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## Appeal Decision

Site visit made on 11 February 2015

by **R Allen B.Sc (Hons), PGDip, MRTPI**

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

Decision date: 24 February 2015

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**Appeal Ref: APP/Q1445/D/14/2229832**  
**43 Hillcrest, Westdene, Brighton, BN1 5FP**

- 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 Antony Davies against the decision of Brighton and Hove City Council.
  - The application Ref BH2014/02523 was refused by notice dated 30 September 2014.
  - The development proposed is roof extensions to property and erection of solar panels on garage (retrospective).
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### Decision

1. The appeal is allowed and planning permission is granted for roof extensions to property and erection of solar panels on garage (retrospective) at 43 Hillcrest, Brighton, BN1 5FP in accordance with the terms of the application, Ref BH2014/02523, dated 28 July 2014 subject to the following condition:
  - 1) The window located on the first floor flank wall serving a bathroom shown on the approved drawing 0007 First Floor Plan shall be fitted with obscured glazing and shall thereafter be retained.

### Procedural Matter

2. I note the appeal scheme is retrospective but there is an apparent discrepancy between what has been built and the submitted plans. The appeal drawings "007 Side Elevation" and "009 Rear Elevation" show the rear dormer window as being sited slightly lower than the ridge height of the main roof. However at my site visit, I found the dormer window ran flush with ridge such that the dormer window appeared to me to be a little larger than shown on the drawings. It is not clear to me whether both parties have based their cases on the dormer window as built, or as shown on the drawings. In reaching my decision, I have considered the appeal against the submitted drawings, but have had regard to the development as built, and I am satisfied neither party is caused any injustice by me taking this approach in determination of this appeal.

### Main issue

3. The main issue is the effect of the proposed development on the character and appearance of the host property and the wider street scene.

### Reasons

4. The appeal property lies within a residential street of tightly-knit and modestly-sized semi-detached bungalows. Some two-storey dwellings lie further along

- the street. Roof forms of the bungalows are generally shallow pitched with low eaves and ridge heights, which include a mix of gabled and hipped ends, dormer windows and roof lights. The property is set back and higher than the road, with a narrow shared driveway to the side leading to the rear garage.
5. I found from my site visit that the gabled roof to the appeal property was only noticeable when viewed directly outside the property, with its existence becoming less apparent from wider distances along the street. Although I saw that the symmetry had changed between the site itself and its neighbour No 41 Hillcrest, the relatively low scale and height of the overall roof form persuades me that the alteration is relatively insignificant, and that it has not harmed or unbalanced the pair of bungalows. Nor does it appear incongruous within the wider street scene.
  6. At the rear, I found that dormer windows of varying sizes were not an uncommon presence on rear roof slopes, and indeed the adjoining pair of bungalows Nos 45 and 47 Hillcrest have full height and width dormer windows which appear almost identical in size and design to the scheme as built at the appeal property.
  7. Policy QD14 of the Brighton and Hove Local Plan 2005 (LP) says planning permission for extensions or alterations, including the formation of rooms in the roof, will only be granted where proposed development is well designed, sited and detailed in relation to the property, adjoining property and the surrounding area. The Council's Supplementary Planning Document 12 entitled Design Guide for Extensions and Alterations 2013 (SPD12), says dormer windows are inappropriate in design where they occupy the full width of the roof, and that they should be kept as small as possible and clearly be subordinate and set well off the sides, ridge and eaves of the roof. The supporting structure it says should be kept to a minimum and avoid both "heavy" appearances and large areas of cladding, the rule of thumb being the dormer should not be substantially larger than the window.
  8. The dormer window as shown on the submitted drawings would occupy almost the full width and height of the main roof, and the three windows would align poorly with those on the ground floor. I find it would be an unattractive feature, would dominate the rear roof slope and would appear excessively large against the host property. As such the dormer window would not accord with requirements of LP Policy QD14 or satisfy the guidance in SPD12. The dormer as built does not alter my findings.
  9. However, it seems to me that SPD12 would only ever likely have limited application as a dormer window, both as shown on the submitted drawings and as built, would normally fall under permitted development under Class B of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) (GPDO). The GPDO allows for dormer windows to be built in such a fashion provided that it would not exceed the highest part of the existing roof, which neither the appeal scheme as shown or as built would do, or that it would not exceed 50cu.m in volume.
  10. The appellant asserts that the roof alteration taken in isolation would fall to be considered as permitted development. It is not clear if he is referring to the scheme as shown or as built, however given that there is only a limited difference in size between the two, I find it likely both would apply, and the Council has not disputed or contested any of these points. It is because of the

existence of the pitched roof to a previous kitchen extension that cumulatively the development marginally exceeds the permitted volume allowed by the GPDO. Again there is no dispute on this point from the Council.

11. The appellant further asserts that if the appeal were to fail, his intention is to replace the kitchen pitched roof with a flat roof to remove the additional volume and allow the development to comply with the GPDO. Faced with the more complicated alternative of modifying the main roof structure and dormer window, I find this would not be a particularly onerous task, and that it would be highly probable that the applicant would indeed take that course of action. It follows that the roof alteration and dormer window addition would remain, such that to dismiss the appeal on the harm that I have found would be a somewhat futile exercise. I have attached significant weight to this fallback position.
12. In applying the planning balance, I find the dormer window to be excessively large, unattractive and poorly related to the host dwelling such that it would not accord with LP Policy QD14 or the guidance in SPD12. However the fallback position is a material consideration which outweighs LP policy QD14 and the SPD such that the balance lies in favour of the scheme.
13. SPD12 says roof lights should be kept to as few and as small as possible, should relate well to the scale and proportions of the elevation below, and should align or centre with windows below where possible. The proposed roof lights are large in number and do not align directly with the ground floor windows below. However, I find they are not so large or numerous to result in a cluttered appearance or harm the existing roof slopes, a good proportion of which would be retained.
14. The solar panels mounted on the garage roof are largely unseen from the road such that I found they had little bearing on the character and appearance of the street scene.

### **Other Matters**

15. I note the comments of the occupiers of the neighbouring property at No 45 Hillcrest in respect to privacy should the kitchen flat roof be implemented. However as I am allowing the appeal, I have not considered this issue further.

### **Conditions**

16. I have considered the conditions suggested by the Council against paragraph 206 of the National Planning Policy Framework. I have imposed a condition requiring the side window, serving a bathroom, be obscured glazed in the interests of protecting living conditions of the neighbour at No 45 Hillcrest. However as the scheme is retrospective, I find imposing conditions relating to time limits, materials and approved drawings to be unnecessary and as such I have not imposed them.

### **Conclusion**

17. For the reasons given above I conclude that the appeal should be allowed.

*R Allen*

INSPECTOR

