



Appeal Decision

Site visit made on 22 September 2025

by Nicola Davies BA DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 October 2025

Appeal Ref: APP/Q1445/W/25/3368125

3 Cliff Top Heights, Cranleigh Avenue, Rottingdean, Brighton and Hove BN2 7FX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr J Randolph against the decision of Brighton & Hove City Council.
 - The application Ref is BH2024/02852.
 - The application sought planning permission for variation of condition 2 of application BH2012/01545 (Demolition of existing houses and erection of 3no detached dwellings) to allow for minor material amendments without complying with a condition attached to planning permission Ref BH/2014/03110, dated 23 December 2014.
 - The condition in dispute is No 5 which states that: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no extension, enlargement or other alteration of the dwellinghouses hereby approved shall be carried out without planning permission obtained from the Local Planning Authority.
 - The reason given for the condition is: The Local Planning Authority considers that further development could cause detriment to the amenities of the occupiers of nearby properties and to the character of the area and for this reason would wish to control any future development to comply with policies QD14 and QD27 of the Brighton & Hove Local Plan.
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Decision

1. The appeal is dismissed.

Background and Main Issues

2. The proposal seeks to remove condition 5 to allow for extensions and alterations to be undertaken to the property (plot 3 only) without the need for assessment under the planning application process. The main issues are whether harm would arise to the living conditions of the existing adjoining occupiers and/or to the character and appearance of the area and/or whether this would lead to the overdevelopment of the site as a result of removal of this condition.

Reasons

3. The dwelling at plot 3 is constructed very close to the boundaries of the site and neighbouring dwellings. I saw that there are side windows within the existing developments either side. Development that could potentially be undertaken under permitted development could have a significant impact on the living conditions of the adjoining occupiers. Additions could potentially obstruct outlook or light to adjoining dwellings. Further development at the site could, therefore, negatively impact on the living conditions of adjoining occupiers by way of loss of privacy, loss of outlook, overbearing development, overshadowing and adverse impact on

daylight. The existing residential occupiers should reasonably expect to enjoy an acceptable living environment as part of their residential lives. In order to ensure this, I consider that the condition remains necessary and justified.

4. The development that has taken place at the site constitutes a substantial uplift in development when compared to the single house that occupied the site previously. The local planning authority comments that the amount of development and its close proximity to the site's boundaries was considered to be at the maximum amount of development that the site could accommodate without causing harm to the character and appearance of the area. Indeed, I saw that the development has made effective use of the site and is of a more intensive density to that of existing surrounding development. Removing the condition would allow for extensions and alterations at the site that potentially would be visually inappropriate to the existing development in design terms and in relation to the existing adjoining development and/or could create a development of visually cramped appearance out of scale with its site. Given additional development at the site could have a visually harmful impact upon the character and appearance of the area the condition remains necessary and justified.
5. Other properties in the area have been extended and altered and it is argued that the condition treats this development disproportionately to that of other dwellings nearby. However, those developments are set within generously sized plots and development has not optimised those sites, unlike that of the development at the appeal site.
6. The Planning Practice Guidance discourages the blanket withdrawal of permitted development rights that would remove the freedom to carry out small scale domestic alterations. It is contested that the local planning authority has not set out any exceptional circumstances that would warrant removal of such permitted development rights. The officer delegated report sets out the site-specific rationale for removing permitted development rights. I agree with the local planning authority that it is necessary and reasonable in this particular case to have restricted permitted development rights. As such, the condition meets the tests set out by the National Planning Policy Framework.
7. Policy CP12 of the Brighton and Hove City Plan Part One 2016 and Policies DM18, DM20 and DM21 of the Brighton and Hove City Plan Part Two 2022 require, amongst other matters, development not to cause loss of amenity to the proposed, existing, adjacent or nearby users, residents, occupiers and for development to be of a high standard of design that makes a positive contribution to the visual quality of the environment taking into account the existing character of the area. I have found that the removal of condition 5 could give rise to harm to the living conditions of the existing adjoining occupiers and/or to the character and appearance of the area and/or could lead to the visually harmful overdevelopment of the site. Although other policies within the development plan may support sustainable development and home improvements, for those reasons set out above, the proposal would conflict with those development plan policies listed.

Decision

8. Having regard to the above findings, the appeal is dismissed.

Nicola Davies

INSPECTOR