



Appeal Decisions

Site visit made on 26 September 2013

by S J Papworth DipArch(Glos) RIBA

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

Decision date: 7 October 2013

Appeal A: APP/Q1445/A/13/2193130

15 Upper Rock Gardens, Brighton, Sussex BN2 1QE

- 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 David Beckley against the decision of Brighton & Hove City Council.
 - The application Ref BH2012/01816, dated 7 February 2012, was refused by notice dated 16 August 2012.
 - The development proposed is erection of 1No two storey one bed house to side/rear of 15 Upper Rock Gardens Brighton.
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Appeal B: APP/Q1445/E/13/2193131

15 Upper Rock Gardens, Brighton, Sussex BN2 1QE

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
 - The appeal is made by Mr David Beckley against the decision of Brighton & Hove City Council.
 - The application Ref BH2012/01817, dated 7 February 2012, was refused by notice dated 8 August 2012.
 - The works proposed are erection of 1No two storey one bed house to side/rear of 15 Upper Rock Gardens Brighton.
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Decision Appeal A

1. I dismiss the appeal.

Decision Appeal B

2. I allow the appeal and grant listed building consent for 1No two storey one bed house to side/rear of 15 Upper Rock Gardens Brighton BN2 1QE in accordance with the terms of the application Ref BH2012/01817, dated 7 February 2012 and the plans submitted with it subject to the following conditions:
 - 1) The works hereby authorised shall begin not later than three years from the date of this consent.
 - 2) No works shall be carried out until details and samples of the materials and methods of finishing to be used have been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out using only the approved materials and methods.
 - 3) No works shall be carried out until full details, at a scale of 1:20 for elevations and full size for joinery items to include all windows and doors, and full size section drawings of mouldings and other architectural

features have been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out using only the approved architectural details, joinery items and sections.

Main Issues

3. In both Appeal A and Appeal B;
 - The effect of the proposal on the significance of the listed building and its setting within the East Cliff Conservation Area.
4. In Appeal A only there is a further main issue;
 - The effect of the development on the living conditions of neighbouring residential occupiers, with particular regard to outlook and amenity space.

Reasons

Listed Building and Conservation Area

5. The host building is listed and is within the East Cliff Conservation Area. Local Plan Policy HE1 states that proposals involving the alteration, extension, or change of use of a listed building will only be permitted where the proposal would not have any adverse effect on the architectural and historic character or appearance of the interior or exterior of the building or its setting, and where the proposal respects the scale, design, materials and finishes of the existing building, and preserves its historic fabric. Policy HE6 concerns the setting of listed buildings. The National Planning Policy Framework sets out in section 12 the considerations with regard to designated heritage assets such as listed buildings and conservation areas, and Sections 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 require special regard to be had to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses. Section 72(1) of the same Act requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of the conservation area.
6. The listed building, 15 Upper Rock Gardens, is a singular feature of the street scene, although attached to a terrace to the south, it bears only slight resemblance to those others, and less to buildings to the north, but it is an attractive building in itself and worthy of preservation and for its contribution to the conservation area. However, the appellant says that the portico structure is a more recent addition and this appears incongruous on the otherwise blank lower parts of the flank elevation.
7. The land for the proposed dwelling is presently occupied by some poor quality structures that do not sit well with the host building and detract from its immediate setting. However, the degree of detrimental effect on the wider setting and the conservation area is limited and the resulting space at higher level between numbers 15 and 16, and to the rear between 15 and number 12 St James's Avenue provides a separation between the differing buildings. There is however exposure of the unattractive over-sailing shower-room behind the host building.
8. There is a partially implemented permission and consent for works to the rear that would tidy some of the forgoing features, and the appeal proposals would take over some of the parts to the rear of number 15 covered by that previous

scheme and bring about the improvement of the rear over-sailing structure as well as the removal of the structures at the rear of the plot.

