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## Appeal Decision

Site visit made on 15 January 2018

by **Nicola Davies BA DipTP MRTPI**

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

Decision date: 29<sup>th</sup> January 2018

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**Appeal Ref: APP/Q1445/W/17/3186270**

**Rear of 40 - 44 Warren Road, Brighton BN2 6BA**

- 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 Mr Sinclair of SBS Building Services Ltd against the decision of Brighton & Hove City Council.
  - The application Ref BH20017/01675, dated 17 May 2017, was refused by notice dated 8 September 2017.
  - The development proposed is the demolition of redundant storage building and construction of a single storey dwelling.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues raised in respect of the appeal are the effect of the proposed development on:
  - (a) The living conditions of future and existing occupiers; and
  - (b) The character and appearance of the host properties and the area.

### Reasons

3. The appeal site is located behind a building within a local shopping parade that comprises two commercial premises at ground floor and a flat above. The proposal is to demolish the existing storage building at the rear of the properties and construct a single-storey dwelling.

#### *Living conditions*

4. The proposed dwelling would accord with the Government's 'Nationally Described Space Standards' for a single bedroom dwelling. Nonetheless, the internal layout offers little in the way of storage facilities. The main entrance to the unit would lead directly into the bedroom. In addition, the high level windows relating to the bedroom area, whilst providing light, would not provide this living space with a natural outlook. Furthermore, the existing road frontage development, being orientated to the south of the proposed dwelling, would cast a shadow at the rear over a significant portion of the day. As such, this would shade the westerly facing windows and courtyard of the proposed dwelling. Additionally, outlook from the main living space would be toward the tall boundary fence positioned in close proximity to the windows and French

- doors. This tall fence would be extremely dominant in outlook from this habitable living area.
5. Taken collectively, these factors, in my judgement, would create a gloomy and oppressive living environment for future occupiers with extremely limited outlook. Despite the high ceiling relating to the bedroom area, it would also create a poor habitable living space due to its constrained layout. The appellant argues that the internal layout could be reconfigured to overcome the Council's concerns. However, I have not been provided with any alternative details that might persuade me that a satisfactorily internal layout could be achieved within the proposed building.
  6. The Council is concerned that outlook from the flat above the commercial premises (No 40 Warren Road) would allow observation toward the courtyard, rooflight and windows within the staggered roof and create views into the bedroom area and the bathroom of the proposed dwelling. The Council in its third reason for refusal has also raised concerns regarding the privacy of the occupants of No 40 Warren Road, though this matter has not been clearly discussed in the Officer's report. Whilst it would be possible that overlooking could take place from time-to-time, such observation, in my opinion, would need to be actively sought. I do not consider this would be a regular occurrence arising from the normal day-to-day use of the existing flat or proposed dwelling such as would create excessive harm.
  7. In addition, the Council is concerned that outlook toward the large expanse of flat roof of the proposed dwelling would create a poor outlook for the existing occupiers of No 40 Warren Road. The proposed dwelling would be single-storey. I consider the proposed roof would be positioned sufficiently below the rear windows of the existing first floor flat to prevent significant harm to the outlook of existing occupiers.
  8. The proposal would also involve the blocking up of a large window serving the existing kitchen of No 44 Warren Road. However, the scheme also proposes to create a new side window associated with a reconfigured kitchen for No 44 Warren Road. This would ensure the kitchen relating to this property would be served by adequate outlook and light.
  9. Whilst I conclude that the proposed development would not harm the living conditions of existing occupiers, for those reasons set out above, I conclude that the proposed development would be harmful to the living conditions of the future occupiers of the proposed dwelling. The proposed development would therefore be contrary to Policy QD27 of the Brighton and Hove Local Plan that, amongst other matters, seeks to protect the amenity of occupiers.

#### *Character and appearance*

10. The existing flat roofed structure is visible from the alleyway to the west despite some existing vegetation growth around this building. It is also visible in limited views from Warren Road to the east side of the existing frontage development. I observed that this existing structure is stepped away from the northern boundary of the site and has separation between it and the existing road frontage development. Overall, it is a smaller building than that proposed, although it does currently occupy a significant proportion of the space to the rear of the site.

11. Although the proposed development would create a development of a larger footprint and overall size to that of the existing storage building, it would not have a significantly greater height. Furthermore, the proposed development would have an increased setback from the alleyway to the west than that of the existing storage building. This would retain an element of space at the rear of the site. I do not consider that the proposal would appear as an overly bulky or constrained addition, despite its increased overall size relative to the size of the site.
12. In addition, the proposed western boundary fence would be a tall structure and have a raised position to that of the alley due to the elevated land level at the rear of the appeal site. Nonetheless, the existing storage building is positioned close to the alleyway. I do not consider the proposed dwelling or the new boundary enclosure would have a significantly more dominating impact in public views from the alleyway or be unduly visually intrusive when compared to that of the existing store building.
13. I accept the development would appear larger than the existing structure when viewed from Warren Road to the east side of the existing road frontage development. However, the increase in overall size would be modest. I do not consider the proposal would appear unduly prominent or intrusive in the view along the access passageway and between existing road frontage developments.
14. The Council argues that the flat roofs of the proposed development would appear contrived and not reflect that of the pitched roof of the host development. However, in this respect, the proposed dwelling, despite the staggered roof design, would not be significantly different to that of the existing storage building at the site.
15. The Council also contend that the development would not be appropriately subservient and would not appear as either a single or a two-storey extension. The dwelling would be constructed in brick that would match the majority of the host frontage building. Its roof would be positioned below the windows of the first floor flat. I consider, the proposal would appear as an extension to the host properties, much in the same way as other extensions to properties appear. Furthermore, given its overall height in relation to the host building it would appear as a single-storey extension to this building.
16. Whilst the proposed northern and eastern elevations are of plain design, as they would be situated adjacent to the boundaries of the site these elevations would not be readily visible in public views.
17. Overall, I conclude that the proposed development would not harm the character and appearance of the host properties or the area. For the reasons given, the proposed development would not materially conflict with Policy QD5 of the Brighton & Hove Local Plan and Policies CP12 and CP14 of the Brighton and Hove City Plan Part One that, amongst other matters, require development to respect the character of the neighbourhood.

### **Other Matters**

18. I accept that the proposed development is considered acceptable to the Council in respect of highway matters, landscaping and other matters. I also note that the proposal would provide an additional studio flat within the Brighton area

and meet a housing demand. However, these matters do not outweigh the harm that I have identified above or justify the proposed development.

**Conclusion**

19. A number of nearby residents raise a number of other concerns about the proposal but in view of my conclusions on the first main issue there is no need for me to address these in the current decision.
20. Whilst I have found in favour of the appellant in terms of character and appearance this does not overcome the identified harm in relation to living conditions. For the reasons given above, and having taken into consideration all matters raised, I conclude that the appeal should be dismissed.

*Nicola Davies*

INSPECTOR