



Appeal Decision

Site visit made on 14 May 2013

by R Barrett Bsc Msc Dip UD Dip Hist Cons MRTPI IHBC

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

Decision date: 20 June 2013

Appeal Ref: APP/Q1445/A/13/2190136

Mill House, 131 Mill Lane, Portslade, Brighton BN41 2FH

- 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 TFRE2 against the decision of Brighton & Hove City Council.
 - The application Ref BH2012/03129, dated 28 September 2012, was refused by notice dated 6 December 2012.
 - The development proposed is construction of single storey extension and alterations to existing public house.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposal on the character and appearance of the locality and on the living conditions of surrounding occupiers with regard to noise and disturbance.

Reasons

Character and Appearance

3. The appeal site includes a largely two storey detached public house with ancillary residential accommodation on the first floor. The building is situated at the junction of Mill Lane and Deacon's Drive. It is set back from Mill Lane behind an extensive parking area and has a pub garden behind and to one side. It includes two small retail units which face Deacon's Drive, housed in a single storey extension which sits forward of properties on the same side of that street. The appeal site is separated from the nearest house, 9 Deacon's Drive, by an unmade rear access track. The surrounding area is generally residential.
4. The proposed rear extension would be large in relation to the existing building. It would almost double the ground floor area of the public house, would cover a significant part of its garden and the rear elevation of the existing building. Although it would be single storey, it would appear excessive and out of scale with the existing building.
5. In addition, the design of the proposed extension would fail to relate appropriately to the existing building. Its flat roof and elevations punctuated by large openings, bin stores and plant areas, would give it an industrial and utilitarian appearance, which would be at odds with the more domestic appearance of the host building and surrounding development. This would be

the case, even though it would be the same height as the existing flat roof single storey extension, would continue its parapet, replicate some of its detailing and generally use appropriate materials.

6. The public house at present has a spacious setting comprised of gardens and hardsurfaced areas, which separate it from the surrounding residential development. The proposed extension, even though it would be single storey, would largely fill the space to the rear of the public house and would significantly erode this spacious setting. As viewed from Deacon's Drive, although there is a relatively small access road to the rear, and a high level wall encloses the garden at present, the proposed extension would largely fill the gap between the public house and the residential properties on this side of Deacon's Drive. This would have the effect of visually linking them and would have a harmful effect on the street scene.
7. Moreover, the proposed extension would sit more prominently in the Deacon's Drive street scene than the existing enclosing wall, even though it would be on the same building line. It would sit in front of the residential properties on this side of Deacon's Drive. In addition, it would have a poorly articulated elevation that would provide limited street level interest. Due to these matters, even though it would not materially impact on the Mill Lane frontage, it would appear as dominant and incongruous in the Deacon's Drive street scene and fail to relate appropriately to the houses beyond.
8. I conclude that the proposed extension would result in material harm to the character and appearance of the locality and would fail to accord with Policies QD2 and QD14 of the Brighton and Hove Local Plan (2005) (LP), which state that all new development should be well designed and should emphasise and enhance the positive qualities of the local neighbourhood.

Living Conditions

9. The appellant suggests that the proposed extension would enable a business expansion. It therefore follows that additional numbers of customers are likely to be attracted to the premises, which would result in more activity, comings and goings and noise and disturbance. I note that there is no comment from the Council's environmental health officer and no history of complaints from local residents are reported, but as the proposal would take the building closer to surrounding residential properties and would almost double the ground floor area, even if it was used as a dining area with only background music, in association with the existing use, it is likely to lead to increased levels of general activity and noise and disturbance for nearby residents. My concern is particularly for those residents closest in Deacon's Drive during the sensitive night time hours of 23:00 to 00:00. This would be the case, even if the front access to the building was used exclusively and food stopped being served between 22:00 and 22:30 in the proposed extension. Additional cars arriving, parking and leaving and additional noise, disturbance and associated general activity are likely to result. I am therefore not convinced that in a residential area such as this that such a level of activity would not result in harm to the living conditions of nearby residents.
10. A noise impact assessment undertaken on 7/8 January 2013, confirms that subject to the mitigation measures listed in that report, noise and background music may be contained within the proposed extension to a satisfactory level and the proposal should not increase the likelihood of complaints from the

nearest residential property. However, this does not allay my concern regarding the potential additional comings and goings and associated general activity which would be a likely consequence of the proposal. I find that this, in association with the existing use, would cumulatively be likely to be a problem for local residents. Even if a condition was imposed to require the necessary mitigation measures listed in that report to be implemented, this would not overcome my concern in this regard.

11. I conclude that the proposal, in association with the existing use, is likely to result in material harm to the living conditions of surrounding occupiers with regard to noise and disturbance and would fail to accord with LP Policy QD27. This states that planning permission for any development will not be granted if it would cause material nuisance and loss of amenity to the proposed existing and or adjacent users, residents or occupiers. In addition, it would fail to accord with LP Policy SR12, which has some relevance to this appeal, even though this is aimed primarily at town centre establishments.

Other Matters

12. The policies referred to in this decision, I find are generally consistent with the National Planning Policy Framework (the Framework).
13. The appellant suggests that the proposed extension would enable a business expansion and improve the commercial viability of the premises, but I have no further evidence on this matter. In addition, it is suggested that the proposal would promote a sustainable economic development and a prosperous economy. However, I have found that the proposal would cause material harm to the character and appearance of the locality and the living conditions of surrounding occupiers, with regard to noise and disturbance, and therefore the proposal does not fit the wide definition of sustainable development as set out in the Framework.
14. I have taken into account the Council's suggested conditions and the appellant's suggested amendments to these, but even if these were imposed, they would not overcome the material harm that I have identified to the character and appearance of the locality and the living conditions of surrounding occupiers with regard to noise and disturbance.

Conclusion

15. For the above reasons, and taking all other matters raised into consideration, I conclude that the appeal should be dismissed.

R Barrett

INSPECTOR

