



Appeal Decisions

Hearing held on 8 July 2009.
Site visit made on 8 July 2009.

by **B C Scott BA(Hons) Urban & Regional Planning MRTPI**

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

The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

☎ 0117 372 6372
email:enquiries@pins.gsi.gov.uk

Decision date:
16 July 2009

Appeal A: APP/Q1445/A/09/2098926

68 Tongdean Lane, Brighton, East Sussex, BN1 5JE.

- 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 C Blight against the decision of Brighton & Hove City Council.
- The application Ref: BH2008/02033, dated 5 June 2008, was refused by notice dated 27 August 2008.
- The development proposed is rear extension over existing double garage.

Appeal B: APP/Q1445/A/09/2099302

68 Tongdean Lane, Brighton, East Sussex, BN1 5JE.

- 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 C Blight against the decision of Brighton & Hove City Council.
- The application Ref: BH2008/03379 dated 10 October 2008, was refused by notice dated 8 December 2008.
- The development proposed is re-submission of planning application no.BH2008/02033 to erect rear extension, partially extending over existing double garage.

Application for Costs

1. At the Hearing an application for costs was made by the Appellant. That application is the subject of a separate decision.

Procedural Matters

2. The appeal applications follow a lapsed planning permission (1989) for a two-storey extension where the existing rear double garage is now built.
3. These appeals relate to an original scheme and a subsequently revised one. The Appellant adopts the Council's more precise wording in both cases, which I use: [A] *first floor rear extension with hipped roof over existing double garage;* and, [B] *first floor rear extension, partially extending over existing double garage.*
4. Scheme [A] is a full extent extension with a hipped roof. Scheme [B] is a partial extent extension with a low-pitched roof (or crown-ring roof). Drawing nos. 07/0809442 & 08/, 09/, 10/, 11/ show a variant to scheme [B] (having a shortened depth) but the Appellant confirmed at the Hearing that that scheme was not intended to be put before me. I disregard those drawings.

Decisions

5. I allow the appeal for scheme [A] and dismiss the appeal for scheme [B].
6. I allow the appeal and grant planning permission for first floor rear extension with hipped roof over existing double garage at 68 Tongdean Lane, Brighton, East Sussex, BN1 5JE, in accordance with the terms of the application Ref: BH2008/02033, dated 5 June 2008 and the plans submitted therewith, subject to the following conditions:
 - 1) The development hereby permitted shall begin before the expiration of three years from the date of this decision.
 - 2) 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 window, dormer window, roof-light or door other than those expressly authorised by this permission shall be constructed without planning permission obtained by the local planning authority.
 - 3) The external finishes of the development hereby permitted shall match in material, colour, style bonding and texture those of the existing building.

Main issues

7. I consider the two main issues in each case to be the effect of the proposed development on; firstly, the character and appearance of the area; and secondly, the living conditions of the adjoining occupiers, with particular reference to outlook.

Reasons

Character and appearance

8. The appeal property is an individually designed detached dwelling amongst others in a suburban residential area with striking topography and split-level designs. There is an attached flat roof double garage at basement level at the rear orientated towards a basement integral single garage facing rearwards. Owing to the sharply falling ground levels about the double garage, the proposed developments would enlarge the fundamentally single-storey host dwelling outwards at the rear with a two-storey split-level resultant building. Scheme [A] would have a more integrated form than scheme [B], because of its fully hipped roof design and embracing footprint over the depth of the attached garage.
9. The thrust of policies in the Brighton & Hove Local Plan 2005 (LP) is to require a high standard of design that makes a positive contribution to the visual quality of the area, with particular reference to such things as height and topography. In particular, LP Policy QD2 requires development to emphasise and enhance the positive qualities of the local neighbourhood. LP Policy QD14 states that extensions must be well designed, sited and detailed in relation to the host property, adjoining properties and to the surrounding area.

Scheme [A]

10. This scheme would have great height above natural ground levels at some depth away from the host dwelling. However, I observed that this feature is characteristic of many buildings in the surroundings. I saw that ground levels rise on the subject boundary side of the appeal site and that nearby (at no.72) on similarly falling ground, a two-storey rear extension has resulted in a building of considerable scale and imposing appearance. I examined the surroundings, including Hillside Way and Redhill Drive, and came to the view that such developments are not out of place but give emphasis to the topography and are both positively distinctive and not unusual.
11. I acknowledge that a weakness of this scheme is the detailing of the roof around the existing rear dormer as that would be inset within the proposed roof plane and interrupt the otherwise flowing roof lines. Even so, I do not disagree with the Appellant that this is not a harmful feature, mainly because it would not compromise the integrated form of the whole. Also, I acknowledge that, owing to the scale and integrated nature of this scheme, the present arrangement of structures at the rear of the host building would be improved as the Appellant claims.
12. To my mind, the scale of this scheme would be suited to the ground levels and buildings around it, as they would absorb its lateral impact on the subject boundary side and would enable an imposing building to face into the valley over a generously sized plot. Those things are not immediately apparent from the submitted drawings but become plainly evident on site.
13. In the circumstances, I conclude that scheme [A] would not be harmful to the character and appearance of the area, in accordance with the requirements of policies QD1, QD2 and QD14 of the Development Plan.

