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# Appeal Decision

Site visit made on 6 February 2012

by **James Croucher** MTP MRTPI

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

Decision date: 20 February 2012

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**Appeal Ref: APP/Q1445/D/11/2167638**  
**54 Lenham Avenue, Saltdean BN2 8AG**

- 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 Kevin Long against the decision of Brighton & Hove City Council.
  - The application Ref. BH2011/02757, dated 8 September 2011, was refused by notice dated 31 October 2011.
  - The development proposed is a 2 storey side extension.
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## Decision

1. The appeal is allowed and planning permission is granted for a 2 storey side extension at 54 Lenham Avenue, Saltdean BN2 8AG in accordance with the terms of the application, Ref. BH2011/02757, dated 8 September 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:
    - i. 1:1250 Site location plan (unnumbered)
    - ii. 1:500 Site layout plan (unnumbered)
    - iii. Proposed details drawing (unnumbered, dated August 11)
  - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.

## Main Issue

3. The main issue in this case is the effect of the proposed extension on the living conditions of adjacent occupiers, with regard to overlooking, overshadowing and overbearing impact.

## Reasons

4. 54 Lenham Avenue is a two-storey detached property at the corner of Lenham Avenue and Founthill Avenue. Local topography falls sharply away to the east,
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meaning that the adjacent property at 18 Founthill Avenue sits at a lower level than the appeal property. The character of both streets is defined by the particularly open aspect to the east, giving expansive views of the valley parkland across to the seascape beyond.

*Effect on 56 Lenham Avenue*

5. Properties in the area appear to have been designed to take advantage of the views to the east. At 56 Lenham Avenue there is a first floor terrace to the rear, served by large windows which provide the main aspect to the room closest to the appeal site. In comparison, the windows in the property's side elevation (facing the appeal site) are smaller and secondary in nature. Whilst the proposed extension would come closer to those windows, the open rear aspect enjoyed by number 56 would not be affected. There would be no significant overbearing impact, and any additional overshadowing would be restricted solely to the secondary windows in the side elevation.
6. The proposed extension would move the kitchen window some 2 metres closer to number 56. However, overlooking is already available from that position, from the first floor external landing outside the kitchen door. Accordingly, the extent of overlooking would be no worse than is currently the case.
7. Mindful of the size, height, massing and siting of the proposed extension, there would be no significant effect on the living conditions of occupiers at 56 Lenham Avenue.

*Effect on 18 Fountwell Avenue*

8. Given its lower slab level, particularly careful consideration should be given to the potential effect of the scheme on living conditions at 18 Fountwell Avenue. The front door of this detached property is on its side elevation facing the appeal site, and is already subject to some overshadowing and overbearing impact as a result. The modest additional bulk and massing of the proposed extension would not increase that impact to any significant extent.
9. As with others nearby, number 18 appears to have been orientated to maximise its views to the east. Accordingly, in the rear elevation the closest rooms to the appeal site are served only by high-level obscurely-glazed windows, which I understand to be a bathroom and WC. Therefore despite the lower ground level, there would be no significant loss of light or additional overbearing impact within the property.
10. Number 18's rear garden is already overlooked by the rear garden of the appeal site, and to a lesser extent its side-facing windows. The proposed extension would not significantly increase that overlooking, and indeed would provide a level of visual shielding which would increase the privacy of the patio area to the immediate rear of number 18.
11. Having regard then to the size, height, massing and siting of the proposed extension, there would be no significant effect on the living conditions of occupiers at 18 Fountwell Avenue.

*Conditions*

12. The Council has suggested a number of planning conditions, should I be minded to allow the appeal and grant planning permission. I have considered those conditions in light of the advice in Circular 11/95, and impose the usual time limit condition in the interests of good planning.
13. In terms of specifying the approved works, it is necessary to impose a condition requiring development to be carried out in accordance with the submitted plans, for the avoidance of doubt. A condition requiring approval of external materials is necessary to ensure a satisfactory visual appearance.
14. The Council has suggested a condition requiring the window facing 56 Lenham Avenue to be fitted with obscured glazing. However, as described above, there would be no significant new overlooking in that direction compared to that which already exists. Accordingly, the condition suggested by the Council is unnecessary.

**Conclusion**

15. There would be no significant harm to the living conditions of adjacent occupiers, and accordingly the proposal would comply with Policies QD14 and QD27 of the Brighton and Hove Local Plan. As such, the appeal should be allowed.

*James Croucher*

INSPECTOR

