



Appeal Decision

Site visit made on 26 February 2015

by Timothy C King BA(Hons) MRTPI

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

Decision date: 9 March 2015

Appeal Ref: APP/Q1445/D/14/2229427

28 Upper Rock Gardens, Brighton, East 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 John Lumley, against the decision of Brighton & Hove City Council.
 - The application Ref BH2014/02025, dated 28 July 2014, was refused by notice dated 19 September 2014.
 - The development proposed is the demolition of existing rear lean to and erection of single storey rear extension.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of the existing rear lean to and erection of a single storey rear extension at 28 Upper Rock Gardens, Brighton, BN2 1QE in accordance with the terms of the application Ref BH2014/02025, dated 28 July 2014, 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. PL01, PL02, PL03(A), PL04, PL05(A), PL06, PL07.
 - 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 host building.

Reasons

3. 28 Upper Rock Gardens is a four storey (including basement) mid-terrace, residential building. The building has an original two storey outrigger which, at ground level, has a single storey lean-to structure attached. It is proposed that the lean-to, which did not appear to me as being in the best state of repair, be removed and replaced by a full width, flat-roofed, single storey L-shaped addition, projecting some 3.1m from the main rear wall and approximately
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- 1.25m from the outrigger's limit. The extension's depth against the boundary wall, beyond which is the rear yard of the adjoining property, No 27 Upper Rock Gardens, would be roughly comparable with that taken up by the existing lean-to structure.
4. I have taken into account the representations from the owner/occupier of No 27 as regards a potential loss of light to this neighbouring building. However, although the existing lean-to's pitched roof would be replaced by a flat-roofed arrangement, the maximum height would remain unchanged and, when combined with the similar depth involved, I do not consider that No 27 would suffer any significant harm. A high common boundary enclosure with No 29, on the opposite side, comprises of a wall overlain by vegetative screening and, whilst I have also had regard to the representations from this neighbour, I agree with the Council in its assessment that this property, similarly, would be unaffected by the proposal.
 5. The Council's Supplementary Planning Document 'Design guide for extensions and alterations' (SPD) 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. 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 or wrap around to the rear elevation. Whilst the proposal does not comply with the latter two criteria, it would have no significant effect on the living conditions of either neighbouring occupiers and would, I consider, due to the removal of the lean-to and replacement with a better quality rear extension, represent an improvement on the current situation.
 6. The Council considers that the wrap-around nature of the extension and a slight overhang to the boundary wall would cause harm to the character and appearance of the host property. I disagree and, given the circumstances, I consider that the proposed extension would be to an appropriate scale and would not impact on the visual appearance or character of the property.
 7. I note that the property lies within a locally designated conservation area. However, neither party has expressed a view regarding any effect of the proposal on the character and appearance of the 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. Nonetheless, I have had special regard to the statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area. In this respect, and as the proposed extension cannot be seen from the street, I am satisfied that it would preserve those interests.
 8. At my site visit I witnessed that the existing lean-to overhangs more than half the width of the boundary wall, and the proposal would involve a similar arrangement. To this end the appellant served notice on the owner of the adjoining property, No 27, and the appropriate Certificate B was submitted with the planning application. In the circumstances the appellant will likely not have full, legal control to implement the proposal as the submitted plans would

suggest. Whilst I acknowledge that this may have implications for the scheme's implementation were the appeal to succeed, I have made my decision only on the planning merits of the case.

9. I thereby conclude that the proposal would not be harmful to the character or appearance of the host building. It would also not be inconsistent with the aims and objectives of Policy QD14 of the Brighton and Hove Local Plan and neither would it conflict with the relevant advice contained in the SPD.
10. For the above reasons, and having had regard to all matters raised, I conclude that the appeal should succeed. As regards conditions, in addition to the standard time limitation condition, 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 in order to ensure a satisfactory appearance.

Timothy C King

INSPECTOR

