The Planning Inspectorate

Appeal Decision

Site visit made on 23 January 2017

by Philip Willmer BSc Dip Arch RIBA

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

Decision date: 09 February 2017

Appeal Ref: APP/Q1445/D/16/3162350
230 Mackie Avenue, Brighton, East Sussex, BN1 8SD.

- 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 Julie Wakeford against the decision of Brighton and Hove City Council.
- The application Ref BH2016/02577, dated 11 July 2016, was refused by notice dated 22 September 2016.
- The development proposed is for the erection of an ancillary granny annex.

Decision

1. The appeal is dismissed.

Main Issues

2. I consider the main issues to be:

   a) the effect of the proposal on the character and appearance of the host property and the surrounding area;

   b) whether the proposal would constitute a separate unit of residential accommodation rather than an ancillary use;

   c) its effect on the living conditions of neighbouring residents of number 228 Mackie Avenue, in terms of the potential for overlooking leading to a loss of privacy and what impact a separate unit of accommodation might have on the living conditions of neighbouring residents more generally, with particular regard to the potential for additional noise and general disturbance; and

   d) whether the building, if regarded as a separate dwelling, would provide a satisfactory standard of accommodation.

Reasons

Character and appearance

3. The property the subject of the appeal, 230 Mackie Avenue, was built as a modest semi-detached bungalow. It has been the subject of some alterations, including a single storey rear extension and large full width dormer addition to the rear. The garden is relatively narrow and due to the topography of the site rises steeply up from the rear of the dwelling. There is a detached garage that is adjacent to that at number 232. Although located behind the rear of the

property as extended, it is however set at a lower level than the adjacent rear garden.

4. The appellant proposes the demolition of the existing garage and the erection of a flat roofed one bedroom self-contained granny annex in the rear garden. The proposed annex, that is intended to provide ancillary accommodation to the main dwelling for the appellant's elderly mother, would be set into the garden approximately level with the the top of the steps leading to the garden from the lower terrace. The building would face towards number 228 and have an area of raised decking extending across the garden to the boundary with number 228.

5. It is proposed to remove the existing garage as part of the proposal. However, having regard to the location of the garage at a lower level, even with this removed, in my judgement, due to the narrow width of the rear garden, the previous extension, the topography of the site and the overall footprint and mass of the unit in the context of the site, the proposed building would nevertheless appear so cramped as to constitute an overdevelopment of the site. It would therefore be harmful to both the character and appearance of the host property and the surrounding area.

6. The appellant has drawn my attention to Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development)(England) Order 2015. However, by reference to permitted development rights for householders Technical Guidance (April 2016), I note that while the total area of ground covered by buildings, enclosures and containers may well not exceed 50% of the total curtilage, the height of the proposed building within 2.0 metres of the boundary of the curtilage of the dwelling house would exceed the allowable 2.5 metres. The proposed building therefore does not accord with the current technical guidance. I am therefore not persuaded, as suggested by the appellant, that the building provides a good benchmark as to what might be considered acceptable in terms of scale and the general thrust of good design on this site. In any case I am mindful that an application has been made for full planning permission for the building. I therefore give this consideration very limited weight in the context of this proposal.

7. Consequently I conclude, in respect of the first main issue, that the proposal would be contrary to Policy QD14 of the Brighton and Hove Local Plan and Policy CP12 of the Brighton and Hove City Plan Part One (2016) as they relate to the quality of development and the desire to raise the standard of architecture and design in the city and protect the character and appearance of the area.

Use of the building

8. The appellant states that the proposed building is to be occupied as an ancillary annex to the main property with the future occupant eating, socialising and undertaking household tasks such as laundry within the host property. In support of that position she states that the unit would be occupied by a family member, would not have a separate address or post box, would not have independent services from those connected to the main dwelling, or a separate curtilage or independent access.

9. Nevertheless, the proposed building would contain a kitchen, living room, bedroom and bathroom, all features that would allow the annex potentially to be occupied separately from the host property. Having regard to the size of the proposed kitchenette, I see no reason why a washing machine and even a tumble dryer could not potentially be incorporated so that the occupant would also be able to be responsible for their own laundry. Further, there is no reason why, as in my experience is common, that the services as extended to the unit from the main dwelling may not be separately metered or the cost proportionately split between the occupants, thereby allowing it to be let away from/occupied separately to the host property.

