



## Appeal Decision

Site visit made on 26 August 2014

by **Philip Willmer BSc Dip Arch RIBA**

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

Decision date: 15 September 2014

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**Appeal Ref: APP/Q1445/A/14/2220082**

**4 New Barn Road, Rottingdean, Brighton, East Sussex, BN2 7FN.**

- 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 Dr Marios Kakos against the decision of Brighton and Hove City Council.
  - The application Ref BH2014/00881, dated 19 March 2014, was refused by notice dated 15 May 2014.
  - The development proposed is described as construction of an extension to house a dental surgery including a change of use from C3 to D1.
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### Decision

1. The appeal is allowed and planning permission is granted for construction of an extension to house a dental surgery including a change of use from C3 to D1 at 4 New Barn Road, Rottingdean, Brighton, East Sussex, BN2 7FN in accordance with the terms of the application, Ref BH2014/00881, dated 19 March 2014, and the plans submitted with it, subject to the conditions listed in the schedule at the end of this decision letter.

### Main Issues

2. I consider that there are two main issues in this appeal. The first is the effect of the proposed extension on the character and appearance of the existing dwelling, the street scene and surrounding area by virtue of its design, form and massing. The second is the effect of the proposed extension on the living conditions of the occupiers of the parent property, in relation to the potential impact of the proposed window in the rear elevation of the extension in terms of overlooking and loss of privacy.

### Reasons

#### *Character and appearance*

3. The property the subject of this appeal, 4 New Barn Road, is a semi-detached two-storey house located on the corner of New Barn Road and Falmer Road. The pair of dwellings, angled to reflect their corner location, mirror a similar pair of dwellings on the opposite side of the far entrance to this planned residential estate of semi-detached houses. Number 4, which is of a simple vernacular design, is of brick construction under a plain tile roof. In addition to a now
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rather dilapidated detached garage, the house has previously been extended with a flat roofed single storey porch on its western flank wall.

4. While retaining the existing house for residential purposes, the appellant proposes the demolition of both the garage and porch and the construction of a new single storey extension, which would be occupied as a dental surgery, comprising small reception area, toilet and treatment room. The new extension, the plan of which would be set at an angle to the existing house to reflect the need to both visually turn the corner and relate to the position, relative to the street, of the neighbouring semi-detached pair, would have a simple flat roof.
5. When considered in isolation, the proposed addition appears to relate poorly to the plan layout of the main house. However, in the context of the layout of the estate of dwellings and, more particularly, the relationship of the host property to both its corner location and its neighbour number 6, the plan-form of the proposed extension is entirely rational. Accordingly, given its simple flat roof form and modest fenestration I do not consider, on balance, that it would be either visually intrusive or appear as a bulky addition, unsympathetic to the design of the existing dwelling, as feared by the Council.
6. Furthermore, while it would be visible from within the estate and from the main road, by reason of its simple modest form I do not believe that it would be detrimental to the character and appearance of either the street scene or the wider area.
7. I therefore conclude in respect of the first main issue that the proposed extension would not cause harm to the character or appearance of the host property, the street scene or the wider area. It would therefore accord with the objectives of Policies QD2 and QD14 of the Brighton and Hove Local Plan 2005 (LP) and Brighton and Hove City Council Local Development Framework Supplementary Planning Document spd12- *Design Guide for Extensions and Alterations* (Adopted 20 June 2013) as they relate to, amongst other things, the quality of development and the need for new development to take account of local characteristics.

#### *Living conditions*

8. The design proposes a window located in the north wall of the treatment room. It would overlook the garden retained for use by the occupiers of the host dwelling and, accordingly, it would have the potential to result in overlooking and thereby a loss of privacy.
9. If the proposed window were both obscure glazed and fixed shut it would overcome any overlooking or loss of privacy. This is a matter that could be addressed by condition if I were minded to allow the appeal.
10. However, as this would be the only window in the surgery such a condition might result in oppressive working conditions for the future occupiers. In my experience, due to the need for privacy, the detailed close work undertaken by dentists and the recent increase in the use of camera and computer technology, surgery windows are often in any case screened in one way or another. Further, as the proposed rooflight would provide natural light and, if required, ventilation, I do not consider that if the window in the rear wall were obscure

glazed and fixed shut that the amenity of either the dentist or their patients would be so compromised as to cause harm.

