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## Appeal Decisions

Site visit made on 6 April 2016

**by Cullum J A Parker BA(Hons) MA MRTPI IHBC**

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

**Decision date: 18 May 2016**

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### **Appeal A Ref: APP/Q1445/W/15/3140296**

#### **107 Boundary Road, Hove, Brighton and Hove, BN3 7GB**

- 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 Castlemist Finance Ltd against the decision of Brighton & Hove City Council.
  - The application Ref BH2015/00233, dated 26 January 2015, was refused by notice dated 11 June 2015.
  - The development proposed is described as '7 flats, demolition of existing dwelling'.
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### **Appeal B Ref: APP/Q1445/W/15/3140335**

#### **107 Boundary Road, Hove, Brighton and Hove, BN3 7GB**

- 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 Castlemist Finance Ltd against the decision of Brighton & Hove City Council.
  - The application Ref BH2015/02562, dated 8 July 2015, was refused by notice dated 26 November 2015.
  - The development proposed is demolition of existing house and creation of 4 storey building to form 7 no 2 bedroom flats (C3) with associated parking.
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## **Decisions**

1. Both appeal A and B are dismissed.

## **Preliminary Matters**

2. This decision letter deals with two appeals for the same site. There are some differences between the schemes, for example there are balconies on the front elevation for the Appeal B scheme, and a differing parking arrangement for the Appeal A scheme. Nonetheless, given the overall similarities of the schemes I have dealt with both in this single decision letter.
3. In March 2016, the Council adopted the *Brighton and Hove City Plan Part One 2016* (BHCP). This, together with the retained policies of the *Brighton and Hove Local Plan 2005* (BHLP), forms the development plan for the appeal site area. I have sought the views of the main parties on this matter, with no objection raised by the appellant in terms of the 'replacement' policies. For the avoidance of doubt, I have used the policies of the adopted development plan, including those that the local planning authority considers 'replace' those of the BHLP. These are referenced accordingly in these decisions.

## Background and Main Issues

4. The main issue for both appeals is:

- The effect of the proposed developments on the character and appearance of the street scene, and;

For Appeal A;

- The effect of the proposed development on the living conditions of adjoining occupiers with specific regard to noise from the proposed parking and vehicular access arrangements.

## Reasons

### *Character and appearance (Appeals A&B)*

5. The appeal site is located on the eastern side of Boundary Road. This side of the road is typified by residential dwellings, with the existing building on the appeal site being a detached with a garage building to its southern side. The appeal site lies between two similarly designed houses, which have their gables facing the highway with two storey bays. The appeal site itself forms one of four buildings of a similar style on this side of the road. Further south on the eastern edge of Boundary Road, the residential character is retained with two pairs of semi-detached houses. Beyond these is a row of shops, with residential accommodation above. On the western side of Boundary Road there is a mixture of commercial and residential uses.
6. The appeal schemes seek the erection of a three storey building with attic accommodation. This would be partially lowered on the northern end. Visually the building would comprise two gables serving the flats, intersected by a projecting central gable feature that would house the stairs and entrance doors. This would be a new feature within the street scene, where most forms are single gables or flat roofed. The proposed building would also be noticeable and significantly taller than the residential dwellings on either side, as is demonstrated by the higher eaves height proposed as shown on drawings demonstrating the proposed western elevation in context.
7. What is more, the width of the building would be considerably larger than any other building within the row of four, and this width and bulk would extend up three storeys and to the eaves. The combination of these features, which include the incongruent triple gable form, the taller and contrasting eave heights, and the overall wider width proposed would result in a building, under both schemes, which would fail to promote or reinforce local distinctiveness, and appear as discordant features within the wider street scene. The appellant points to other examples of building styles nearby, however the context of these do not replicate that in the appeal scheme, being situated between two very similar two storey houses. I do not find that these other examples cited provide justification for the adverse impact to character and appearance in this case.
8. I therefore conclude that the proposed developments, for both Appeal A and Appeal B, would have an adverse impact on the character and appearance of the street scene. Accordingly, the proposal would be contrary to Policies CP8, CP12 and CP14 of the BHCP (which replaces Policies QD1, QD2 and QD3 of the BHLP), which amongst other aims seek to ensure that new developments raise

the standard of architecture in the city and respect, reinforce or repair the character of the neighbourhood and contribute positively to its sense of place.

9. It would also be contrary to the Policies of the *National Planning Policy Framework* (the Framework), which include that planning should always seek to secure high quality design and that it is proper to seek to promote or reinforce local distinctiveness.

#### *Living conditions (Appeal A)*

10. Seven parking spaces on the appeal site would be provided to the rear of the proposed building. The Council is concerned that the parking area and access would result in significant noise impacts on the occupiers of 12 Gladys Road and 106 Boundary Road. This is due to the nature of the rear garden's use would change, the proximity of the spaces to the site's boundaries and the number of cars that would be parked and manoeuvred in the parking area.
11. The appellant has submitted a Noise Impact Report from 7<sup>th</sup> Wave Acoustics, which concludes that *'even with worst case assumptions, the car park noise is significantly below the existing noise climate and would also meet acceptable internal noise criteria'*. This is reflected in the points made by the Council's officer's report for Appeal B, where at paragraphs 8.29 to 8.32, the local planning authority make it clear that the environmental health team considered the acoustic report to be robust. I see no reason to take a contrary view in this respect. What is more, there appears to be little difference in the parking arrangements for both appeals, with only some slight re-arrangement of the spaces and further landscaping provided for Appeal B. Both are factors which are unlikely to significantly alter the outcome of the acoustic report.
12. I therefore conclude that the proposed development would not result in a materially harmful impact on the living conditions of neighbouring occupiers with regard to noise. Appeal A would therefore accord with Policies SU10 and QD27 of the BHLP, which, amongst other aims, seek to ensure that proposals minimise the impact of noise on the occupiers of proposed buildings, neighbouring properties and the surrounding environment.

#### **Other Matters**

13. On the evidence before me, the local planning authority indicates that it is currently unable to demonstrate a 5 year supply of housing land (see para 8.3 of the officers report). In this instance, policies relevant to the supply of housing within the development plan should not be considered up to date, as Paragraph 49 of the Framework makes clear. However, in this case, the policies cited relate to design and living condition matters, rather than policies related to the supply of housing. There is no indication that these other policies are out of date.
14. Accordingly, whilst I acknowledge that the provision of six dwellings net arising from the proposed development is a modest benefit in favour, this needs to be weighed against the harm I have identified. In this respect, I have found that the proposed development would result in substantial harm to the character and appearance of the street scene and that this harm would significantly and demonstrably outweigh the modest benefit from the provision of six (net) new dwellings.

15. Late in the appeal process, the Council raised the matter of Policy CP20 of the BHCP, which seeks contributions for affordable housing. The appellant has not provided any mechanism for this to be provided. However, I have found both schemes to be unacceptable in respect of the character and appearance issue identified in the main issues. It is not necessary, therefore, for me to consider this matter further.

### **Overall Conclusion**

16. Whilst I have found in favour of the appellant in respect of the second main issue, I have found for both appeals that the adverse impacts in the form of harm to character and appearance would significantly and demonstrably outweigh the benefits of the proposal in the form of providing six additional new dwellings.

17. For the reasons given above, and having taken into account all matters raised, I conclude that the appeal should be dismissed.

*Cullum J A Parker*

INSPECTOR