



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

The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

☎ 0117 372 6372
email: enquiries@pins.gsi.gov.uk

Decision date:
19 March 2010

Appeal Ref: APP/Q1445/A/09/2114717 114 Hythe Road, Brighton BN1 6JS

- 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 Ms Lindsey Shakoori against the decision of Brighton and Hove City Council.
- The application Ref BH2009/00437, dated 23 February 2009, was refused by notice dated 23 April 2009.
- The development proposed is the construction of a roof terrace.

Decision

1. I dismiss the appeal.

Procedural Matter

2. The roof terrace has been constructed although the screens shown on the application drawing are not in place.

Main Issues

3. The main issues are the effects of the appeal scheme on the living conditions of occupiers of neighbouring properties, with particular regard to privacy and noise disturbance, and on the character and appearance of the area.

Reasons

Living Conditions

4. The appeal property is a 3-storey mid-terraced house with accommodation in the roofspace. The properties in the terrace have 2-storey rear projections, most of which have shallow-pitched roofs. On the appeal property the roof has been replaced by a small terrace, which is accessed via a glazed door and enclosed on its 3 outer edges by railings. The appeal proposal would involve the replacement of the railings on the 2 flank sides of the terrace by 1.8m high opaque screens.
5. I consider that the screens would ensure that adequate privacy to rear rooms of neighbouring properties would be maintained. However, due to the terrace's elevated position I consider that an unacceptable degree of overlooking of large proportions of neighbouring rear gardens and the lower-lying properties in Preston Drove would result. Although a certain level of overlooking is inevitable in such situations, I consider that the effect of the proposal would be

significantly more harmful than that resulting due to overlooking from upper floor rear windows from within the appeal dwelling.

6. For these reasons I consider that the scheme would have an unacceptable effect on the living conditions at neighbouring properties. I therefore conclude that it 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.
7. The roof terrace is small and cannot accommodate many people. As it serves a house with a garden it does not therefore form the only area of private amenity space. For these reasons I consider that the level of use and therefore potential noise generated on the terrace would be low and that the screens would adequately mitigate disturbance to nearby properties. I therefore consider that the proposal would not result in unacceptable harm to the living conditions of neighbouring property occupiers in respect of noise.

Character and Appearance

8. The terrace is in a prominent position and can be viewed from Preston Drove properties and from the rear gardens of Hythe Road properties. Although the opaque screens would appear as thin enclosing walls extending out from the house, when viewed obliquely from points to either side of the appeal property they would be highly prominent and incongruous features. I consider that they would have an unacceptable effect on the character and appearance of the area and that this would outweigh any reduction in noise and overlooking that they would afford. For this reason I conclude that the scheme would fail to comply with LP Policy QD14, which states that planning permission will only be granted for development that is well designed, sited and detailed in relation to the surrounding area.
9. Whilst I note that the detailed design of the screens could be subject to a planning condition, to serve the purpose for which they are intended the screens would need to be opaque and the height that has been proposed. I consider therefore that the harm identified above could not be overcome through the imposition of a condition requiring approval of details of the screens.

Other Matters

10. I note that there are second floor rear terraces on 2 nearby properties. However, based on the information before me, it appears that these have been in place for some time. I therefore attach limited weight to their existence in reaching my decision.
11. I have considered concerns expressed by a local resident that the proposal would set a precedent for similar development. Whilst each application and appeal must be treated on its individual merits, I can appreciate the concern that approval of this proposal could be used in support of similar schemes. I consider that this is not a generalised fear of precedent, but a realistic and specific concern. Allowing this appeal would make it difficult to resist further planning applications for second floor level rear terraces, the cumulative effect of which would be to exacerbate the harm which I have described above.

Conclusions

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

Simon Poole

INSPECTOR

