



Appeal Decision

Site visit made on 8 December 2010

by **B C Scott BA(Hons) Urban & Regional Planning MRTPI**

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

Decision date: 14 December 2010

Appeal Ref: APP/Q1445/D/10/2139250

81 Pembroke Crescent, Hove, BN3 5DF

- 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 Ben Watkins against the decision of Brighton & Hove City Council.
 - The application Ref: BH2010/02075, dated 7 July 2010, was refused by notice dated 27 August 2010.
 - The development proposed is roof extensions over existing flat roof sections, including new dormer window to West elevation and new dormer window to East elevation.
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Procedural Matters

1. The appeal application is a revised scheme to that granted planning permission on appeal (APP/Q1445/D/10/2121001). The revised scheme incorporates a dormer window to the east elevation, instead of a roof-light in a different position, and in all other respects is the same as that permitted.
2. The appeal site is within the Pembroke and Princes Conservation Area (PPCA) for which I have a duty under section 72(1) of the *Planning (Listed Buildings and Conservation Areas) Act 1990* to pay special attention to the desirability of preserving or enhancing its character or appearance.

Decision

3. I dismiss the appeal.

Main issue

4. I consider the main issue in this case to be the effect of the proposed development on the living conditions of the adjoining occupiers, with particular reference to privacy.

Reasons

5. The appeal property looks to be the historic remains of a larger area now occupied by more recent houses to the east that back closely onto it. The appeal dwelling is a detached lodge building that abuts its rear plot boundary, which is also the shared flank boundary to nos.12 and 14 Pembroke Gardens. The dwelling is in a sensitive situation because of its siting and orientation, which give rise to mutual overlooking between adjoining occupiers.
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6. The proposed development would curtail the degree of existing mutual overlooking. However, it would introduce a larger and more prominent window than that of the permitted scheme in the east facing elevation. The thrust of the policies QD14 and QD27 of the Brighton & Hove Local Plan 2005 (LP) is to protect residential amenity, including from loss of privacy.
7. The Appellant produces cross-sectional drawings to show that the proposed dormer window would give a more restricted angle of view than the permitted roof-light. Whereas that may be true for the position of the observer shown, it would apply to the upward angle only (the downward one would remain the same). Moreover, in the case of the dormer, the observer is able to move closer to the window than shown, thereby obtaining a substantially increased angle of downward vision. I am left in no doubt that the proposed dormer window would result in a considerable propensity for overlooking of both nos.12 and 14.
8. Due to the above, I find the different position in the roof plane of the proposed dormer to that of the permitted roof-light to be insignificant. In my opinion, what is more telling than that is the prominence of the proposed dormer as it would heighten the perception of overlooking.
9. I acknowledge that there is substantial boundary planting that would block some views across to the adjoining occupiers, particularly those at no.14, but I give this little weight for a number of reasons. Firstly, the planting is under the control of the Appellant and may not be there in perpetuity. Secondly, from my examination of no.14, I came to the conclusion that it is a most undesirable and unwelcome feature because it gives rise to overbearing enclosure. Lastly, from my examination of no.12, I saw that such planting has little effect.
10. Given the orientation and proximity of the three houses concerned (the appeal house and nos. 12 & 14), the revised scheme is inferior to that permitted. I read my colleague's decision to mean that the permitted scheme is on the limit of acceptability, in the interests of curtailing the existing high levels of overlooking from the appeal house. From the evidence of my own site visit, I have no reason to take a different view.
11. I conclude on the main issue that the proposed development would unacceptably affect the living conditions of the adjoining occupiers, in conflict with the requirements of policies QD14 and QD27 of the Development Plan.

Other Considerations and Conclusion

12. I share my colleague's reasoning concerning the original permitted scheme that the character and appearance of the PPCA would be enhanced, through the removal of unpleasant rear dormer windows and uncharacteristic flat roof ground extensions. The revised scheme before me would do likewise.
13. I have considered all other matters raised, but none alters my conclusion on the main issue, which leads me to dismiss this appeal.

B C Scott

INSPECTOR
