



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/09/2114410** **33 Cissbury Road, Hove BN3 6EN**

- 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 Sly against the decision of Brighton and Hove City Council.
- The application Ref BH2009/00410, dated 16 February 2009, was refused by notice dated 30 April 2009.
- The development proposed is described as a side extension to form a separate two-bedroom dwelling.

Decision

1. I dismiss the appeal.

Main Issues

2. The main issues in this case are:
 - i) the effect of the proposal on the character and appearance of the host property and the surrounding area;
 - ii) the effect of the proposal on the living conditions of occupiers of neighbouring properties, with particular regard to outlook, daylight and private amenity space provision;
 - iii) whether the proposal would result in satisfactory living conditions for future occupiers of the property, with particular regard to private amenity space provision; and
 - iv) the effect of the proposal on the health and life expectancy of the copper beech tree, which is protected by a Tree Preservation Order.

Reasons

3. The appeal property is a detached 2-storey building which comprises 2 flats. It is situated in an area predominantly comprising terraces and semi-detached houses of similar age and appearance laid out in parallel streets. It occupies a corner site at the junction between Cissbury Road and Old Shoreham Road. The property has a rear garden with a boundary to the latter road and a double garage to one end.

Character and Appearance

4. The proposal would comprise a 2-storey extension to the rear of the appeal property to create a 2 bedroom house facing Old Shoreham Road. The

majority of the frontage of the proposed dwelling would be set back behind the building line of the host property. An off-street parking space, cycle storage and garden space would be provided to the side of the development.

5. The proposal would result in a significant increase in the length of the Old Shoreham Road frontage and a significant reduction in the gap between the appeal property and 2 Old Shoreham Road, a feature that I consider forms an important part of the character and appearance of the area. Although it would have a lower ridge level than the host property, due to the substantial length of the frontage I consider that the proposal would not appear subservient to the host property.
6. Although I note that the proposal includes features that would mirror those in the host property, such as a bay window, I consider that the street-facing gable portion of the proposal together with the mismatch between the proposed and existing eaves levels would result in a development which would appear incongruous in the street scene.
7. I conclude on this issue that, due to its siting, bulk and design, the proposal would fail to relate adequately to the host property, appear incongruous in the street scene and have an unacceptable effect on the character and appearance of the area. It would therefore fail to comply with the aims and objectives of the Brighton and Hove Local Plan (LP) Policies QD1, QD2 and QD14, which seek new buildings and extensions to existing buildings to have a high standard of design and enhance the positive qualities of local neighbourhoods.
8. Although the proposal would screen views towards the rears of the Cissbury Road properties and cover up the unattractive flank wall of the host property, this does not outweigh my conclusions on this matter.

Living Conditions – Neighbouring Residents

9. The proposal would extend about 4.5m beyond the predominant rear building line of the neighbouring properties in Cissbury Road. The 2-storey part of the proposal would be about 2.5m from the rear boundary of 2 Old Shoreham Road and approximately 3m from the narrow alley between the appeal property and 31 Cissbury Road.
10. 31 Cissbury Road has first floor windows that face north towards the appeal site and west towards the rears of properties in Montifiore Road. Outlook from the windows in No.31 is currently partly restricted by No.33 and partly open to Old Shoreham Road via the appeal site. As a result of the appeal proposal's close proximity to No.31 and its height and bulk, I consider that outlook from nearby windows would be significantly reduced. For the same reasons I consider that levels of daylight within the rooms served by the windows would be severely compromised.
11. The proposal would result in the loss of most of the rear garden, which currently provides the primary private amenity space for the ground floor flat in the host property. The area retained would be about 6.5sqm and would be severely enclosed by a combination of the existing and proposed development. Due to this substantial loss of available private amenity space, I consider that the proposal would have an unacceptable effect on the living conditions of the current and future occupiers of the ground floor flat at 33 Cissbury Road.

12. I conclude therefore that the proposal would have an unacceptable effect on the living conditions of the occupiers of both No.31 and the host property. The proposal would therefore conflict with 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.
13. As the proposal would have high level secondary windows in the upper floor rear elevation and no windows in the upper part of the flank elevation facing 2 Old Shoreham Road and 61 Montifiore Road, I am satisfied that unacceptable overlooking would not occur. Having regard to the distance between the appeal proposal and the rear windows in 2 Old Shoreham Road and 61 Montifiore Road, together with the fact that the proposal would have a narrow flank elevation facing those properties, I do not consider that there would be an unacceptable effect on outlook from those properties.

Living Conditions – Future Occupiers

14. The proposal would have approximately 12sqm of a private amenity space. I consider that this level of provision would be substandard for a 2-bedroom house in a location of this character and would result in unsatisfactory living conditions for future occupiers in this respect. The proposal would therefore be contrary to the aims of LP Policy QD27, which states that planning permission will not be granted for development that would result in a loss of amenity to proposed residents.

Health and Life Expectancy of the Tree

15. A copper beech tree, which is the subject of a Tree Preservation Order, is situated close to the appeal site. The tree's crown appears to be broadly asymmetrical: some lower branches extend horizontally towards the rears of the terraces to either side at about eaves level, whilst the branches above the appeal site extend out above the eaves level of surrounding properties. As a result of this, I consider that the levels natural light reaching the kitchen and courtyard amenity area would not be affected to such a degree by the tree canopy as to give rise to a need for pruning that is significantly greater than that required to ensure adequate light reaches existing dwellings.
16. The root protection area of the copper beech tree extends under part of the appeal site. However, the Council considers that the proposal would not adversely impact on the root system and there is no evidence before me to suggest otherwise. I therefore conclude that the proposal would not have an unacceptable effect on the health and life expectancy of the copper beech tree. The proposal would therefore comply with LP Policy QD16 which states that development which would damage or destroy a preserved tree will not be permitted.

Other Matters

17. The appellant has referred to the Council's *Strategic Housing Land Availability Assessment* and states that the Council has been unable to demonstrate a 5-year supply of deliverable housing sites in the city. Planning Policy Statement 3: *Housing* (PPS3), advises that in these circumstances planning applications for housing should be considered favourably having regard to paragraph 69 of PPS3, which among other matters, refers to the suitability of sites for housing

and design quality. I consider that the proposal would not meet some of the objectives of paragraph 69. I conclude therefore that the contribution the proposal would make towards housing supply in the city would not outweigh the harm that I have identified in respect of the main issues in this case.

18. The appellant has referred to an earlier appeal decision (Ref APP/Q1445/A/09/2105969). In that case my colleague concluded that the proposal complied with the requirements of paragraph 69 of PPS3. I therefore attach limited weight to this.
19. The appeal site has good public transport accessibility and is close to a range of services and facilities. Although LP Policy QD3 seeks efficient and effective use through higher density development in accessible locations, it also requires that special attention is paid to the design and quality of spaces between buildings and the effects of development on living conditions. For the reasons set out above I therefore consider that the proposal would also be contrary to the aims of LP Policy QD3.

Conclusions

20. Although I have found that the proposal would be acceptable in terms of its effects on the health and life expectancy of the copper beech tree, I conclude overall, for the reasons given above and having regard to all other matters raised, that it would have an unacceptable effect on the character and appearance of the area and on the living conditions of residents of neighbouring properties and future occupiers of the proposed development. The appeal is therefore dismissed.

Simon Poole

INSPECTOR