



Appeal Decision

Site visit made on 14 April 2016

by Lynne Evans BA MA MRTPI MRICS

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

Decision date: 19 April 2016

Appeal Ref: APP/Q1445/D/16/3143319

1 Sussex Road, Hove BN3 2WD

- 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 Whelan against the decision of Brighton & Hove City Council.
 - The application Ref: BH2015/02785 dated 29 July 2015, was refused by notice dated 18 November 2015.
 - The development proposed is removal of part of a pitched roof and construction of a roof terrace over an existing rear extension. Forming a new opening at first floor level for a doorway to the roof terrace.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. At the appeal stage, the Appellant has offered to undertake a number of amendments to the scheme proposals in order to try and overcome the Council's reasons for refusal. The Appellant has described them as 'non-material' amendments but in seeking to overcome the reasons for refusal of planning permission, I am not persuaded that they can be considered in this way. Moreover, there is no opportunity within the appeal procedures to enable the proposed changes to be considered by the Council or to be the subject of consultation with surrounding neighbours. Whilst I understand the Appellant's willingness to seek to address the reasons for refusal, I am unable to take these proposals into account and must necessarily consider the appeal on the basis of the refusal and the plans that were determined at the application stage.

Main Issues

3. The main issues in this appeal are:
 - a) The effect of the proposal on the living conditions of surrounding neighbours, with particular regard to overlooking and loss of privacy and
 - b) The effect of the proposal on the character and appearance of the existing property and of the Cliftonville Conservation Area.
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Reasons

Issue a) Living Conditions

4. The appeal property is a terraced residential property in a mixed use area, including residential dwellings as well as commercial and retail uses in a closely developed area between Kingsway and King's Esplanade. It is one of four residential properties in a short terrace on the west side of Sussex Road with a retail/commercial use on its northern side, which in turn adjoins the rear of premises fronting the south side of Kingsway and known as Victoria Terrace. These premises are in a mix of retail and commercial uses at ground floor, some of which are currently vacant and there are separate entrances to the upper floors, although the uses of all of upper floors is not, in each case, readily apparent. There is an alley way to the rear of the appeal property and neighbouring properties which runs between Nos 17 and 18 Victoria Terrace along the rear of the residential properties and re-joins Sussex Road to the south of No 4.
5. The proposal seeks to introduce a rear roof terrace at the appeal property, with access from a new door at first floor level. The terrace would be created by removing part of the pitched roof to the rear projection and building up the surrounding walls. I appreciate that the proposal has been designed to try and avoid direct overlooking of the rear gardens to the adjoining properties to the south. In order to try and achieve this a planter has been designed in along the southern edge of the roof terrace to try and prevent people standing close to the southern edge of the roof terrace. However I am not satisfied that this feature would prevent people encroaching closer to the southern edge of the roof terrace or that the planter could be required to be retained in perpetuity. It is my view that there could be direct overlooking over parts of the neighbouring gardens to the south with a resultant material loss of privacy.
6. Furthermore, I agree with the Council that, given the very close relationship between the properties, there would also be the opportunity for overlooking of some of the rear windows in the adjoining property with a consequent material loss of privacy.
7. The use of the upper floors of all of the properties within Victoria Terrace is not clear, although there seems to be no dispute between the Appellant and the Council that there is residential use in at least parts of Nos 16 and 17. The residential use of part of No 17 has also been confirmed in representations at the application stage. I consider that from the proposed roof terrace, it would be possible for direct views, at short range, towards the rear windows serving habitable rooms of Nos 16 and 17 Victoria Terrace with a consequent material loss of privacy for these neighbours. There would also be direct views towards the rear gardens and yards of properties further to the west along Victoria Terrace although, and notwithstanding the comments of the Appellant, there is no definitive information before me as to whether any of these areas are used in connection with residential uses of the upper floors of those properties.
8. I therefore conclude that the proposal would materially harm the living conditions of adjoining neighbours, with particular regard to overlooking and loss of privacy and particularly in respect of the immediate neighbours in Sussex Road as well as in Victoria Terrace. This would conflict with one of the

Core Principles of the National Planning Policy Framework (Framework) as well as Policies QD14 and QD27 of the adopted Brighton & Hove Local Plan (Local Plan) and the Council's Supplementary Planning Document 12: Design Guide for Extensions and Alterations (SPD), all of which seek a high quality of design which respects the amenities of existing and future occupiers.

Issue b) Character and Appearance

9. The appeal property lies just within the south-west boundary of the designated heritage asset of the Cliftonville Conservation Area, which extends from Holy Trinity Church in the north along predominantly residential streets to King's Esplanade, with a variety of attractive properties, mainly from the mid Victorian period. Although there have been many alterations and additions to individual properties over time, the traditional mid-Victorian pattern of development sets the character and appearance of the local area.
10. In the immediate vicinity of the appeal site there are a number of rear additions including flat roof extensions. However, the proposal the subject of this appeal would have a varied form in terms of the height of its enclosing walls, and the curved walls and the introduction of three round recess features on the northern elevation would be alien features which would detract from the more traditional form and appearance of the property. There would also, in my view, be an awkward relationship in terms of the height of the enclosing walls to the roof terrace with the remaining pitched roof to the rear projection. I consider that the proposal would result in an incongruous addition to the appeal property which would detract from its traditional character and appearance at the rear.
11. Although the proposal would not be visible from the front within Sussex Road, it would be clearly visible from the alley way to the rear and from surrounding properties. In these views, the proposed roof addition would stand out as a discordant feature which would detract from the character and appearance of the local area and would not preserve the character and appearance of the Cliftonville Conservation Area. This would conflict with the Framework as well as Policies QD14 and HE6 of the Local Plan and the SPD, all of which seek a high quality of design which respects the local context and protects the character and appearance of designated heritage assets.
12. I have noted the varied height of the parapet enclosing the flat roof to No 17 Victoria Terrace. Each proposal must be considered on its individual merits and the existence and form of the roof terrace at No 17 does not persuade me that this proposal should be permitted, given the harm I have concluded.
13. I understand the Appellant's desire to achieve further and improved outdoor amenity space and the benefits that this would confer to the residents of the property, and that such improvements are supported in policy. However, these benefits would not outweigh the harm I have concluded under both of my main issues.
14. For the reasons given above and having regard to all other matters raised, including in representations, I conclude that this appeal should be dismissed.

L J Evans

INSPECTOR