9. The Council's Heritage Officer acknowledges the scope for a small building in this location, but is concerned that the success of a traditional design such as this would rely over-much on the quality of the detailing, and concludes that it might be worth considering a contemporary design solution. Parts of that view are concurred with now, there is no objection in principle to the formation of an additional dwelling in this sustainable location, and the filling of the gap need not cause harm. A similar sort of relationship exists further up the road at 19, between 18 and 20 Upper Rock Gardens with a traditional form. Whilst it is quiet possible that a contemporary solution would work, the appeal application is for traditional detailing and proportions, for a small mews style cottage, of a type often seen behind and between frontage dwellings, and conditions could be employed to ensure the correct use of materials and detailing. Paragraph 60 of the Framework states that planning policies and decisions should not attempt to impose architectural styles or particular tastes, and in this case it is not appropriate to turn away a traditional approach provided the heritage assets are safeguarded.
10. The frontage building at number 15, together with its present neighbouring terrace at 16 to 18, being set back, would not be adversely affected either in terms of their architectural or historic interest or as regards their contribution to the conservation area. The designated heritage assets would not be harmed, and in any event the public benefits of an additional dwelling in this location, close to bus services, shops and employment, would outweigh the initial effects of change. The proposal would accord with Local Plan Policies HE1 and HE6 and would satisfy the statutory tests in the 1990 Act and the requirements of the Framework in this regard.

Living Conditions

11. Local Plan Policy QD27 states that planning permission for any development or change of use will not be granted where it would cause material nuisance and loss of amenity to proposed, existing and/or adjacent users, residents or occupiers. Policy HO5 concerns the provision of private amenity space which is required in new residential development where appropriate to the scale and character of the development.
12. The proposed dwelling would be allocated a small enclosed patio to the rear which would have limited access to light but would provide some open space outside the private side of the house. The main amenity space would be at the front due to being allocated the raised garden associated with number 15. In relation to the new dwelling that would be usable and adequate space, albeit to the front nearer the road.
13. However, it is that raised area that appears to provide the open space for number 15, and is noted on the drawing for permission BH/1999/02304 as being for that building. In that proposal, the present sunken rear yard, which is of limited value, would be made smaller. As it is, the removal of the raised area from number 15 would leave the host building with inadequate and poor quality amenity space.
14. To the rear the patio area for the lowest level of 12 St James's Avenue is below that of the appeal site and bounded by a wall on that common boundary. The

proposed rear projection housing the dining room would be kept low with the eaves being placed below the top of that boundary wall, so that no undue change in light or outlook would occur. But, the higher ridge of the two storey part and the northern parapet wall would be higher and would appear as additional built form in the outlook of number 12 and would obstruct further light than is presently the case. Whilst on the latter point the ridge and wall are shown as being within a 30° daylight line drawn to intersect the existing higher boundary wall, a building proposed to be occupied by the new kitchen, that height of wall does not project beyond the flank line of number 15 whereas the ridge and new side parapet wall do. The result would be a loss of light and a perception of overbearing in the outlook of the dwelling to the rear. That does not occur at 19 Upper Rock Gardens as that small dwelling backs directly onto St James's Avenue.

15. On the northern side there would be a change to the outlook from flank windows within number 16, but not to the extent claimed in photographic representations, and there would remain sufficient open space over the amenity area to one side and over the proposed patio to the other to provide adequate light and air.
16. In conclusion, whilst there are aspects of the proposal that would not have an adverse effect on either existing or proposed occupiers, the removal of amenity space from number 15 would cause harm, as would the formation of the ridge and side wall at the height proposed with regard to a dwelling at the back on the parallel road, and hence the proposal would not be of the standard sought in Local Plan Policy QD27.

Conclusions

17. The formation of a new dwelling in this sustainable urban location would not adversely affect the listed building or its setting, nor the character and appearance of the East Cliff conservation area, but the siting of the building and aspects of its height would impair the outlook and enjoyment of the amenity space of an adjoining dwelling and would leave the host building with inadequate amenity space, contrary to Development Plan Policies previously cited and the requirement of the Framework that although visual appearance and the architecture of individual buildings are very important factors, securing high quality and inclusive design goes beyond aesthetic considerations, and therefore weight attaches to failings in the performance of the proposal in providing adequate living conditions to neighbours. For the reasons given above it is concluded that the planning Appeal A should be dismissed.
18. There is no reason to withhold listed building consent for the works as the considerations set out in the second main issue above do not apply to Appeal B. Conditions are required to seek samples and full-size architectural detail drawings, and with this provision and for the reasons given above, it is concluded that Appeal B should succeed.

S J Papworth

INSPECTOR