



Appeal Decision

Site visit made on 11 July 2011

by Elizabeth Lawrence BTP MRTPI

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

Decision date: 19 July 2011

Appeal Ref: APP/Q1445/D/11/2153381

3 Ovingdean Close, Ovingdean, Brighton, East Sussex, BN2 7AD.

- 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 Leonard Catt against the decision of Brighton and Hove City Council.
 - The application Ref BH2011/00729, dated 11 March 2011, was refused by notice dated 21 April 2011.
 - The development proposed is described as construction of two summerhouses including terracing and timber decking (retrospective).
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Preliminary matters

1. In their Grounds of Appeal the Appellant states that the Appeal relates to just one of the two summerhouses and that the other summerhouse has been moved. I have dealt with the Appeal on this basis and accordingly I have changed the description of the proposed development in my decision to "construction of one summerhouse including terracing and timber decking (retrospective)."

Decision

2. I dismiss the Appeal for the construction of one summerhouse including terracing and timber decking (retrospective).

Main Issue

3. The main issue is the effect of the proposal on the living conditions of the occupiers of the adjacent properties with particular regard to visual impact and privacy.

Reasons

4. A Certificate of Lawfulness has been granted for the construction of an identical summerhouse in the position of the proposed summerhouse, but without the area of terrace to the front of it. As confirmed by the Appellant, on the basis that the summerhouse is already on the site there is every probability that this fallback position would be pursued if this Appeal were dismissed. This is a material factor in the consideration of this Appeal.
 5. The gardens of the dwellings along the west side of Ovingdean Close rise steeply to the west, which results in various levels of inter-looking between them. The proposed summerhouse occupies an elevated position towards the rear of the garden, where due
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to its width and extent of glazing it is clearly visible within the rear garden environment. The situation is exacerbated by the proposed terrace, which together with its railings and trellis work results in a bulky garden development that is particularly dominant within the site and the rear garden environment.

6. The summerhouse and decking are partially screened from the adjacent properties by a combination of established and newly planted shrubs and trees. The submitted drawings indicate that further soft landscaping would take place in front of the timber decking and within the surrounding garden area. However, having regard to the size and combined height of the summerhouse and decking, it would fail to adequately screen and soften the appearance of the development. In particular, during the winter months the development would appear stark, overbearing and totally out of keeping with the rear garden environment.
7. For these reasons the proposal would have a materially adverse impact on the character and appearance of the host property or the rear garden environment in general.
8. The full length windows in the summerhouse are orientated away from No5 and Ketts Ridge. This together with the planting along the boundaries ensures that the use of the summerhouse would not result in a material loss of privacy for the occupants of the adjacent properties. However, due to the size of the windows there would be a perceived loss of privacy.
9. The level of overlooking from the terrace is far greater. It provides views directly into the garden at No.5 and towards the rear windows of that property. During the winter months it would also result in the overlooking of the gardens to the south. Whilst the proposed planting would in time reduce the level of overlooking, having regard to the potential for the terrace to be used extensively for outdoor entertaining and recreation, it would be inadequate to prevent a material level of harm resulting from loss of privacy.
10. It is acknowledged that there are ancillary domestic buildings and terraced areas at No.5. However they are not directly comparable to the Appeal scheme in terms of their position, size or likely use. In addition, the raised area at Ketts Ridge is screened from the Appeal property by the boundary fence.
11. Finally, I have taken into account the concern expressed regarding the accuracy of the drawings, the information given on the application form, the possible loss of light resulting from the proposed planting and the possible impact on wildlife. However these factors add little to the conclusion on the main issue.
12. I conclude on the main issue that the proposal would materially harm the living conditions of the occupiers of the adjacent properties, with particular regard to visual impact and loss of privacy. Accordingly the proposal would conflict with policies QD14 ad QD27 of the Brighton and Hove Local Plan, which seek to protect the living conditions of local residents.

Elizabeth Lawrence

INSPECTOR