10. Currently access to the rear garden, and thereby any ancillary garden building, is via a gate adjacent to the ground floor window of the rear outshot and therefore its use, other than by a family member or guest, would impact on the occupants of the host property. Accordingly, it would be less likely and indeed undesirable that the annex would be occupied by anyone other than a relative or guest of the occupants of number 230. However, with the garage removed as proposed, it would, in my opinion, be relatively straightforward to provide separate access to the outbuilding that would not impact on the occupants of number 230 and, if required, even divide the existing garden to provide separate curtilages. If this were the case then there is no practical reason why the building could not be provided with its own post box and even its own postal address.

11. For all these reasons I consider that the appellant has failed to demonstrate that the proposed or any future occupier/s of the proposed building would be functionally dependant on the main dwelling and therefore the new building might well operate in the manner of a separate dwelling house. Thus, the development would not accord with the requirement of the guidance within Supplementary Planning Document spd 12–*design guide for extensions and alterations* (adopted 20 June 2013) that advises that detached annexes will only be acceptable where, amongst other things, *a clear dependency is retained at all times with the main property.* It states that dependency can be demonstrated *through the clear sharing of facilities/links with the main building.* This can include, along with other things, the sharing of garden space, kitchen/bathroom facilities and site access.

12. I have taken note of the appeal decisions drawn to my attention by the appellant in support of her proposition, in the event that I were minded to allow the appeal, that a suitably worded condition could be included to restrict the use of the outbuilding to be ancillary to the enjoyment of the host dwelling only. However, given the detail and circumstances surrounding this appeal, I do not consider that such a condition, as used in the examples provided, would enable the ancillary link to be maintained as the unit has the potential to be accessed and function, in terms of being self-contained, with all the necessary day to day living facilities completely independently from the host dwelling at number 230 Mackie Avenue.

Living conditions

13. The proposed building would be orientated on the site such that the entrance door, French doors to the proposed decking and the bedroom and living room windows would face directly towards the property's boundary to number 228,

only about 3.0 metres away. Further, although set into the ground, it would have a significantly raised floor level when compared with the existing house and that of number 228 to the south west.

14. Accordingly, I consider that despite the existing close boarded fence, it might well result in both actual and a perceived overlooking leading to a loss of privacy particularly if occupied as a self-contained unit of accommodation.

15. Furthermore the siting of an annexe, that could be occupied as a permanent self-contained unit of accommodation, would, given the narrowness of the garden plot and the relationship of the access doors and decking to the boundary of 228, result in an increased level and intensity of domestic activity over that of the current household to such an extent as to cause harm to the neighbours' living conditions in terms of noise, light pollution and general disturbance. I do not consider that in this case these concerns could adequately be addressed by additional landscaping to the boundary as suggested by the appellant.

16. I therefore conclude, in respect of the third main issue, that the proposed development would cause harm to neighbours' residential living conditions in this otherwise quiet residential back garden, contrary to LP Policy 27 as it seeks to protect residential amenity.

Standard of accommodation

17. In March 2015 the Department for Communities and Local Government introduced Technical housing standards – nationally described space standards. These standards were to replace the existing different space standards used by local authorities. This requires a one bedroom one person dwelling to have a minimum gross internal floor area of 39 square metres (37 square metres where, as here, it has a shower room instead of a bathroom) with built-in storage of 1.0 square metre.

18. The Council states in its evidence, and this is not contradicted by the appellant, that the floor area of the proposed building would be approximately 34 square metres. Accordingly, although it might provide an adequate level of accommodation as an annex to number 230, as acknowledged by the appellant, if occupied as a self-contained dwelling, the building would not meet the nationally described space standard.

19. Due to the proposed location of the building, the topography of the site and the width of the rear garden, if the curtilage were subsequently divided then the retained usable private amenity space for the host property would, in my judgement, be unacceptably small, in the context of the size of the existing property.

20. I conclude, in respect of the fourth main issue, that if the proposed development were to be occupied as a separate dwelling it would provide a cramped and unsatisfactory standard of residential accommodation and a lack of defined garden space. Accordingly, in that regard, it would fail to meet the likely needs of future occupiers. The proposal would therefore be contrary to LP Policies QD27 and HO5 as they seek to protect the needs of future occupiers.

Conclusions

21. For the reasons given above and having regard to all other matters raised, I conclude that the proposal is not in accordance with the development plan, when read as a whole, and that the appeal should be dismissed.

Philip Willmer

INSPECTOR