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## Appeal Decision

Site visit made on 15 September 2016

**by AJ Steen BA (Hons) DipTP MRTPI**

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

**Decision date: 17 October 2016**

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**Appeal Ref: APP/Q1445/W/16/3150351**  
**214 Church Road, Hove BN3 2DJ**

- 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 Kevin Bush against the decision of Brighton & Hove City Council.
  - The application Ref BH2015/03366, dated 17 September 2015, was refused by notice dated 4 January 2016.
  - The development proposed is a single storey extension to add office/storage space to existing shop unit.
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### Decision

1. The appeal is allowed and planning permission is granted for a single storey extension to add office/storage space to existing shop unit at 214 Church Road, Hove BN3 2DJ in accordance with the terms of the application, Ref BH2015/03366, dated 17 September 2015, subject to the conditions in the schedule at the end of this decision.

### Preliminary Matter

2. Following refusal of the planning application, the Brighton & Hove City Plan Part One (CP) was adopted and policies within that plan have superseded a number of policies contained within the Brighton & Hove Local Plan (LP). The Council confirmed that Policies HE6 and QD16 of the LP have been retained. I have based my decision on the current adopted policies.
3. The plans indicate that the road to the side of the site is Sackville Road. However, the street signs indicate the name of the road changes where it crosses Church Road, such that it is Hove Street outside the site. I have referred to this section of the road as Hove Street in my decision.

### Main Issue

4. The main issue is whether the extension would preserve or enhance the character or appearance of the Old Hove Conservation Area.

### Reasons

5. 214 Church Road lies within the Old Hove Conservation Area which covers the centre of Hove and includes a mix of uses including commercial development fronting Church Road and residential development to the rear. Buildings surrounding the property are substantial and mainly set close to the pavement,
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with New Church Road, Hove Street, Sackville Road and Vallance Road all having avenues of trees alongside the road.

6. 214 Church Road is a mid-terraced building close to the junction with Hove Street that comprises a commercial unit with residential uses above. Currently there is a bar at ground floor with tattoo parlour in the lower ground floor and a small hard-surfaced courtyard to the rear with outside seating accessible from the rear of the bar. The proposal would extend the existing outrigger into the courtyard with a single storey flat roofed extension to reflect that on the adjoining site and the materials proposed would match those of surrounding development.
7. Within the courtyard are two trees. One is a Cordyline located close to the rear of the building that is modest in size and has limited value in terms of its contribution to the character and appearance of the area, such that its loss would be acceptable. The other is a mature Sycamore that is subject of a Tree Preservation Order located in the confined area between the substantial building on this site and Dolphin Court to the rear, a large block of flats fronting Hove Street. This tree is visible between those buildings from Hove Street and, as such, it makes some contribution to softening the built development in the limited view between the buildings. However, there are street trees on surrounding roads, including further down and opposite on Hove Street, that are more prominent and other trees some distance away to the rear of the buildings on Church Road.
8. It is proposed that the extension to the building would be constructed on raft foundations that would limit the effect of the works on the health of the tree. According to the arboricultural report submitted by the appellant, the tree is subject to decay that is likely to become progressive such that the remaining life of the tree is likely to be limited and there is a cable within the crown that is at risk in high winds.
9. The Council dispute these matters and point out that the tree is larger than shown on the plans and that the roots are likely to be cut during the works, potentially resulting in the tree becoming unstable or the loss of the tree. They consider that the cable within the crown would only require moderate maintenance. However based on the information before me, I consider that the raft foundations would reduce the need to cut the roots and would be likely to have limited effect on the health of the tree, especially as the area to be developed is already hard surfaced.
10. I note that there may be some small cracks in the walls adjacent to the tree, but there is limited evidence that these have been caused by the tree. Consequently, I have attached limited weight to this matter.
11. For these reasons, I conclude that the proposed ground floor rear extension to the shop would preserve the character and appearance of Old Hove Conservation Area. As such, it would comply with Policies HE6 and QD16 of the LP that seek to retain and protect existing trees and preserve or enhance the character or appearance of conservation areas.

### **Conditions**

12. I have imposed a condition specifying the relevant drawings as this provides certainty. The size of the proposed building is clear from those drawings, so

additional reference to the dimensions is not necessary within a condition. Conditions are, however, necessary to ensure raft foundations are used in the construction of the extension and fencing is provided during the works to protect the Sycamore tree. A condition is necessary for materials to match those used on the existing building to maintain the character and appearance of the area. A condition is necessary to limit access to the roof of the proposed extension in order to protect the living conditions, particularly privacy, of occupiers of neighbouring dwellings. In some cases I have amended the wording of conditions suggested by the Council in the interests of clarity.

### **Conclusion**

13. On the basis of the above considerations, I conclude that the appeal should succeed.

*AJ Steen*

INSPECTOR

### **Schedule of 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: bus/09/15 page 1, page 2, page 3, page 4, page 5, page 6, page 7 revision 2 and page 8.
- 3) The development hereby permitted shall be carried out using raft foundations.
- 4) The Sycamore tree to be retained shall be protected by fencing, the location and type to be previously approved in writing by the local planning authority. The fencing shall be erected in accordance with the approved details before any equipment, machinery or materials are brought onto the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed within any fenced area, and the ground levels within that area shall not be altered, nor shall any excavation be made.
- 5) The external finishes of the development hereby permitted shall match in material, colour, style, bonding and texture those of the existing building.
- 6) Access to the flat roof over the extension hereby approved shall be for maintenance or emergency purposes only and the flat roof shall not be used as a roof garden, terrace, patio or similar amenity area.