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## Appeal Decision

Site visit made on 21 November 2013

**by Timothy C King BA(Hons) MRTPI**

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

**Decision date: 23 January 2014**

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### **Appeal Ref: APP/Q1445/A/13/2204185**

### **33A, Upper Rock Gardens, Brighton, BN2 1QF**

- 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 Gerard Raimond, against the decision of Brighton & Hove City Council.
  - The application Ref BH2013/01745, dated 24 May 2013, was refused by notice dated 7 August 2013.
  - The development proposed is the demolition of existing rear conservatory and erection of new full width rear extension.
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### **Decision**

1. The appeal is allowed and planning permission is granted for the demolition of the existing rear conservatory and erection of a new full width rear extension at 33A Upper Rock Gardens, Brighton, BN2 1QF in accordance with the terms of the application Ref BH2013/01745, dated 24 May 2013, subject to the following conditions:
  - 1) The development hereby permitted shall begin no later than three years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing Nos. 001, 101C, Block Plan and Site Location Plan.
  - 3) 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.

### **Main Issue**

2. The main issue is the effect of the proposed development on the character and appearance of the area, with particular regard to its location within the East Cliff Conservation Area.

### **Reasons**

#### *Character and appearance*

3. 33 Upper Rock Gardens is a five storey, mid-terrace, period property which has been converted into residential flats. No 33A, the appeal property, is a two bedroom flat occupying the entire lower ground floor, with sole use of the rear
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garden. The building has an original three storey outrigger which, at lower ground level, has been extended by a modest single storey conservatory. It is proposed that the conservatory be removed and replaced by a full width single storey addition to an increased depth.

4. The property lies within the extensive East Cliff Conservation Area where the residential streets within are largely characterised by long straight period terraces with uniform frontages faced with smooth stucco render. The terrace on the east side of Upper Rock gardens has characteristic three storey outriggers covering the majority of the properties widths. However, there are also a number of properties that have been extended further at lower ground floor level which I noted at my site visit, given that the terrace is partly viewable from the car park beyond to the rear.
5. No 33A's rear garden is enclosed by sizeable extensions to both the immediate neighbouring properties, each of which are higher and deeper than is now proposed at the appeal site. The extension at No 32, approved by the Council in 2010, is L shaped and fully encloses the property's rear elevation. The appeal proposal would extend back some 1.6m into the side recess, but would leave a small area to the main rear wall of the property undeveloped, creating a lightwell for the flat's main bedroom and a small courtyard, accessed from both the bedroom and kitchen.
6. In June 2013 the Council adopted a Supplementary Planning Document 'design guide for extensions and alterations' (SPD) that advises against extensions projecting beyond the property's side wall which, applied to this case, would include the side wall of the projecting wing or outrigger. In relation to other SPD criteria for rear extensions the proposal accords in that its flat roof would be below cill height and more than half the depth of the rear garden would still remain for the flat's occupiers. The SPD also addresses infill extensions and advises that these should not be overbearing on neighbouring properties and should not normally extend beyond the wall of the outrigger. Whilst the proposal does not comply with the latter criterion it would have no effect on either neighbours' amenities due to the high facing flank walls to the extensions at Nos 32 and 34, neither of which contain facing windows.
7. Given its contextual setting I consider that the extension would be of an appropriate scale, in that neither its depth nor height would exceed that of the neighbouring extensions. The existing conservatory, due to its form and appearance, relates poorly to the original main building and its replacement with the proposed larger extension would result in a better proportioned development and to a more sympathetic design. The bedroom at the end of the recess, is already tunnelled, being between the outrigger, extended by the existing conservatory, and the addition to No 34. As such, I do not consider that the design, incorporating a lightwell for the bedroom, would impact on the visual appearance or character of the property.
8. Turning to the property's location in the East Cliff Conservation Area it is now settled law that preserving the character or appearance of a conservation area can be achieved, not only by a positive contribution to preservation, but also by development which leaves the character or appearance unharmed. In this instance, bearing in mind the existence of other single storey extensions along

the terrace and, more particularly to the properties on either side, I do not believe that any significant harm would result from the proposed development.

9. I conclude that the proposal would be appropriate in its setting and neither the character nor the appearance of the East Cliff Conservation Area would be harmed. Both the character and appearance of the Conservation Area would thereby be preserved. Accordingly, the requirements of Policies QD14 and HE6 of the Brighton and Hove Local Plan would be met, along with the objectives of the SPD.

### **Conclusion and Conditions**

10. For the above reasons, and having had regard to all matters raised, I conclude that the appeal should be allowed.

11. I have considered conditions in the light of advice in Circular 11/95. Apart from the standard time limitation condition the Council has suggested two others. For the avoidance of doubt and in the interests of proper planning I shall impose a condition requiring that the development be carried out in accordance with the approved plans. I shall also impose a condition requiring that matching materials for the external surfaces be used in the extension's construction.

*Timothy C King*

INSPECTOR