



Appeal Decision

Site visit made on 17 February 2010

by **Simon Poole BA(Hons) DipArch MPhil MRTPI**

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

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Decision date:
10 March 2010

Appeal Ref: APP/Q1445/A/09/2113516 40 Varndean Gardens, Brighton BN1 6WL

- 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 Nigel Robinson against the decision of Brighton and Hove City Council.
- The application Ref BH2009/00173, dated 22 December 2008, was refused by notice dated 7 April 2009.
- The development proposed is a single-storey rear extension, first floor front extension, replacement porch, associated external alterations, creation of full width first floor terrace to rear (Amendment to planning permission ref: BH2008/00082).

Decision

1. I dismiss the appeal.

Main Issue

2. Planning permission was granted in June 2008 for a single storey rear extension, first floor front extension, replacement porch and associated external alterations (Ref: BH2008/00082). The appeal proposal is materially the same as the previous scheme apart from the inclusion of a full-width first floor level terrace to the rear of the property. I consider that there is a reasonable prospect that the 2008 permission would be implemented and therefore represents a credible fall-back position.
3. The main issue in this case is therefore the effect of the terrace on the living conditions of occupants of neighbouring properties with particular regard to privacy and noise disturbance.

Reasons

4. The appeal property is a 2-storey detached house situated in an area comprising a mix of bungalows and 2-storey houses of varied design. It is located towards the upper end of Varndean Gardens, a road that rises steeply from west to east. There is a close of bungalows, Fairlie Gardens, to the rear of the appeal site.
5. The first floor level rear terrace would be accessed from 3 bedrooms via large glazed doors, rather than being directly accessible from the main living areas. I also note the appellant's view that it would be used infrequently. However, I consider it necessary to pay due regard to the potential impact of future occupiers of the property and possible future internal changes to the property. As the terrace would extend across the full width of the property, serve a

generous 4-bedroom house and provide pleasant views, I consider that potential would exist for it to be used frequently and, from time to time, intensively.

6. The timber privacy screens at the 2 ends of the terrace would prevent overlooking of the rears of the properties to either side. In addition, the vegetation along the eastern edge of the appeal site's rear garden, combined with the sloping ground, would prevent overlooking of the garden to the rear of 42 Varndean Gardens. However, due to the elevated position of the terrace and the fall in ground levels to the west, I consider that an unacceptable level of overlooking of the rear garden of 38 Varndean Gardens would occur.
7. The bungalows in Fairlie Gardens have relatively short rear gardens and large glazed sliding bedrooms doors in their rear elevations. Although the fence and bamboo along the rear boundary of the appeal site provide a degree of screening I consider that this would not prevent overlooking of a large proportion of the rear garden of 6 Fairlie Gardens. Although I note that the reflection of the sky prevents a view into the rear bedroom of No.6, I do not consider that this would be the case in the evening, nor would it overcome the significant sense of being overlooked that I consider would be experienced by the occupiers of No.6.
8. Despite the privacy screens, and having regard to the size of the terrace, the potential frequency of its use and its elevated position, I consider that there would be a significant change in the level of overlooking occurring compared with that resulting from rear first floor level windows. I conclude that this would unacceptably harm neighbouring property occupiers' privacy and consequently have an unacceptable effect on their living conditions. For these reasons the proposal would be contrary to Brighton and Hove Local Plan (LP) Policies QD14 and QD27, which state that planning permission will not be granted for development that would result in a loss of amenity to existing residents.
9. I am satisfied that the combination of the screens and the separation distance between the terrace and rears of the properties to either side would be sufficient to ensure that unacceptable levels of noise disturbance would not occur. I am also satisfied that other neighbouring properties are a sufficient distance from the terrace to ensure that residents would not experience unacceptable noise disturbance due to the use of the terrace. However, this does not outweigh my conclusion above.

Other Matters

10. I have considered the presence of other terraces and balconies in the area, including those at Surrenden Court. However, the proposed terrace would be significantly larger than others in the area and would serve a large house rather than a flat, therefore resulting in potentially greater frequency and intensity of use.
 11. The appellant has stated that the terrace would improve the appearance of the rear elevation of the property. Although I consider that it would provide more interest to an otherwise plain area of flat roof, this matter does not outweigh my conclusions in respect of the main issue.
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12. I do not consider that the support of some neighbours is decisive given the planning harm identified above and the fact that ownership of nearby properties may change. I therefore attach limited weight to this.

Conclusions

13. For the reasons given above, and having regard to all matters raised, I conclude that the appeal should be dismissed.

Simon Poole

INSPECTOR

