

## Appeal Decision

Site visit made on 13 February 2017

**by Kenneth Stone BSc Hons DipTP MRTPI**

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

**Decision date: 21 February 2017**

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**Appeal Ref: APP/Q1445/W/16/3163465**  
**93 St Leonards Road, Hove BN3 4QQ**

- 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 Tony Camps-Linney against the decision of Brighton & Hove City Council.
  - The application Ref BH2016/01424, dated 18 April 2016, was refused by notice dated 13 June 2016.
  - The development proposed is described as 'formation of vehicle cross over to footpath with opening in boundary wall and hardstanding to garden'.
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### Decision

1. The appeal is allowed and planning permission is granted for the formation of vehicle cross over to footpath with opening in boundary wall and hardstanding to garden at 93 St Leonards Road, Hove BN3 4QQ in accordance with the terms of the application, Ref BH2016/01424, dated 18 April 2016, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: DRG8LP/01, 785/09/Rev B, 785/11/Rev A, and 785/14/Rev B.
  - 3) The hard surface hereby approved shall be made of porous materials and retained thereafter or provision shall be made and retained thereafter to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the property.

### Main Issues

2. The main issues in this appeal are; firstly, the effect of the proposed development on the character and appearance of the area; and secondly, whether the proposed development would provide acceptable living conditions for future occupants, with regard to the provision of private amenity space.

### Reasons

#### *Character and appearance*

3. The property the subject of this appeal is a two storey semi-detached house located at the junction of St Leonards Road and St Leonards Avenue. According to the Council's officer report the dwelling was historically in use as two flats with an ancillary Chiropody surgery and the dwelling was currently being internally refurbished at the time of their decision and had not been
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occupied since October 2015. At the time of my visit there was an opening created in the wall of the return frontage onto St Leonards Avenue, the external amenity space to the side and rear of the property had been hard surfaced with block paving and fencing had been erected to divide the side space from the rear space. The property was in good order and had the appearance of being occupied.

4. The area is a mature Victorian residential area of similar properties with shallow front gardens enclosed with low boundary walls. On the return boundaries, where roads intersect, properties at the junctions had higher boundary walls to provide privacy for the rear gardens. Directly opposite the appeal site there was an un-gated opening providing access to a hard surfaced area.
5. I note the approval of permission for an opening in this wall and the creation of a hard surfaced area under reference BH2016/0296. This granted planning permission for the creation of a vehicle crossover to footpath with openings in boundary wall and hardstanding to garden. Whilst the opening was not as wide as that proposed in this appeal nor the area of hardstanding as extensive this in effect is something that the appellant could implement. In my view the un-gated opening in the wall and area of hardstanding would change the appearance of the area and would be similar to that opposite. This can expose untidy and unkempt areas to general view. The use of a means of enclosure, as in gates, would tidy up the appearance of the boundary treatment and add a more complete boundary appearance to the street as was originally provided for by the wall.
6. Whilst the Council suggest that wooden gates would be an alien feature there are larch lap wooden panels enclosing the adjoining garden and wooden gates and fences on properties at the bend in St Leonards Avenue. Such materials are therefore visible in the locality. Whilst I accept that the modern nature of the sectional wooden gates may not be a form that is in the surrounding area, the quality, nature and form would provide for a means of enclosure that would create a solid boundary as was originally located here, would reduce visibility of the area when cars were parked or outside storage occurs, and would allow for the private use of this space.
7. The area is not a conservation area, or otherwise protected, and the proposed gates would not result in material harm to the character of the area. When considered in the context of the extant permission the proposed scheme would make a more positive contribution to the character and appearance of the area.
8. For the reasons given above I conclude that the proposed development would not result in material harm to the character and appearance of the area. Consequently it does not conflict with policy QD14 of the Brighton and Hove Local Plan (retained policies March 2016) (BHLP) or CP12 of the Brighton and Hove City Plan Part One (City Plan) which collectively seek to ensure new development is of a high quality and well designed.

*Living conditions of future occupants – private amenity space*

9. The Council are concerned that the creation of the hard surface would result in the loss of approximately 30 sq m of private amenity space and that this would negatively impact future residents contrary to policy HO5 of the BHLP. However, as the appellant points out policy HO5 relates to new development

and the provision of amenity space; it is not therefore directly applicable in these circumstances. Furthermore the Council do not identify what an appropriate level of amenity space is that would be required to serve future residents, just that the loss of existing space would be detrimental. As mentioned above planning permission has already been granted for hard surfacing and this could be implemented by the appellant. The difference in the two areas is approximately 10 sqm.

10. Furthermore as the appellant points out the hardsurfacing of an area does not preclude that area from being used for amenity space and used by the future residents. The Council appear to equate amenity space with a grassed or lawned area. Given that the property has historically been used for flats the nature of the amenity requirements are likely to be different than for a family house. In the context of the extant permission where there is planning permission for a substantive proportion of the area to be hard surfaced I am not convinced that the proposals at appeal would lead to a materially worse position for future occupants.
11. For the reasons given above I conclude that the proposals would make adequate provision for living conditions for future residents, with regard to private amenity space. The proposals would not therefore conflict with policy QD14 of the BHLP or Policy CP12 of the City Plan which require high standards of development. Policy HO5 is not relevant to this proposal.

#### **Overall conclusions and conditions**

12. I have considered the conditions suggested by the Council in the light of the advice in the National Planning Policy Framework and the Planning Practice Guidance. A condition in respect of the approved plans is required in the interests of clarity and is good practice. A condition on the nature of the surface material or matters to address surface water run-off is required to reduce flood and pollution risk.
13. For the reasons given above I conclude that the appeal should be allowed.

*Kenneth Stone*

INSPECTOR

