OBJECTION TO UNAUTHORISED DEVELOPMENT OF NO.42 BRIGHTON ROAD, LANCING, WEST SUSSEX BN15 8ET

APPLICATION REFS. AWDM/0163/24 & AWDM/0970/23

Overview: unauthorised development

1. New planning permissions (partly retrospective) are sought because the 'as built' development is materially different to what had been approved. In particular:

    a. The new dwelling stands much higher than the neighbouring house at no.44; and
    b. the new rear garden levels are excessive.

2. Therefore, it must be understood that *none* of this development has so far been approved. The correct legal starting point is that the original grant of planning permission can no longer be relied upon. The *entire development* (not just the rear garden levels) will remain unlawful, and at risk of enforcement action, unless and until a new permission has been granted.

3. The applicant only finds himself in this situation because he blatantly disregarded the rules and ignored all reasonable pleas to stop. His actions are not especially deserving of any leniency. In this situation it would be open for the Council to **refuse** permission for ref. AWDM/0970/23 on account of the overall height and dominance of the new dwelling.

4. Our clients are reasonable people, however. To their credit they have already shown an eager willingness to compromise by letting go of this important point. They only wish to complain about the impact of the raised rear garden levels on their amenity; but, in order to repay that good faith, the applicant really does need to make a meaningful attempt to appease their concerns. The applicant should not expect to be gifted any further compromises.

Technical objections

5. There are two technical points which ought to be resolved to a complete satisfaction before the Council passes any "revised" plans for the rear garden levels (and which should help to guide an appropriate solution):

a. Official guidance recommends that development, including land raising, should not lead to an increased risk of flooding elsewhere. This matter is especially important in a high-risk zone (zone 3). We consider that the proposed development has not been subject to a reliable assessment.

b. The applicant must be able to demonstrate the structural integrity of the 'retaining' wall is sufficient to avoid risk of collapse and serious injury to persons.

Planning objections: amenity concerns

6. The latest revised plan (excavation by up to 1m) is just a token gesture which should be rejected. It does not constitute an adequate solution to these problem as it fails to reduce any direct overlooking without the use of additional screening / boundary treatments. An acceptable solution would be to reduce the garden levels by around 6ft across the entire length of the garden (i.e. both 'top' and 'lower' sections).

Pre-existing ground levels

7. Our client's say that historically the land was roughly the same level on both sides of the boundary, but the land on the side of no.42 has been artificially raised during construction of the new dwelling. The photos appear to bear this out.

8. Regardless, the pre-existing ground levels at no. 42 are wholly irrelevant because the old garden was not well-used (it was totally overgrown), and further, the site is subject to demolition and complete re-development. Therefore, the applicant must now be able to demonstrate that his new plan, which aims to totally transform this rear garden area, meets all the usual planning criteria so that the resulting situation is acceptable.

9. In case there should be any doubt, the Council's surveyor has recently measured the land on our client's side and has confirmed that it is laid out strictly in accordance with their own grant of planning consent.

Need for enforcement action

10. Finally, there is universal consensus that the unauthorised development at the rear of no. 42 is harmful to our client's residential amenity (the applicant's solicitor has even admitted this much in correspondence), and this situation should not be allowed to continue indefinitely.

11. We are led to expect that revised plan will soon be tabled, but unfortunately, due to the deferral of both applications, the applicant is still fully in control of his actions in this regard. The applicant has also shown a propensity to ride roughshod over the normal rules, so the Council ought to be ready to take prompt enforcement action if plans are not forthcoming within the next two weeks.

KEYSTONE LAW on behalf of Mr and Mrs Kamis

10/7/2024