



## Appeal Decision

Site visit made on 11 November 2013

**by Susan A F Simpson LLB Solicitor (N-P)**

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

**Decision date: 19 November 2013**

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**Appeal Ref: APP/Q1445/D/13/2206223**

**26 Shirley Street, Hove, BN3 3WJ**

- 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 Miss Jude Archard against the decision of Brighton & Hove City Council.
  - The application Ref BH2013/01374 was refused by a notice dated 29 July 2013.
  - The development proposed is a single storey rear/side extension.
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### Decision

1. The appeal is allowed and planning permission is granted for a single storey rear/side extension at 26 Shirley Street, Hove, BN3 3WJD in accordance with the terms of the application ref BH2013/01374 dated 24 April 2013 subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than three years from the date of this decision;
  - 2) The development hereby permitted shall be carried out in accordance with the following drawings entitled (i) existing details at 26 Shirley Street, Hove, April 2013, A1 sized drawing and (ii) proposed plans at 26 Shirley Street, Hove, April 2013, A1 sized drawing;
  - 3) The roof area of the extension hereby permitted shall not be used as a balcony, roof garden or similar amenity area without the grant of further specific permission from the local planning authority;
  - 4) The materials to be used in the construction of the external surfaces of the extension hereby permitted shall match those used in the existing building;
  - 5) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking, re-enacting or modifying that Order), no windows or other openings shall be formed in the flank eastern elevation of the development without the prior written approval of the local planning authority.

### Main issues

2. The main issues in the appeal are the effect of the development upon the character and appearance of the host dwelling and neighbouring residents' living conditions at 24 Shirley Street with specific reference to outlook, overshadowing and daylight.

## Policy

3. The Council has referred to policies QD14 and QD27 of the Brighton & Hove Local Plan 2005 (Local Plan) which seek, amongst other things, to ensure that extensions and alterations to buildings are well designed, sited and detailed in relation to the property to be extended and the surrounding area and that development does not result in a material or significant loss of amenity to neighbouring residents.
4. Although not referred to in the planning officer's report, the Council has forwarded, at appeal stage, copies of its supplementary planning guidance on extensions and alterations. Of these, I note that the Supplementary Planning Document (SPD12) which is entitled "*design guide for extensions and alterations*" has been the subject of public consultation and recently adopted by the Council on 20 June 2013. As such it forms a material consideration in the determination of this appeal. My attention has not been drawn to any specific sections within SPD12 but I note that sections 3.1 and 3.2 deal with rear and side extensions respectively.

## Reasons

### *Character and appearance*

5. No 24A (a garage with floor space above) has been incorporated as part of No 26 and the premises comprise part of a terrace of properties fronting onto Shirley Street. It has a rear two storey "*outrigger*" element - attached to which is a single storey extension. On my visit and from the photographic evidence submitted by the Appellant, it is clear that the original plan forms of No 26 and some of its neighbours have been altered over the years.
6. In the case of the appeal dwelling, this includes the existing single storey extension and a covered way that was formerly attached to the garage at No 24A. The Council states that the covered way did not benefit from planning permission but it does not refute that it had been in existence for over 20 years. Even though most of this structure has now been demolished, its existence for this length of time warrants recognition and consideration in the determination of this appeal.
7. The extension would not be visible from the street and only limited views of it would be obtained from neighbouring properties. However, the Council is concerned about the depth and "*wraparound*" nature of the extension. I accept that it would be a generous enlargement of the habitable floor space, but it has been carefully designed to fit neatly into the area associated with former covered walkway thereby infilling this space up to the side boundary.
8. Thereafter, the development would extend further beyond the rear of the former covered walkway and the single storey extension (that is to be demolished) but not significantly so. Overall, I consider the development would remain a subordinate addition and would not significantly alter the plan form of the premises as it has evolved over a period of time.
9. Reference is made to the loss of garden space that would occur as a result of the development. However, this is a generous plot and sufficient useable garden space would remain to not only provide a good standard of amenity for the occupants of No 26 but also ensure that its size would be comparable to that of many of the terraced houses along Shirley Road. Overall, I conclude

that the proposal is well designed and sited in relation to the existing dwelling and, as such, there would be no conflict with the provisions of policy QD14 of the Local Plan and the supporting guidance in SPD12.

### *Living conditions*

10. It is stated that the total length of the development along the eastern boundary with No 24 would be in the region of approximately 6.7 m. Although the Council refers to the mutual boundary between the two properties comprising a 1.3 m wall, on my visit I saw that a fence approximately 2 m in height had been erected.
11. The height of the extension would not appear to be materially higher than the roof of the former covered walkway or the height of the existing fence. Further, in the light of the Council's conclusion regarding the acceptable screening provided by the 1.8 m brick wall with trellis above along the boundary with No 28, I consider the boundary treatment with No 24 would have an equally effective screening effect.
12. Overall, from the evidence before me, I am satisfied that there would not be a material loss of daylight or overshadowing to the habitable rooms of the neighbouring property that are located nearest to the site. Also, although the outlook from the windows serving these rooms may change as a result of the proposal, it would not be to the extent of being oppressive or overbearing.
13. I conclude that the development would not result in a material or significant loss of amenity to neighbouring residents of No 24 and, so, would not be in conflict with policies QD14 and QD27 of the Local Plan.

### **Conditions**

14. I have considered the Council's suggested conditions in the light of the advice contained in Circular 11/95 (*Use of conditions in planning permissions*). In addition to the time limiting condition, a condition requiring matching materials to be used in the construction of the extension is reasonable and necessary in order to secure a satisfactory form of development that integrates well with the host building. In order to protect the privacy of neighbouring residents, a condition preventing the flat roof from being used as a sitting out area is necessary. For the same privacy reason, exceptional circumstances exist to warrant the suggested removal of permitted development rights relating to windows in the eastern elevation of the extension in case the boundary treatment with No 24 was at any time to be removed. For the avoidance of doubt, and in the interests of proper planning, a condition requiring that the development is carried out in accordance with the approved plans will be imposed.

### **Conclusion**

15. I have taken into account all the other matters that have been raised but find that none alter my conclusion that, for the reasons given above, the appeal should succeed.

*S A F Simpson*

INSPECTOR