
Appeal Decision

Site visit made on 22 January 2018

by Sandra Prail MBA, LLB (Hons), Solicitor (non-practising)

an Inspector appointed by the Secretary of State

Decision date: 05 February 2018

Appeal Ref : APP/Q1445/C/17/3175925

Land at 41 Westfield Avenue North, Saltdean, Brighton, BN2 8HS.

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr D Edwards against an enforcement notice issued by Brighton & Hove City Council.
- The notice was issued on 29 March 2017.
- The breach of planning control as alleged in the notice is without planning permission extensions to the east, west and north elevations and the complete removal and re-construction of the roof with a raised ridge height, incorporating gable ends and a rear dormer window.
- The requirements of the notice are 1. Completely remove the roof from the property and rebuild it to match that shown in drawing 'no.02A- proposed floor plan, section and elevations' and dated August 2011 that was submitted as part of application BH2013/00568 (a copy is included with the enforcement notice for reference); 2. Completely remove the single storey extension from the west elevation of the property.
- The period for compliance with the requirements is 24 weeks.
- The appeal is proceeding on the grounds set out in section 174(2) a) and (c) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: the appeal is dismissed and the enforcement notice upheld

Ground (c) appeal

1. This ground of appeal is that the matters alleged do not constitute a breach of planning control. A breach of planning control comprises the carrying out of development without planning permission. The meaning of development is set out in section 55 of the 1990 Act, as amended, and includes the carrying out of building, engineering, mining or other operations in, on, over or under land.
2. The Appellant argues that the alterations are generally or completely in accordance with permitted development but provides no supporting assessment. The Appellant complains that the Council has provided no measurements but the burden of proof in this appeal rests firmly on the Appellant and that burden has not been discharged on the evidence before me. I do not find the development to benefit from permitted development rights.
3. The Appellant argues that the development causes no greater harm than would be the case for permitted development and I have considered the fallback position when determining the ground (a) appeal.

4. The appeal under ground (c) does not succeed.

Ground (a) appeal and deemed application

Main Issues

5. The main issues in the determination of this appeal are the effects of the development on (i) the character and appearance of the host dwelling and surrounding area and (ii) the living conditions of occupiers of nearby properties with particular regard to overlooking.

Character and appearance

6. The single storey extensions to the east and rear were granted planning permission under application BH2013/00568. Planning permission has been refused for the roof alterations and extension to the west. The notice the subject of this appeal concerns all of these works undertaken in one single operation.
7. The development plan (including saved policies in the Brighton & Hove Local Plan (the Local Plan) and the Brighton & Hove City Plan Part One mirrors the National Planning Policy Framework (the Framework) in seeking to ensure that extensions and alterations respect their surroundings. Policy QD14 of the Local Plan provides that planning permission for extensions and alterations to existing buildings will only be granted if the development meets specified criteria. One of these criteria is that it is well designed, sited and detailed in relation to the property and the surrounding area. I have also taken into account Supplementary Planning Document 12 (Design Guide for Extensions and Alterations).
8. The appeal site is a single storey bungalow. It is located within a row of bungalows which are set below the level of the street mostly behind front boundary planting. The roofs of the bungalows are prominent and have an asymmetrical appearance, fully hipped to the side with projecting gables or hips to the front. The regular design of the roofscape and gaps between the dwellings contribute to the uniform and spacious character and appearance of the area.
9. The development the subject of this appeal is highly visible from the streetscene and dominates the host dwelling and the streetscene. It disrupts the regular design of the roofscape and is out of keeping with the generally uniform character of the area. The development removes the clear separation that exists between detached dwellings in the area. The works dominate the site appearing bulky in comparison with the neighbouring properties. The works create a large building with raised ridge height in contrast to the traditional single storey bungalows characteristic of the locality. The alterations have a material and adverse impact on the character and appearance of the host dwelling failing to preserve its characteristic roof form.
10. My attention is drawn to other extensions and dormers in the area. I do not know the circumstances of these sites but development similar to the works the subject of this appeal are not characteristic of the area. I determine this appeal on its own particular facts.

11. The Appellant comments that the roof tiles will weather down and be less prominent. Whilst this may be the case this will not address the identified harm.

12. I conclude that the development causes undue harm to the character and appearance of the host dwelling and surrounding area and fails to accord with the development plan, including policy QD14 of the Local Plan.

Living conditions

13. The criteria in policy QD14 include ensuring that development would not result in loss of privacy, outlook, daylight/sunlight or amenity to neighbouring properties. Policy QD27 provides that permission will not be granted where development would cause loss of amenity to adjacent users.

14. I find that the rear dormer by virtue of its scale, design and fenestration creates an unduly prominent addition harmful to the living conditions of neighbours. I agree with the views of neighbours who have objected to the development and state that the rear dormer is overbearing and creates a lack of privacy. The absence of objection by some neighbours is not conclusive of the absence of harm. The scale of the dormer, including its Juliet style balcony causes harm to the living conditions of neighbours by reason of overlooking and loss of privacy, contrary to the development plan including policies QD14 and QD27.

Conclusion

15. I have taken into account the availability of permitted development rights. But I consider that the identified harm is significant compared to permitted development rights and that the fall back position does not outweigh the harm identified in relation to the main issues.

16. I have considered whether conditions could overcome the identified harm. I have taken into account the Planning Practice Guidance. But I find no conditions that could overcome the harm.

17. For the reasons given, I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.

Formal Decision

18. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

S. Prail

Inspector

