
Appeal Decision

Site visit made on 13 April 2015

by Ron Boyd BSc (Hons) MICE

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

Decision date: 05/05/2015

Appeal Ref: APP/Q1445/D/15/3003875
15 Windlesham Road, Brighton BN1 3AG

- 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 Leo Horsfield against the decision of Brighton & Hove City Council.
 - The application Ref BH2014/03232, dated 25 September 2014, was refused by notice dated 2 January 2015.
 - The development proposed is described as extension to existing terrace with balustrade, steps to garden level and installation of rooflight.
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Decision

1. I dismiss the appeal.

Procedural matter

2. The description of the proposed development in the heading above is that used by the Council in its notice of refusal. I consider it more accurate than that on the application form and it has been adopted by the appellant in his appeal form.

Main issue

3. I consider this to be the effect the proposed use of the development would have on the living conditions of occupants of neighbouring properties.

Reasons

4. The appeal property is the north-eastern half of a pair of semi-detached houses, Nos. 15 and 13, on the north-west side of Windlesham Road. The house comprises a basement, ground floor and two upper floors. The ground floor is at street level at the front of the house and some 2.5m above back garden level at the back of the house. At the time of my site visit a rear and side extension at basement level was nearing completion under permission BH2014/02553.
5. Prior to the above permitted work being carried out the ground floor extended beyond the rear elevation to a depth of 1.8m to form a shallow terrace or veranda some 6m wide from the boundary with No. 13. The rear elevation of No. 13 was, and remains, a mirror image of that arrangement other than that the south-western half of its ground floor terrace is fully enclosed. However, both dwellings had a 1.8m deep terrace some 2.5m above back garden height

- immediately adjacent to their mutual boundary and any overlooking would also have been mutual.
6. The permitted basement extension projects into the garden just over 5m beyond the ground floor rear elevation with its flat roof incorporating the existing terrace. The present proposal is to use the whole of the flat roof, which has an overall depth of some 5m or so and a maximum width of around 9m as a roof terrace. Steps from the roof down to the garden would be provided at its north-eastern end and a rooflight approximately 4m x 0.9m has been installed alongside the boundary with No. 13.
 7. The proposed use would be a significant change from the situation where the two properties both had 1.8m deep terraces. I consider it would be likely to amount to a high level intrusion over the back garden area which would have an unacceptable adverse impact upon the living conditions of the occupants of No.13 in respect of increased overlooking, overbearing presence, and loss of privacy. In view of the roof's area and height above the gardens there would be the clear potential for its use as a terrace, which, if permitted, would run with the property and not just with the present occupants, to result in noise and disturbance extending beyond the immediately adjoining property.
 8. I conclude that the proposed use of the roof as a terrace would be likely to be harmful to the living conditions of occupants of neighbouring properties and, as such, contrary to Policies QD14 (a) and (b) and QD27 of the Council's Local Plan 2005. It would also conflict with the core planning principle referred to in the Government's National Planning Policy Framework that planning should always seek to secure a good standard of amenity for all existing occupants of land and buildings and should contribute positively to making places better for people.
 9. I have taken account of the points made by the appellant in support of the proposal including the contentions that the extended fencing erected along the boundary with No 13 would overcome any perceptions of overlooking or loss of privacy and that the position of the rooflight would ensure that the useable area of the proposed terrace would be at least 1.5m from the boundary. However, neither these, nor any of the matters raised in the evidence are sufficient to outweigh my conclusion in respect of the main issue which has led to my decision on this appeal. For the reasons given above I conclude that the appeal should fail.

R.T.Boyd

Inspector