Scheme [B]

14. This scheme has been inspired by the 1989 permission. That permission was for a crown ring roof design. The key features of this subject appeal scheme are its crown ring roof and partial footprint over the garage. Whereas it clearly has been designed to have more limited depth and height than scheme [A], I have found those things not necessarily to be merits in an area that engenders imposing split-level structures on steeply falling ground. Although this scheme would not interfere with the existing rear dormer because of its smaller scale, it has other design weaknesses.
 15. The 1989 permission was for a much smaller scheme all round. The appeal scheme would be sizeable in comparison with the hipped roof of the host building and with it, two different roof forms would be added; a 'lean-to' roof at the rear would reach over the remaining part of the garage. In my opinion, due to the juxtaposition of three different roof forms of divergent scales, the appeal scheme would be a disjointed addition to the host building. For those reasons I consider this to be a discordant scheme that would not be well designed in relation to the host property.
 16. I acknowledge that the proposed development would only be glimpsed from the street and that the appeal dwelling may not look over-extended from there.
-

Although I bear that in mind, good design is to be encouraged everywhere to make attractive places in which to live, whether viewed from private or public land. The extension does not amount to good design for the reasons I have given and would fail to make a positive contribution to the visual quality of the area.

17. Accordingly, I conclude that scheme [B] would be harmful to the character and appearance of the area, in conflict with the above policies.

Living conditions

18. The appeal site adjoins a detached dwelling (no.70) which is at a distance away from the shared boundary and separated from it by a substantial garage. The rear (and conservatory) of the adjoining dwelling is farthest from where the proposed developments would be. There is a small detached annex to the adjoining dwelling that is along the shared boundary, but I saw no signs that it constitutes a habitable room as it appears to be a former garage used for storage. The proposed developments would be close to the shared boundary and would raise the height of development along it.
19. LP Policy QD27 requires development not to cause material nuisance and loss of amenity to residents, including such things as outlook and privacy. LP Policy QD14 applies a similar requirement to extensions and alterations.
20. I acknowledge that the effect of the ground levels here is to make the proposed developments large scale imposing structures. In my opinion, the distinctiveness of this area (in this context) means that such imposing structures have a commanding relationship one-to-another. To my mind, this is to be expected and it does not necessarily follow that the large mass of scheme [A] or that of scheme [B] would be overbearing on the adjoining occupiers. Given the relative ground levels and distances involved here, I satisfied that the outlook of the adjoining occupiers would not be materially adversely affected.
21. The adjoining occupiers raise concerns about overlooking. At the Hearing the Council withdrew its objection on this ground to scheme [A] and makes no such objection to scheme [B]. With the orientations and distances involved and given the effect of the neighbour's garage, I am not convinced that overlooking would be a problem with either scheme. In particular, the proposed window in the flank elevation would serve a shower room and would be top-hung above eye-level. Anyway, views from that window towards the adjoining occupiers would be obscured by the intervening garage.
22. Thus, I conclude on the second issue that no unacceptable affect on the living conditions of the adjoining occupiers would result from either scheme [A] or scheme [B], in accordance with the requirements of the above policies.

Other Considerations

23. The Appellant asserts that scheme [B] is similar to that in the lapsed permission, which serves as a precedent. In my opinion, there are material differences between this appeal scheme and the lapsed one, which I have identified. Moreover, planning policies have moved on since 1989 and a key
-

principle of Planning Policy Statement 1 *Delivering Sustainable Development* (2005) is to promote high quality inclusive design, such that design which fails to take the opportunities available for improving the character and quality of an area should not be accepted. Thus, I find no reason to consider the appeal before me other than upon its individual planning merits.

24. I have considered all other matters raised, including those other examples of split-level development, but none alters my conclusions in each case on the main issues, which lead me to find in favour of appeal [A] and to dismiss appeal [B].

Conditions

25. I have considered the conditions suggested by the Council having regard to the advice in Circular 11/95 *The Use of Conditions in Planning Permissions*. In addition to the standard condition concerning time limit, in view of the main issues in this case, I agree that conditions are necessary concerning appearance (matching materials) and privacy (windows and doors), which I impose. I do not impose the Council's suggested condition relating to the proposed side (west facing) window because I consider that to be unnecessary for the reasons I give at paragraph 22. At the Hearing the Council conceded that the condition was unnecessary. The Council conceded that this was so at the Hearing.

B C Scott
INSPECTOR

DOCUMENTS SUBMITTED AT THE HEARING

- | | |
|-------------------|--|
| Document 1 | The Council's letter of notification of the arrangements for the Hearing. |
| Document 2 | Direction dated 4 June 2008 by the Secretary of State concerning saved policies contained in the Brighton and Hove Local Plan 2005 |
| Document 3 | The Appellant's costs application statement |
| Document 4 | The Council's pre-application correspondence concerning scheme [B] |

PHOTOGRAPHS SUBMITTED AT THE HEARING

- | | |
|----------------|------------------|
| Photo 1 | 4/6 Hillside Way |
| Photo 2 | 6/8 Hillside Way |
| Photo 3 | 24 Redhill Drive |

DRAWINGS SUBMITTED AT THE HEARING

- | | |
|------------------|--|
| Drawing 1 | 07/90275 Rev A (April 1989) ~ the 1989 permission scheme |
|------------------|--|