11. The window, even if obscure glazed and fixed shut, might nevertheless lead to the perception by the occupiers of the house that they were being overlooked. However, as the window looks away from and not into the area of private garden immediately adjacent to the house I do not consider that the window here, if conditioned as proposed, would result in such an un-neighbourly form of development as to cause harm to residential living conditions.
12. I therefore conclude in respect of the second main issue that the proposed development would not cause harm to either the amenity of the users of the surgery or the residential living conditions of neighbouring residential occupiers. It would therefore comply with the objectives of LP Policy QD27 in these respects.

### **Other matters**

13. I have noted the concern expressed by the occupier of number 2 New Barn Road concerning the possible impact of the proposed use of the building as a dental surgery on her living conditions. However, the Council has not raised objections in relation to the suitability of the building for its intended use in terms of the impact on neighbouring residential occupiers, including the occupier of number 2, other than where such concerns could be adequately addressed by conditions. In the circumstances, I am not satisfied that there is justification to support the contention that the proposed development would cause undue detriment to this neighbour's living conditions.

### **Conclusions and Conditions**

14. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should succeed and planning permission be granted.
15. To ensure a high quality development, I have included a condition about building materials, although I have modified the wording from that suggested by the Council, to require samples to be submitted and approved. Furthermore, to protect neighbours' living conditions, I shall require the proposed window in the north elevation to be fixed shut and obscure glazed, opening times of the surgery for patients to be restricted, the proposed noise mitigation measures to be completed in full. Finally, I shall condition the future use of the building to be restricted to a dental surgery only and to be used only in association with the existing dwelling. However, I consider that it would be reasonable to modify the wording proposed by the Council to allow for a locum, in certain circumstances, to use the surgery. As an area for car parking has not been defined on the plans, I will require proposals to be approved and thereafter the area to be retained for vehicle parking. To ensure the provision of available and adequate cycle parking I have included a condition about cycle storage.
16. For the avoidance of doubt and in the interests of proper planning, I shall also impose a condition requiring the development to be carried out in accordance with the approved plans.

*Philip Willmer* INSPECTOR

*Schedule of 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: drawings numbered: mb/01 version3, 02 version 3, 03 version 3, 04 version 3/Newbarn Road, mb/05 and 06/Newbarn Road and drawings jj/02, 05 and 07/Newbarn Road.
- 3) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the extension 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.
- 4) Before the first occupation of the extension hereby permitted the window in the north elevation shall be fitted with obscured glass and be made non-opening, unless the parts of the window which can be opened are more than 1.7 metres above floor level of the room in which the window is installed, and shall be permanently retained in that condition.
- 5) No development shall take place until a plan showing an area for proposed vehicle parking has been submitted to and approved in writing by the Council. The area identified shall not be used other than for the parking of private motor vehicles and motorcycles belonging to the occupants of, and visitors to, the development hereby approved.
- 6) No development shall take place until details of secure cycle parking facilities for the occupants of, and visitors to, the development hereby permitted have been submitted to and approved in writing by the local planning authority. The installation of these facilities shall be completed in accordance with the approved details and made available for use prior to the development hereby permitted being first brought into use and shall be retained for use at all times.
- 7) The use hereby permitted shall not be open to patients outside the following times: 09.00 and 18.00 hours on Mondays to Fridays and 09.00 to 13.00 hours on Saturdays and at no time on Sundays, Bank or Public Holidays.
- 8) The development hereby permitted shall not be occupied until all of the mitigation measures included within the noise assessment submitted on the 10 April 2014 have been implemented in full and shall thereafter be retained as such.
- 9) The premises shall be used as a dental surgery only and for no other purpose (including any other purpose in Class D1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (or in any provision equivalent to that class in any statutory instrument revoking and re-enacting that Order with or without modification).
- 10) The use hereby permitted shall be carried out only by the occupiers of 4 New Barn Road, or a locum employed by them to cover holidays and/or sick leave only.