

## Appeal Decision

Site visit made on 16 February 2016

**by David Reed BSc DipTP DMS MRTPI**

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

**Decision date: 25<sup>th</sup> February 2016**

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**Appeal Ref: APP/Q1445/W/15/3135846**  
**5 Coombe Rise, Saltdean, Brighton BN2 8QN**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
  - The appeal is made by Mr Devandra Hindocha against Brighton & Hove City Council.
  - The application Ref BH2015/01441, is dated 22 April 2015.
  - The development proposed is the erection of a shed in rear garden.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The Council failed to determine the application within the prescribed period and subsequently failed to submit an appeal statement within the relevant deadline.
3. The brick structure of the shed together with its roof battens were already in place on the date of the site visit.
4. The shed has been constructed on a raised platform within a retaining brick wall which is shown as 'existing' on the application drawings. The application relates solely to the erection of a shed on this existing platform and the appeal has been determined on this basis.

### Main Issue

5. From my observations during the site visit the main issue is the effect of the shed on the living conditions of the occupiers of Nos 16 and 17 Westfield Rise in relation to outlook.

### Reasons

6. The rear garden behind No 5 Coombe Rise slopes down steeply away from the house within which a series of steps, retaining walls and patio areas have been constructed. The shed which is the subject of this appeal has been constructed at the bottom of the garden on a raised platform within a retaining wall.
7. The garden is long as well as sloping so the shed lies well away from the rear elevation of No 5 and the properties which are adjacent to it on either side. Consequently, the shed is not intrusive in views from the rear windows of properties in Coombe Rise or from their back gardens where the shed is seen as an unexceptional garden outbuilding.

8. However, the adjoining properties to the north, Nos 16 and 17 Westfield Rise, are set well below the appeal site with rather shorter rear gardens which rise up steeply towards the shed. Due to the retaining wall built along the common boundary, which is between one and two metres high, the shed is sited on a significantly raised platform which increases the apparent height of the shed when viewed from Nos 16/17.
9. The shed is constructed of brick with a pitched roof. It is about 3 m long, about 2 m wide and about 2.7 m high to the ridge. It is unexceptional in appearance, relatively small in size and oriented so that its narrower end elevation faces the common boundary. Nevertheless, due to its unusual siting on a raised platform, close proximity to the boundary and location at the top of steeply sloping gardens, it appears overbearing and intrusive in views from the rear windows and private gardens of Nos 16/17. Due to the steeply sloping ground below the shed effective screening would be difficult to establish.
10. It is recognised that the shed is seen against a backdrop of trees and other vegetation and that rear facing views from Nos 16/17 are slightly oblique and compromised in any event by the steeply rising ground towards Coombe Rise. However, despite this context and the relatively small size of the shed it represents an incongruous and dominant feature which would not reasonably be expected by the occupiers of Nos 16/17.
11. For these reasons the shed causes significant harm to the living conditions of the occupiers of Nos 16/17 Westfield Rise in relation to outlook. This conflicts with Policy QD27 of the Brighton and Hove Local Plan 2005 which resists development where it would cause material loss of amenity to adjacent residents or occupiers.

### **Conclusion**

12. Having regard to the above the appeal should be dismissed.

*David Reed*

INSPECTOR