



Appeal Decision

Site visit made on 26 June 2012

by **E A Lawrence BTP MRTPI**

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

Decision date: 4 July 2012

Appeal Ref: APP/Q1445/D/12/2175893
250 London Road, Brighton, BN1 6YA

- 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 Mrs E Rehorn against the decision of Brighton & Hove City Council.
 - The application Ref BH2011/02869 was refused by notice dated 16 February 2012.
 - The development proposed is to provide new raised escape platform to first floor rear elevation.
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Decision

1. The Appeal is dismissed.

Main issue

2. The main issue is the effect of the scheme on the living conditions of the occupiers of 2 Surrenden Crescent, with particular regard to privacy, visual impact, noise and disturbance.

Reasons

3. The proposed raised escape platform, which has already been constructed, is sited immediately adjacent to the rear boundary of 2 Surrenden Crescent, (No.2). There are open metal railings around perimeter of the platform and the area is accessed via a pair of full length glazed doors. However, to date, the proposed 1.8 metre high obscure glazed screen along the northern side of the platform and the proposed planters to be sited just inside the railings have not been installed.
4. The main usable private garden area to No.2 is sited immediately to the north and northeast of the proposed platform and the rear elevation of the dwelling at No.2 varies between approximately 6 and 12 metres from the platform.
5. As a bedroom with a traditional 3 pane width window neither the use nor the outlook from the first floor room in the northeast corner of the Appeal dwelling would have had a materially adverse impact on the living conditions of the occupiers of No.2. The use of this room for a living room would likely result in an increased the level of activity within the room and, as a consequence, increase the potential for some additional noise and over-looking. However, any views into the garden area of No.2 would have been restricted to persons standing in close proximity to the window and any noise would have been largely contained within the building. As such any additional loss of privacy or

- noise nuisance would have been negligible. Similarly the views from the rooflights serving the second floor rooms are restricted due to the sill height of the rooflights and their angle.
6. The full length doors that have been installed to access the proposed platform have significantly increased the potential for over-looking. They provide direct views into the rear garden of No.2 from a wider area and at variable heights from within the room they serve. At the same time due to their position close to the boundary of No.2 and the fact that they are clearly visible from some of the rear windows and the rear garden with No.2, they materially add to the perceived sense of over-looking from that property. Although the insertion of the doors amounted to "permitted development", they are clearly designed to serve the platform and for safety reasons would be unlikely to be retained in their present form if the platform was removed.
 7. The situation is exacerbated by the proposed platform. Anyone standing on the platform has direct and clear views in to the private garden area at No.2 and towards some of the rear windows of the dwelling. The presence of anyone standing on the platform would result in an overbearing sense of being overlooked by persons within the rear garden at No.2. The proposed obscure glazed screen on the north side of the platform would prevent any direct over-looking of part of the rear garden at No.2. Unfortunately there would still be direct views into the deepest section of the rear garden which is located to the northwest of the platform.
 8. Due to the limited size of the platform and having regard to the proposal to install planters just inside the railings, it has limited potential for use as a sitting out area or for entertaining. At the same time there is a large garden area to the rear of the Appeal dwelling which is far more suitable for entertaining. Notwithstanding this, due to the proximity of the platform to the garden at No.2 any use of the balcony would result in direct over-looking and a visually over-bearing sense of being overlooked. It would result in a significant loss of privacy for the occupants of No.2.
 9. The use of the platform would be unlikely to result in excessive levels of noise or disturbance and would likely be unnoticeable when the children's nursery operated from No.2 is in use. However, any noise or visual activity generated, particularly during the evenings and weekends when the nursery may not be in use, would exacerbate the actual and perceived loss of privacy at No.2.
 10. The Appellant has commented that the platform would only be used for emergency purposes. Whilst the Appellant's family may only use the platform for emergency purposes, this may not apply to any future occupiers of the house and it is not something that could reasonably be made the subject of a condition. At the same time this would not prevent the sense of being over-looked from the platform when the doors serving it are open.
 11. The Appellant has also commented that the tree screen along the boundary would in time provide an effective screen. Given the nature and height of the existing trees it would take years for these trees to reach an appropriate height and then most of them are deciduous and would be ineffective for much of the year. At the same time the trees could be cut back or removed in the future by the occupiers of the Appeal property. Accordingly, little weight can be given to this factor.

12. The Appellant has stated that the Council has agreed to "Cabrio" balcony windows, although no details have been provided. Such a balcony would not however address all of the concerns outlined above in relation to both actual and perceived loss of privacy.
13. It is noted that there are balconies serving various properties in the area and indeed there is a balcony located elsewhere at the Appeal property and at 4 Surrenden Crescent. However the relationships of those balconies to adjacent dwellings are not directly comparable to the proposed platform in terms of their juxtaposition and proximity. They highlight the need for each proposal to be assessed on its individual merits, having regard to the prevailing planning policies.
14. Careful consideration has been given to the purpose of the platform, namely to provide an escape platform for a family member with a medical condition. However in this instance the harm that would result from the proposal would outweigh the benefits. At the same time it is noted that the dwelling already has a larger first floor balcony at the rear of the dwelling. Little evidence has been submitted to demonstrate why this balcony could not be used as an escape platform for occupants of the first floor of the premises, or why the proposed platform is necessary to comply with the Building Regulations.
15. For these reasons I conclude that the proposed platform would materially and unacceptably harm the living conditions of the occupiers of 2 Surrenden Crescent due to actual and perceived loss of privacy and associated noise and disturbance. As such the scheme conflicts with policies QD14 and QD27 of the Brighton and Hove Local Plan, which amongst other things seek to protect the living conditions of residents.
16. Finally, in assessing the merits of the Appeal scheme the policies in the National Planning Policy Framework (NPPF) have been taken into consideration. However, in light of the facts in this case the NPPF does not alter my findings.

E Lawrence

INSPECTOR

