



Appeal Decision

Site visit made on 29 January 2019

by Tim Crouch MSc DipUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: Wednesday, 20 March 2019

Appeal Ref: APP/Q1445/W/18/3213220

Land Adjacent To 3 Tandridge Road, Hove, East Sussex, BN3 4LU

- 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 T Froude against the decision of Brighton & Hove City Council.
 - The application Ref BH2018/00730, dated 27 February 2018, was refused by notice dated 17 May 2018.
 - The development proposed is erection of one one bedroom house.
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Decision

1. The appeal is allowed and planning permission is granted for erection of one one bedroom house at Land Adjacent To 3 Tandridge Road, Hove, East Sussex, BN3 4LU in accordance with the terms of the application, Ref BH2018/00730, dated 27 February 2018, and the plans submitted with it, 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: unnumbered location plan (1:1250); unnumbered block plan (1:500); and Plan No 1810/01 (Proposed Plans, Elevations and Section).
 - 3) Prior to the construction of the development hereby permitted, samples of all external facing materials, hardsurfacing materials and materials for the front boundary wall shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved sample details.
 - 4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no extensions to the dwelling hereby permitted shall be carried out, nor shall any development within the curtilage to the dwelling be erected or constructed.
 - 5) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no windows/dormer windows above ground floor level, other than those expressly authorised by this permission, shall be constructed.

- 6) Prior to the installation of the dormer window on the southern elevation the type of obscured glazing and details of the openings to be used on the window shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with these details and the obscured glazing shall be retained thereafter.

Procedural Matters

2. The application form refers to the development site as 2 Tandridge Road. The submitted plans are also titled as relating to 2 Tandridge Road. However, the appeal site is clearly shown on those plans as lying adjacent to 3 Tandridge Road. The officer's report, the Council's Decision Notice and the appellant's statement of case and the appeal form all refer to the land adjacent to No 3. This was also reflected in the previous appeal decision. I am also satisfied that that is the correct address and have used it in this decision.
3. The proposal is identical to a scheme granted permission at appeal¹ in 2017, with the addition of a dormer window to the south elevation. On my site visit I saw that the new allowed dwelling has been built and occupied. I have therefore considered the appeal on this basis.

Main Issue

4. The main issue is the effect of the proposal on the living conditions of the occupiers of 309 Kingsway with particular regard to perceived overlooking and loss of privacy.

Reasons

5. The site has permission for a new dwelling which has been constructed and occupied. This proposal differs from the permission due to the inclusion of a side facing dormer window. This would face the neighbouring property at 309 Kingsway, which is split into ground floor and first floor units. The dormer window would be adjacent to its outdoor living space.
6. The proposed dormer would mirror the size and design of the existing dormer on the north elevation, and would serve the bathroom and part of the bedroom. I saw on my site visit that whilst large, the existing dormer is proportionate within the extensive roof slope and set comfortably within it. It is a significant but not overly dominant feature. The obscure glazing limits visibility through from the occupants, with the main element also fixed closed. The replication of this to the shared boundary with No 309 would not be so dominant and unneighbourly in form, use or detail to give rise to a significant perception of overlooking.
7. The proposed dormer would serve the bathroom and a corner of the bedroom. It may introduce some light and silhouettes on this boundary, however it is likely that occupants of these private spaces would also expect to prevent this to ensure privacy. In any event, the type of obscure glazing can be controlled through condition and these are also not areas of main living spaces which would generate more frequent use. The high level element of the window would allow opening but given the height within the rooms and angle it would not afford actual or perceived overlooking to the material loss of neighbouring amenity.

¹ APP/Q1445/W/16/3167802

8. Adjacent to the proposal, within the garden of No 309, is secure, longer term parking of a caravan, fenced in with concrete posts. The main outdoor living space is then further to the rear. Therefore, any perceived overlooking into the outdoor living space would also be at an angle, reducing the effects further. At first floor level is a terrace and floor to ceiling glass doors serving a bedroom. The glass doors would similarly be at an angle reducing a perceived or actual loss of privacy or overlooking. The terrace is a unique feature in the vicinity and at the same height as the proposal. It would experience some change in relationship. However, given the obscure glazing, distance and rooms served, this change is not considered to result in a material loss of amenity through perceived overlooking or loss of privacy.
9. I note that the previous Inspector allowed the previous appeal with permitted development rights removed to restrict windows on this southern elevation. This is not an acknowledgement that any windows would be harmful, but that the relationship is sensitive and any proposal for such would require detailed consideration. That is what I have carried out.
10. Therefore the proposal would have an acceptable effect on the living conditions of the occupiers of 309 Kingsway with particular regard to perceived overlooking and loss of privacy. Consequently, the proposed development would comply with Policy QD27 of the Brighton & Hove Local Plan (2016) which, amongst other matters, seeks new development to prevent material loss of amenity to neighbouring users.

Other Matters

11. Third party comments have been raised regarding the size of the proposed dormer and its impact on the streetscene. The Officer's Report considered these matters and concluded that the proposal would provide the property with a more balanced appearance and would not significantly detract from the wider streetscene. Whilst I saw on my site visit that many properties have a single dormer window, there is variety of design within the street and I have no substantive evidence to cause me to come to a different conclusion in relation to this.

Conditions

12. In addition to the standard time limit condition, a condition is required to ensure that development is carried out in accordance with the approved plans in the interests of certainty. To protect neighbouring living conditions, conditions are necessary to restrict side windows and permitted development. To ensure the visual appearance of the building I have imposed the condition relating to building materials as I have not been provided with confirmation that this has been discharged satisfactorily on the previous permission, and implemented in accordance with those details.
13. I have also imposed an additional condition for the details of the obscure glazing and window openings of the dormer on the southern elevation to be agreed and retained. Whilst the glazing is shown in the approved plans, the condition is necessary to ensure the level of obscure glazing is appropriate and then retained in perpetuity.

Conclusion

14. For the reasons given above I conclude that the appeal should be allowed.

Tim Crouch

INSPECTOR