



Appeal Decision

Site visit made on 4 December 2012

by John R Mattocks BSc DipTP MRTPI FRGS

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

Decision date: 6 December 2012

Appeal Ref: APP/Q1445/D/12/2183820
7 Lullington Avenue, Hove, BN3 7EQ

- 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 Jeanette Ashton against the decision of the Brighton & Hove City Council.
 - The application ref. BH2012/01891 was refused by notice dated 13 August 2012.
 - The development proposed is a single storey rear extension.
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Decision

1. The appeal is dismissed.

Main issue

2. The main issue in this appeal is the effect of the proposal on the living conditions of the occupants of No. 5 Lullington Avenue.

Reasons

3. I am informed that the proposed extension has been advanced with the full agreement of the occupiers of No. 5. I have no independent verification of that fact, although the submitted plans show that the southern cavity wall of the proposed extension would be on the boundary between Nos. 5 and 7 with the outer wall on land within the curtilage of No. 5. It would not, therefore, be possible to construct the extension without a formal agreement.
4. Be that as it may, one of the core planning principles set out in paragraph 17 of the National Policy Planning Framework is to seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings, as an aspect of sustainable development. Policies QD14 and QD27 in the adopted Brighton and Hove Local Plan are in line with that core principle. It may be that the existing occupiers of No. 5 do not object to the proposal, possibly because of their own future plans to extend to the rear of their property, but any such intentions might change. Greater weight is to be placed on the nature of the relationship between buildings and the effect on quality of the living environment than on individual perceptions.
5. The proposed development would result in the presence of a 3.5 m. long wall immediately to the side of the rear glass double doors of No. 5 at a minimum (eves) height of 2.36 m. rising to 3.46 m. where the sloping roof would meet the rear wall of Nos. 5 and 6. As that wall would be on the north side of No. 5 there would be no loss of sunlight but the wall would be a dominant feature when viewed through the glass doors from the habitable room within. The

building would extend well beyond a 45 degree line drawn from the centre of the glass doors, as mentioned in paragraph 3.57 of the Local Plan in explanation of policy QD14. In isolation, bearing in mind the northerly aspect, that might be acceptable but there is already a rear extension at the rear of No. 5, albeit shorter than that proposed. The combination of the two would result in a high degree of enclosure significantly constricting the outlook from the habitable room in No. 5.

6. The proposal would, therefore, result in an unsatisfactory relationship between the buildings. The degree of enclosure would be such as to represent a significant loss of outlook for the occupiers of No. 5 contrary to Local Plan policy QD14 and a loss of amenity in terms of policy QD27. There would be a significantly detrimental effect on living conditions for the occupiers of No. 5.
7. Permitted development rights do not apply to development crossing curtilage boundaries. I acknowledge that a 3 m. extension within the curtilage of No. 7 would be permitted but it would have a lesser visual impact than the current proposal. I give little weight to the Government's proposals to amend the permitted development rights for rear extensions in that they are currently subject to consultation and may not be adopted in their current form. Although a 2 m. wall might be constructed along the whole boundary under permitted development rights that is not part of the proposal and there is no indication that is a likely scenario.
8. I have taken into account all of the other matters drawn to my attention in the representations made, including the permission for a rear extension to No. 23 Lullington Avenue but the plans of that development show that a full width extension already existed at No. 25. I do not have information as to the exact circumstances relating to that permission and, as every proposal must be considered on its individual merits, it is not a factor which carries sufficient weight to counter the identified conflict with development plan policy.
9. For the above reasons, the appeal is dismissed.

John R Mattocks

INSPECTOR