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## Appeal Decision

Site visit made on 26 June 2017

by **S M Holden BSc MSc CEng MICE TPP FCIHT MRTPI**

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

Decision date: 21<sup>st</sup> July 2017

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**Appeal Ref: APP/Q1445/W/17/3171883**

**Land at Roedean Path, Roedean, Brighton BN2 5RP**

- 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 Stephen and Jacky Rowllins against the decision of Brighton & Hove City Council.
  - The application Ref BH2016/01981, dated 27 May 2016, was refused by notice dated 21 September 2016.
  - The development proposed is erection of a single new detached house with associated private garden and on-site parking space.
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### Decision

1. The appeal is dismissed.

### Costs

2. An application for costs was made by Mr and Mrs Rowllins against Brighton & Hove City Council. This application is the subject of a separate decision.

### Preliminary Matter

3. Since this application was determined an alternative scheme for a dwelling on the appeal site has been submitted to the Council and approved, subject to conditions, Ref: BH2016/06251. I have had regard to this extant permission in my determination of the appeal.

### Main Issues

4. The main issues are the effects of the proposed dwelling on the:
  - a) character and appearance of the area;
  - b) living conditions of occupants of No 2 Roedean Path in relation to outlook and sense of enclosure.

### Reasons

#### *Character and appearance*

5. Roedean Path is a short straight street with footpaths and grass verges on both sides. The street is mostly enclosed by the walls of the side gardens of the substantial properties in Roedean Way and Roedean Crescent. These features give the street a largely undeveloped character that contributes to the sense of spaciousness that characterises the surrounding residential development.

6. The appeal site is a small parcel of land on the eastern side of the street and is currently enclosed by a low fence. Immediately to the north is a brick building with a hipped-barn roof that houses an electricity sub-station. It is enclosed by a solid fence and locked gates and sufficiently set back so that it does not dominate views in either direction along the street. There are currently no dwellings that have frontage onto Roedean Path. The extant scheme would significantly alter this situation by introducing a contemporary style of building immediately adjacent to the footpath. However, it would have a low profile which would restrict its visibility and prominence in the wider street scene.
7. The appeal proposal is also for a contemporary style of dwelling with accommodation on four floors, two of which would be set below the existing ground level. The uppermost floor would occupy a small footprint, but would be a circular turret feature with a flat roof. The intention of this 'lookout tower' would be to link an innovative design with the historic feature located on the adjoining coastguard cottages. Its windows would look out in a south-westerly direction, providing extensive views towards the sea. The top of the building would be above the eaves of the sub-station building to the rear.
8. The addition of this extra floor within the building means that the proposal would be considerably taller than the dwelling which has been approved under Ref: BH2016/06251. The additional height would be closer to the footpath than the sub-station making the building as a whole significantly more prominent within the surrounding street scene. This would be harmful to the spacious and largely undeveloped character of Roedean Path. The enlarged dwelling would also be wider and more bulky than the extant scheme, so that it would appear out-of-proportion within this highly constrained, small plot. Notwithstanding the existing permission, in my view, the proposal is simply too tall, large and bulky to be accommodated satisfactorily on the site.
9. I conclude that the proposed dwelling would be harmful to the character and appearance of the area. It would fail to comply with Policy CP12 of the Brighton & Hove City Plan Part One which, amongst other things, requires new development to respect the diverse character and urban grain of the city's neighbourhoods.

#### *Living conditions*

10. No 2 Roedean Path is sub-divided into two flats. This substantial property is sited on lower ground than the appeal proposal. With the addition of the circular turret feature, the blank side elevation of the enlarged dwelling would dominate the rear garden of No 2. Its elevated position, combined with its height and proximity to the rear of No 2 and its garden, would give rise to an unacceptable sense of enclosure and an overbearing appearance from the rear of both flats. I consider these effects would be significantly greater than with the extant scheme.
11. The northern end of No 2's garden may already be somewhat enclosed by the sub-station. However, the enlargement of the proposed dwelling would introduce an additional sense of enclosure on its western side. Although the turret would be set away from the boundary, this separation distance would be insufficient to reduce its visibility from both flats and the garden. The height and bulk of the added storey would therefore be an un-neighbourly form of development that would make the flats and rear garden of No 2 less pleasant places to be.

12. I accept that the primary habitable rooms of No 2 look out towards the sea and over a generously proportioned front garden. However, that does not diminish the harm that I have identified at the rear of the property.
13. The windows within No 2 that would be closest to the proposed dwelling do not appear to serve habitable rooms and the windows in the turret have been positioned to prevent harmful overlooking of the adjacent property. Views towards the other windows of No 2 would be at oblique angles and partially screened by the existing boundary treatments. The proposal would therefore not give rise to any harmful loss of privacy for the occupants of the adjoining flats.
14. Nevertheless, for the reasons set out above, I conclude that the proposal would be harmful to the living conditions of the occupants of No 2, arising from loss of outlook and an increased sense of enclosure. It would therefore be contrary to saved Policy QD27 of the Brighton & Hove Local Plan which seeks to protect residential amenity.

### **Other Matter**

15. I note the appellants' concerns about the way in which officers assessed the application. However, the Council's procedures are not matters for me to address in the context of a Section 78 appeal, which is confined to a consideration of the planning merits of the proposal in the light of current policy.

### **Conclusions**

16. For the reasons set out above, and having regard to all other relevant matters raised, I conclude that the appeal should be dismissed.

*Sheila Holden*

INSPECTOR

