



Appeal Decision

Site visit made on 23 November 2010

by J M Trask BSc (Hons) CEng MICE

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

Decision date: 30 November 2010

Appeal Ref: APP/Q1445/D/10/2138828
118 Eldred Avenue, Brighton BN1 5EH

- 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 White against the decision of Brighton & Hove City Council.
 - The application Ref BH2010/02159, dated 12 July 2010, was refused by notice dated 8 September 2010.
 - The development proposed is the erection of a rear raised deck.
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Decision

1. I dismiss the appeal.

Main Issue

2. The main issue is the effect of the proposed deck on the living conditions of the occupiers of the neighbouring property.

Reasons

3. The appeal site is a semi-detached property set on the side of a hill with the gardens sloping steeply downwards towards the rear. The proposed deck would be level with the existing ground floor of the house which is about 2m above external ground level. The deck would allow extensive views over the garden of No120. The potential for overlooking already exists, from neighbouring properties as well as the existing narrow terrace and the rear facing windows of the house. However, the deck would allow more intensive use than the existing terrace and the perception of overlooking from an outdoor space is more noticeable and disturbing than from a window.
4. In order to overcome any loss of privacy the appellant has proposed the inclusion of a glazed screen on the side of the deck. This would prevent overlooking of the rear windows of No120 and the area of garden closest to the house. While it would not obscure views of most of the garden, including the sitting out area at the bottom of the garden, it would improve the privacy of the areas most frequently used by the occupiers of the adjoining property.
5. The top of the screen would be about 4m above ground level. The rear wall of No120 is set back about one metre from that at No118 and the deck and screen would extend to about 5m from the rear wall of No120. The structure would dominate the area of the adjoining garden closest to the house and would be overbearing, it would also overshadow this part of the garden in the late morning. In addition the proposed deck would provide a large area for

outdoor seating and there would be a potential for increased noise and disturbance, particularly since the deck would be elevated.

6. There would be some limited improvement to the privacy of some areas but this would not outweigh the increased overlooking and detrimental visual impact. Taking all the factors into account I conclude that, by reason of the proposed height of the deck, the proposal would be detrimental to the living conditions of the occupiers of the neighbouring property. The proposed development would be contrary to the provisions of Policies QD14 and QD27 of the Brighton and Hove Local Plan which include the aim to protect the living conditions of the occupiers of adjoining properties. I have taken into account the support for the proposal by the occupiers of the adjoining property but this support in itself cannot justify a proposal that is at odds with the development plan.
7. For the reasons given above I conclude that the appeal should be dismissed.

J M Trask
INSPECTOR