



Appeal Decision

Site visit made on 29 July 2016

by Timothy C King (BA Hons) MRTPI

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

Decision date: 12 September 2016

Appeal Ref: APP/Q1445/D/16/3149218

212 Mile Oak Road, Portslade, Brighton, BN41 2PL

- 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 Mrs Lucy Walsh against the decision of Brighton & Hove City Council.
 - The application Ref BH2015/04021, dated 6 November 2015, was refused by notice dated 16 February 2016.
 - The development proposed is '*Demolition of existing outbuildings and erection of an ancillary annexe.*'
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. On 24th March 2016 the Council adopted its 'City Plan Part One' (CPPO), some of the policies from which have superseded certain policies within the Brighton and Hove Local Plan (LP). In relation to this appeal CPPO Policy CP12 has superseded LP Policies QD1 and QD2. This, however, has not affected my conclusions as the essence of the new broad policy is clear in that new development should be to a high standard of design giving a strong sense of place.

Main Issues

3. The main issues in this appeal are 1) the effect of the proposal on the character and appearance of the surrounding area; and 2) the effect on the living conditions of neighbouring occupiers.

Reasons

Character and appearance

4. The appeal property comprises of a two-storey, semi-detached dwelling with a long, narrow rear garden to a depth of some 35m which slopes away significantly from the rear of the house. At the bottom of the garden, in the area where the proposed annexe would be sited, there are currently two garages in an apparent poor state of repair. Some vegetative screening is present on all three common boundaries at this point, particularly against No 214 to the north and also the land beyond the curtilage's rear.
-

5. The proposal would involve the erection of a single-storey outbuilding, measuring some 6.6 x 6.2m, with a recess to allow for a balcony feature. It would comprise a residential unit, with self-contained facilities including a lounge/kitchen, a bedroom and a toilet, although I note that there is no bathroom labelled. The pitched-roof building would measure some 2.6m to eaves level, with a ridge height of some 3.5m. Clad in fire retardant render it would be finished with brick quoins at the corners.
6. As a replacement for the two ancillary buildings that currently occupy the rear section of the garden the proposed building would represent something of a visual improvement with the feel of a summer-house. However, I have concerns about its size - whereby its footprint would not be of a dissimilar area to that of the main dwelling - along with its proximity to the nearby boundaries, but also the annexe's remoteness in terms of distance from the main dwelling's rear wall. Relating to these points I have had regard to the Council's Supplementary Planning Guidance 'Design Guide for Extensions and Alterations' (SPD12) which indicates that detached granny annexes will only be acceptable where the scale and appearance of the building is modest in proportion to the site and a clear dependency is retained at all times with the main building. I note the appellant intends that her elderly mother would live in the annexe, but I also understand that she has some health difficulties and, in the circumstances, the separation distance could perhaps prove problematic, especially if no bathroom/shower facilities are planned.
7. Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) Order 2015 allows, in principle, for outbuildings to be erected in residential curtilages, subject to certain provisos. One such condition is that should the proposed building be within 2m of any boundary then no part of that building can exceed 2.5m in height. In this particular instance the maximum proposed height would be approximately 3.5m and this, given the annexe's significant width, would compound the perception of size and scale. Further, at my site visit, although the substantial hedgerow along the divide with No 214 precluded me from viewing beyond the common boundary I was able to see across the gardens progressively southwards and did not witness any such outbuildings in the gardens of the dwellings to the south of the appeal site. In the circumstances, I consider that the annexe building proposed would appeal as something of an anomaly in its contextual setting and, notwithstanding any fallback position by way of householder permitted development entitlement, the proposed building goes considerably beyond the parameters of that which might be erected without requiring the benefit of planning permission.
8. I conclude that the proposal would be harmful to the character and appearance of the surrounding area and would conflict with the aims of the most relevant policy on this issue, LP Policy QD14, which require, amongst other things, for a satisfactory relationship with the main house whilst taking into account local character.

Living conditions

9. Although, due to the effective vegetative screening, the building's impact would be lessened, I still consider that it would likely have an effect on the occupiers of No 210 when using their garden, due to the limited separation distance and

the more openness of the common boundary. To reinforce my view, a two-pane width window lighting the lounge is proposed in the building's flank wall which would directly look over the rear garden of No 210 and beyond. Also, given its closeness to the side boundaries and the proposed front balcony area, upon which persons may like to sit with the lounge's French windows open, I have concerns about possible noise and disturbance being occasioned to neighbouring occupiers from television, radio and music being played. This would be extremely difficult to control and there was no suggestion by either main party as to whether any suitable planning condition could be imposed to temper this possibility.

10. Although the Council comments on the proposal giving rise to an associated intensity of movements I do not consider that the expected level of interaction between the main house and its annexe would give rise to anything remarkably beyond that which would be consistent with a normal level of garden usage. Indeed, I consider that extensions or outbuildings, if used for their intended 'granny annexe' purpose, can satisfactorily perform a function ancillary to the main dwelling. However, the Council also raises the issue of light pollution and the appellant attempts to counter this by mentioning that the sports pitches to the rear are used in the evenings by way of floodlighting. This might be the case, but it does not alter the fact that the building's main aspect would face back up the garden towards the main house, giving rise to the potential for electric light to overspill into No 214's garden.
11. On this main issue I conclude that the proposal, in the absence of any mitigation measures, would potentially be harmful to the living conditions of neighbouring occupiers and would materially conflict with the aims and requirements of LP Policy QD27.

Other matters

12. The appellant has provided me with three separate appeal decision letters relating to, on the face of it, similar developments to that of the current appeal proposal. I have read and considered these but am unable to draw direct and compelling parallels to support the appellant's case. It would appear, in the Croydon case that, unlike the current appeal, the outbuilding could be viewed in accordance with the host dwelling whilst the Inspector indicates that there would be a reasonable separation distance to neighbouring properties, an unlikelihood of noise and disturbance nuisance arising, whilst overlooking would not be an issue.
13. In the Cirencester case, the outbuilding was termed a stable service complex, and was set in the extensive grounds of a large house in a rural location outside development boundaries. The Stoke-on-Trent case was also set in a rural location, but this outbuilding was positioned close to the main dwelling and the amenities of neighbouring occupiers was not seen as an issue. In short, none of the three cases brought to my attention outweigh the harm I have identified would result from the current proposal.
14. Finally, I have had regard to the appellant's particular circumstances and her considered need for additional living accommodation. This appeal turned on what I concluded to be the likely harm arising from the proposed building

shown on the plans before me as opposed to the principle of an annexe development per se. It remains open to the appellant to explore other options.

Conclusion

15. I have found harm on both main issues, which is compelling. For the above reasons, and having taken into account all matters raised, the appeal does not succeed.

Timothy C King

INSPECTOR