



Appeal Decision

Site visit made on 3 September 2012

by David Warden MSc MRTPI

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

Decision date: 12 September 2012

Appeal Ref: APP/Q1445/D/12/2179687

20 Davey Drive, Hollingdean, Brighton BN1 7BE

- 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 Ross John Everett against the decision of Brighton & Hove City Council.
 - The application Ref BH2011/03601, was refused by notice dated 8 May 2012.
 - The development is described as "raised decking to rear of the property to be able to use the garden, as the ground is at a steep slope".
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The National Planning Policy Framework ('the Framework') was published in March 2012, at the heart of which is a presumption in favour of sustainable development. I have had regard to it in reaching my decision.
3. The Council has confirmed that it made its decision based upon drawings Nos 2 and 3 received on 18 January 2012, No 4A received on 14 March 2012 and an unnumbered drawing received on 23 November 2011 and that there is an error in the refusal notice in this regard. Furthermore, notwithstanding the description of development set out in the bullet points above, which was taken from the application form, the unnumbered drawing also shows fencing to the edges of the raised decking. Whilst this is not shown on the other plans, it is clear from the appellant's description of the proposal that the appeal scheme also includes timber fencing enclosing the raised decking¹, which is also referred to by the Council. This is described as being 'close boarded' and 'lattice' fencing to the boundaries with Nos 18 and 22 Davey Drive, respectively. As the development has already been carried out, I was able to view this fencing at the site visit. I have considered the appeal on this basis.

Main Issues

4. The main issues in this case are the effect of the proposal on:
 - the character and appearance of the surrounding area; and,
 - the living conditions of nearby occupiers in respect of privacy and outlook.

¹ Even if the fencing were not to form part of the appeal proposal, this would not change my overall conclusion.

Reasons

Character and Appearance

5. The appeal site is located in an area that is predominately residential in character and shows considerable variation in ground levels. The appeal property is a two-storey terraced dwelling. To the rear, the properties in the terrace occupy an elevated position in relation to their respective rear gardens, which fall away to the rear forming steep slopes. Nos 24 and 26 Davey Drive have been extended to the rear, with part and full width conservatories/extensions, respectively; whereas other properties in the terrace typically have a raised landing with steps leading down to the garden level. In place of a similar structure, the appeal scheme is for a substantial raised deck that occupies the full width of the dwelling and extends approximately some 7 metres to the rear. As stated above, this is enclosed by a mixture of lattice and close boarded fencing.
6. The materials used are appropriate for this type of development and, notwithstanding the Council's concerns, including in respect of the lattice supports, I find no harm in respect of the form of the development. However, notwithstanding that the appeal property benefits from a relatively long garden, much of which remains unchanged, the decking is, to my mind, overly deep. As well as being somewhat disproportionate to the scale of these terraced dwellings, due to the falling ground levels, this results in the rear of the decking and the fencing occupying a significantly elevated position. Whilst public views appear to be limited to glimpsed views from Southmount, and some private views are screened by trees, the development is visible from the surrounding properties and gardens.
7. All in all, whilst I find no harm in respect of the insertion of the additional doors to the rear elevation of the appeal property, due to the inappropriate depth and consequentially elevated position of the raised decking and fencing, the development causes material harm to the character and appearance of the surrounding area. This is contrary to the relevant elements of policy QD14 of the Brighton & Hove Local Plan 2005 ('LP'), which seeks to protect local character by ensuring extensions are well designed in relation to their host property.

Living Conditions

8. Whilst the flats located beyond the trees at the end of the appeal garden, Nos 7-12 Southmount, are sufficiently distant to avoid material harm, the terrace provides elevated views of the adjoining gardens, as well as views back into the ground floor rear windows of the No 22. The latter being through the lattice fencing; although, at the time of my visit, such views were partially mitigated by a screening material that is attached to the lattice. A degree of mutual overlooking is a common feature of residential areas such as this, particularly where there are such changes in ground level. Furthermore, there would previously have been views from the raised landing and steps to the rear of the appeal property. However, even if primarily used as a seating area, the depth and resulting height of the decking provide for an intrusive degree of overlooking. Furthermore, the fencing to the sides rises well above the level of the decking. The height of this boundary treatment is inappropriate in this context, resulting in a sense of enclosure and an overbearing effect on the adjoining gardens; particularly that of No 18, due to the more solid form of the

fencing along this boundary. Further measures to reduce overlooking would be likely to increase the bulk of the development, providing for greater harm in this regard.

9. Overall, the development results in a level of overlooking that has led to a material loss of privacy to the adjoining occupiers and the combined effect of the height and depth of the fencing creates a sense of enclosure and an overbearing effect, particularly on users of the adjoining gardens. As a consequence, the development causes material harm to the living conditions of nearby occupiers in respect of privacy and outlook. This is contrary to the relevant elements of policies QD14 and QD27 of the Brighton & Hove Local Plan 2005 ('LP'), which seek to protect the living conditions of nearby occupiers.

Other Matters

10. My attention has been drawn to other extensions, patios and decked areas, including to the rear of properties that back onto Southmount, which, to the extent that they are visible from this street, I was able to view at the site visit. However, none of these appear to be directly comparable with the appeal scheme. I am also mindful that no objections to the development were received from local residents and I understand that the adjoining occupiers support the appeal scheme. However, occupiers often change over time, whereas the appeal structure is likely to remain.
11. I understand that the appellant suffers from a number of mobility restricting conditions, is terminally ill and that his mobility is likely to progressively deteriorate. Whilst I attach considerable weight to the importance of access to outside space and to the difficulties presented by variations in ground level, many of the benefits of such access could be achieved with a far smaller terrace that would, to my mind, have a much more limited impact than the appeal scheme. Overall, none of these matters overcome or outweigh the harm that I have identified as a consequence of the development.
12. Having regard to the Framework, the LP, which was adopted in July 2005, is not of any significant age. Moreover, I have not been provided with any substantive evidence that would lead me to conclude that, in the context of this appeal, the relevant LP policies are inconsistent with the Framework. Therefore, whilst the policies in the Framework have been considered, in light of the facts in this case, they do not alter my overall conclusion.
13. The appellant has expressed dissatisfaction with advice received from the Council, in particular from a Housing Officer. However, that is a matter that would need to be pursued directly with the Council in the first instance. I confirm in this respect, that I have had regard only to the planning merits of the proposal.

Conclusion

14. For the above reasons, I conclude that the appeal should be dismissed.

David Warden

INSPECTOR

