



Appeal Decision

Site visit made on 21 November 2012

by Lynne Evans BA MA MRTPI MRICS

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

Decision date: 29 November 2012

Appeal Ref: APP/Q1445/D/12/2182980
17 Steine Gardens, Brighton BN2 1WB

- 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 Paul Bougourd against the decision of Brighton & Hove City Council.
 - The application Ref BH2012/00999 was refused by notice dated 8 June 2012.
 - The development proposed is a new roof terrace on top of the property accessed via an opening skylight at the top of a new staircase from an open plan 2nd floor, which accommodates the kitchen, lounge and dining areas. New bi-folding doors at the rear of the second floor opening onto a new one metre wide balcony. Replacement of the roof at the front and rear of the property beyond the boundary of the roof terrace with glass. Bedrooms and bathroom relocated to the first floor and creation of a new ensuite shower room on the first floor.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. At the application stage, the proposed development included a number of elements as set out in the above description of development. The Appellant has indicated that at the appeal stage he only wishes to pursue the roof terrace element of the proposal. However the appeal necessarily relates to the application that was refused and it is therefore incumbent on me to address all aspects of the proposed development, for which planning permission would be required and which formed part of the application. Any revised proposal would need to be the subject of a fresh application to the Council.
3. Notwithstanding the above, and although I have been provided with no information relating to whether or not the property benefits from its permitted development rights, internal works relating to the re-arrangement of accommodation would be unlikely to require planning permission. I note that the Council did not include these elements in its description of development.

Main issues

4. The main issues raised in this appeal are
 - a) the effect of the proposed roof terrace and rear balcony on the living conditions of the surrounding neighbours, with particular regard to overlooking and loss of privacy, and

- b) the effect of the proposed external works on the character and appearance of the East Cliff Conservation Area.

Reasons

Issue a) Living Conditions

5. The appeal property is a mid terraced property within a short terrace of three properties of recent construction, in a narrow cul de sac of residential properties comprising both traditional dwellings as well as more modern development. Most of the properties are two storeys with dormers in pitched roofs, compared with the terrace containing the appeal property which has a third storey set within a mansard roof.
6. The appeal property is in a densely developed, mixed use area with predominantly residential properties in Steine Gardens but a wider mix of uses in the adjoining streets. It has not been possible to draw a precise conclusion about the extent of residential neighbours within the adjoining properties in Princes Street to the rear and Edward Street to the side from my site visit and the submitted information. Given the close knit form of development in this local area, some overlooking between windows of nearby properties is already present.
7. However, I consider that the proposed balcony at the rear at second floor level would create direct overlooking and loss of privacy for the immediate neighbours in Steine Gardens when in their rear gardens, as well as overlooking of other windows and consequent loss of privacy for other residential neighbours to the rear. Furthermore, from my site visit as well as the submitted information I consider that there would also be overlooking of neighbours' windows on the opposite side of the street as a result of the roof terrace. The Appellant has suggested that the re-arrangement of accommodation would reduce the extent of overlooking but the use of the accommodation would be outside of planning control and the way in which internal accommodation is used is a matter of personal choice. In terms of the rear of the roof terrace I agree with the Appellant that the set back proposed would assist in reducing direct overlooking of the immediate neighbours on either side but would not, in my view, and on the basis of the limited information before me, be sufficient to remove direct overlooking of windows to residential neighbours to the rear.
8. As a result of the close proximity of these neighbouring properties, and notwithstanding the overlooking that is already present, it is my view that the direct overlooking and loss of privacy that would be introduced from the rear balcony and roof terrace would materially harm the living conditions of surrounding neighbours. I also share the Council's concern, and notwithstanding the general noise levels within this urban area, that there would also be the possibility of increased noise and disturbance from the use of the roof terrace and the rear balcony in close proximity to bedrooms of adjoining properties, and this would add to the harm I have concluded. Whilst I note the Appellant's comments about noise levels, the balcony and roof terrace, if granted would also endure for future residents.
9. I therefore conclude that the proposed development, and in particular the proposed rear balcony at second floor level as well as the proposed roof terrace, would materially harm the living conditions of surrounding neighbours.

This would conflict with Policies QD14 and QD27 of the Brighton and Hove Local Plan, both of which seek to ensure that new development does not harm the amenities of neighbours. These policies accord with the National Planning Policy Framework which confirms, as one of its core planning principles, that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

Issue b) Character and appearance

10. The appeal property and adjoining dwellings are in the East Cliff Conservation Area, which predominantly comprises the historic pattern of traditional Regency terraces together with more modern development, providing an attractive and diverse urban form. The Council has raised concerns about the impact of the proposed development and, in particular, the roof terrace, if visible from public view points. On the basis of the information before me and my site visit, and given the narrowness of Steine Gardens and the proposed set back of the roof terrace, it is my assessment that the roof terrace, or even part of it, and the other proposed roof changes would be barely glimpsed from the street, including from Edward Street.
11. The proposed rear balcony and window changes, given their siting at the rear would not be visible from the street. Both the roof terrace, roof changes, change to the second floor rear window and balcony changes would be visible from surrounding properties but given the more modern form of the appeal property and the attractive eclectic mix of properties in the local area, I do not consider that these changes would detract from the character and appearance of the existing building or of the local area. Although Nos 16, 17 and 18 Steine Gardens were built to the same design, I do not consider, given the variety of development in the local area, that changes to one of the properties would unbalance the development or detract from the street scene, particularly as part of its attractive character and appearance is as a result of its varied form of development.
12. As a result, I conclude that the proposed development would not harm, but would preserve the character and appearance of the East Cliff Conservation Area. There would be no conflict with Policies QD14 and HE6 of the Brighton and Hove Local Plan which seek to ensure the new development respects the local context, with specific policy guidance for Conservation Areas under Policy HE6. However, my conclusion on this issue does not outweigh the harm I have concluded under my first issue.
13. The Appellant has drawn my attention to a range of other roof terraces within the local area, some of which appear to have been integral to recent developments and others later additions to older properties. Each planning proposal must be considered on its individual merits. However, and notwithstanding the lack of information regarding each of the roof terraces shown and the extent to which they benefit from planning permission, I have nonetheless taken them into account. However, my principal concern in this appeal relates to the effect of the proposal on the living conditions of the surrounding neighbours to the appeal property, and therefore my consideration has focussed on the particular circumstances of the case before me.
14. I have sympathy with the Appellant's reasons for seeking the proposed changes to his living accommodation. However, the harm I have found to the

living conditions of immediate neighbours is compelling and on its own justifies refusal of planning permission.

15. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

L J Evans

INSPECTOR