



Appeal Decision

Site visit made on 11 September 2009

by **M C J Nunn BA BPL LLB LLM BCL MRTPI**

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

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Decision date:
12 October 2009

Appeal Ref: APP/Q1445/A/09/2104023

6 Wilbury Grove, Hove, East Sussex, BN3 3JQ

- 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 Chris O'Neil against the decision of Brighton and Hove City Council.
- The application Ref BH2008/03290, dated 13 October 2008, was refused by notice dated 19 February 2009.
- The development proposed is the erection of a first floor single storey conservatory and raised deck.

Decision

1. I dismiss the appeal.

Procedural issue

2. The description of the development in the heading above is that used by the Council in its decision and used by the appellant on the appeal form, rather than that on the original application form. I believe it more accurately describes the works proposed.

Main issues

3. I consider the main issues in this case to be the effect of the proposal on:
 - i. the character and appearance of the area, with particular reference to the Willett Estate Conservation Area; and
 - ii. the living conditions at adjacent properties, with particular reference to privacy.

Reasons

Character and Appearance

4. The appeal property is arranged over three storeys and forms part of a Victorian mews development, which I understand was originally constructed as stables serving nearby houses. It falls within the Willett Estate Conservation Area. To the rear of the property, at ground floor level, is an original 'horse tunnel', a barrel vaulted arch structure, which I gather originally ran continuously to the rear of all the mews properties. Although intact at the appeal property, many sections of it have now been removed, so as to allow the creation of rear gardens at ground level. There is a door at first floor level, which allows access on to the roof of the tunnel, thus providing a narrow 'roof terrace' area at first floor level. However, there are no enclosing walls or

railings to provide safety for those using it and the Council disputes whether use of the tunnel roof as a terrace has been formally authorised through the planning process.

5. I have serious concerns that the proposed roof terrace structure would appear unduly large and bulky in relation to the existing mews block, fully extending at high level to the boundary with the rear garden at No 11 Wilbury Road. Its overall bulk would be augmented by the presence of the conservatory above, and the proposed wrought iron balustrade, enclosing the terrace, would further add to its dominant appearance. In my view, the height and bulk of the proposed terrace would be emphasised by the absence of the 'horse tunnel' at the adjacent properties to the south, in Wilbury Grove, which all have rear gardens at ground level.
6. I acknowledge that there is a mix of development in this urbanised area, including fire escapes, and other alterations which, although not particularly attractive, are nevertheless part of the area's character. However, this eclectic character does not alter my concerns regarding the bulkiness of the proposal, and its consequent adverse effect on the character and appearance of the mews, as well as the Willett Estate Conservation Area.
7. The appellant has drawn my attention to other terraces and conservatories in the vicinity in support of the appeal. These include a side conservatory above ground floor level at No 11 Willett Road. However, this is quite different from the appeal proposal, appearing to be an original feature, integral to the design of the property and does not include a substantial terraced area. It appears small and subservient in relation to the host dwelling, which I do not consider would be the case here.
8. My attention has also been drawn to a roof terrace at No 13 Wilbury Road, but I consider that it is not a visually attractive addition to the property, and may well give rise to overlooking and loss of privacy to adjacent properties. In my view, an unsatisfactory arrangement at this property does not justify further unacceptable development.
9. I also note that a high level conservatory exists on a rebuilt terrace at No 24 Wilbury Grove, the end mews property to the north. This is a highly prominent feature when viewed from Eaton Road and I understand from the Council that this was granted planning permission in 1982 before the current planning policy framework was introduced. Although to some extent a matter of taste, I do not consider it to be a particularly sympathetic addition to the original mews, nor the conservation area. Its rather dominant appearance is exacerbated by its conspicuous and elevated position. Again, I am not persuaded that an unsympathetic development at another property in the mews justifies further unsympathetic development.
10. The appellant has cited further examples in the vicinity, including conservatories at Cambridge Grove, but these do not alter my concerns in relation to the appeal scheme.
11. I fully appreciate the appellant's desire to improve the quality of the appeal property's living environment and that considerable care has been taken to use sympathetic materials, such as hardwood, for the conservatory and quarry tiles and timber for the terrace area. I note that this palette of proposed materials

has sought to acknowledge the existing building and surrounding context, and that the scheme attempts to sensitively preserve the architectural integrity of the 'horse tunnel'. However, this does not outweigh my concerns outlined above.

12. Overall, I conclude on the first issue that the proposal would fail to preserve or enhance the character or appearance of the Willett Estate Conservation Area. It would therefore be contrary to Policies QD1, QD2 and QD14 of the Brighton and Hove Local Plan (BHLP) which together require a high standard of design in new development, as well as Policy HE6, which requires proposals within conservation areas to preserve or enhance their character or appearance. It would not accord with Supplementary Planning Guidance Note 1 'Roof Alterations and Extensions' which, amongst other things, states that new development should preserve or enhance the character or appearance of conservation areas.

Living Conditions

13. The location of the appeal dwelling within a highly urbanised area of closely spaced dwellings means that there is already a degree of overlooking between properties, especially between those in Wilbury Grove and Wilbury Road. I acknowledge that there is already an existing informal terrace area on the roof of the tunnel, which currently overlooks adjacent properties, but this is restricted in area and narrow. It would be considerably enlarged by the proposal, and its usage intensified and formalised as an area for sitting out. Because of this, in my opinion this arrangement at high level would result in greater intrusion, overlooking and loss of privacy to neighbouring properties than currently exists, particularly in respect of the rear garden and windows at No 11 Wilbury Road, currently converted into flats. In addition, I have grave concerns regarding the impact of the proposed rendered block retaining wall directly abutting the rear garden at No 11 Wilbury Road. I consider this high wall would appear overbearing from that property and exacerbate the sense of enclosure within the garden.
14. I am also concerned that the proposed terrace would directly abut the rear wall and first floor windows of the adjacent dwelling at 'The Stables' at No 8A Wilbury Grove, which serve a bedroom and bathroom. In my view, this would allow direct views into that property, causing an unacceptable loss of privacy. I acknowledge this unsatisfactory relationship already exists because the roof of the tunnel runs adjacent to that property. I note that the appellant states they have used this outside area for the duration of their ownership. I also note that the appellant states that there is a condition which requires the windows at 'The Stables' at No 8A to be obscure glazed, although no documentary evidence has been supplied to me on this point. Notwithstanding these points, as noted above, I consider the proposed terrace and conservatory would enlarge and formalise this as an amenity area for sitting out, and would thereby seriously exacerbate this lack of privacy between the two properties.
15. I therefore conclude on the second main issue that the proposal would harm the living conditions at neighbouring properties, particularly at No 11 Wilbury Road and 'The Stables' at 8A Wilbury Grove. It would therefore be contrary to Policies QD14 and QD27 of the BHLP which together require that extensions should not result in loss of privacy or amenity to adjacent residents or

occupiers. It would also run counter to Supplementary Planning Guidance Note 1 'Roof Alterations and Extensions' which, amongst other things, states that roof terraces should not result in a significant loss of privacy.

Conclusion

16. I have taken into account the appellant's submissions in support of this proposal, but find overall that it would neither preserve nor enhance the character or appearance of the Willett Road Conservation Area, and would harm the living conditions at adjacent properties.
17. Therefore, for the reasons given above, and having considered all other matters raised, I conclude that the appeal should be dismissed.

M C J Nunn

INSPECTOR