the surroundings. For the reasons given above, the appeal proposal would not constitute a suitable development. However, the physical constraints considered above are a good indication that the site is unsuitable for modern employment needs and there would, in the circumstances, be little value in requiring a marketing exercise as a further demonstration. Accordingly, there would be no conflict with the aim of policy to retain the best sites for industry.

Overall conclusion

27. Notwithstanding the lack of conflict with employment policy, the need to seek viable alternative uses is only one aspect in consideration of the demolition of the existing building. The other 2 criteria of Policy HE8 are not complied with, for the reasons given above. Both the demolition of the existing building and the proposed redevelopment would cause significant harm to the townscape and to the historic interest of the locality and would fail to preserve or enhance the character or appearance of the Cliftonville Conservation Area. The harm that the proposed development would cause to the living conditions of the occupiers of neighbouring residential properties adds further weight to the conclusion that the appeal proposals are unacceptable.

28. In reaching that decision, regard has been had to all other matters raised in the written representations, including the status of the site as previously-developed land and the views of English Heritage. Account has been taken of the views expressed by local residents and also of the policy and advice in Planning Policy Statement 5 *Planning for the Historic Environment* and its companion Practice Guide. None of these matters is sufficient to alter the considerations which have lead to the above conclusion. Both appeals are, therefore, unsuccessful.

John Head

INSPECTOR

