



Appeal Decision

Site visit made on 29 April 2014

by **P Jarvis Bsc (Hons) DipTP MRTPI**

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

Decision date: 8 May 2014

Appeal Ref: APP/Q1445/D/14/2215266
64 Welbeck Avenue, Hove, BN3 4JN

- 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 Frenchum against the decision of Brighton & Hove City Council.
 - The application Ref BH2013/04037 was refused by notice dated 5 March 2014.
 - The development proposed is raised wooden decking to the rear of the property, to be flush with the rear lounge floor level.
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Decision

1. The appeal is allowed and planning permission is granted for raised wooden decking to the rear of the property, flush with the rear lounge floor level, in accordance with the terms of application ref: BH2013/04037 dated 1st September 2013 and subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 1:1250 site location, 1:500 site plan, rear elevation (current and proposed), floor plan (current and proposed), side elevation (current and proposed) and south side elevation / section (current and proposed).

Main issue

2. The main issue is the effect on the living conditions of the occupiers of the adjoining property, No. 66 Welbeck Avenue.

Reasons

3. The appeal site is located within a residential street mainly characterised by semi-detached dwellings, albeit the dwelling on the appeal site, like its' immediate neighbour to the north (No. 66) is detached. The dwelling has been extended to the rear with a single storey addition across its entire width.
4. The proposed decking would extend across the majority of the width of the rear extension in place of an existing paved area. However, it would be slightly deeper and would extend right up to the northern boundary with No. 66. The decking would be 0.55 metres above the ground level to be flush with the existing sliding rear patio doors. The existing paved patio is at a lower level with two steps down from the rear doors.

5. The existing boundary with No. 66 is marked by an approximate 2 metre high close boarded fence above which is a row of dense conifers which extend about another 2 metres in height above the fence. These trees are in the adjoining property, No. 66. In my opinion, whilst the height of the decking would be such that it would be possible for a person standing on it to see over the top of the existing boundary fence, the conifer screen within the neighbouring garden effectively prevents any loss of privacy as it provides a dense barrier at the higher level above the fence. I consider that the dense screen and separation provided by these conifers is such that there would be no unacceptable real or perceived level of overlooking.
6. The Council suggests that the existence of this screen would not be sufficient to protect the privacy of the neighbour as it could be removed at any time and is thus not a permanent feature as the decking would be. However, it is my view that as the trees are within the ownership and control of the neighbour affected, it is unlikely that they would choose to remove the trees and thus open views into their property. However, should the trees be removed for any reason in the future, alternative planting or additional boundary treatment would be sufficient to prevent any loss of privacy.
7. I thus find that the proposal would not have a harmful effect on the living conditions of the occupiers of the adjoining property, No. 66 Welbeck Avenue. There would be no conflict with Policies QD14 and QD27 of the Brighton and Hove Local Plan (2005) which seek to ensure that development is well designed, sited and detailed in relation to the property to be extended and does not cause loss of amenity to occupiers of adjoining property.
8. I also find that the proposal would comply with the National Planning Policy Framework which seeks to secure high quality design and a good standard of amenity. The content of the Planning Practice Guidance has also been considered but does not alter my conclusions.
9. The Council has not suggested any additional conditions and I do not consider that any are necessary apart from one to refer to the approved plans in the interests of proper planning and for the avoidance of doubt.
10. I therefore conclude that the appeal should be allowed and planning permission granted.

P Jarvis

INSPECTOR