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# Appeal Decision

Site visit made on 5 May 2011

by **Peter Bird BSc DipTP MRTPI MRICS**

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

Decision date: 19 May 2011

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## **Appeal Ref: APP/Q1445/D/11/2149186**

### **36 Beechwood Avenue, Brighton, East Sussex BN1 8EE**

- 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 Ms Beryl McMillan against the decision of Brighton and Hove City Council.
  - The application Ref BH2010/03750, dated 1 December 2010, was refused by notice dated 7 February 2011.
  - The development proposed is described as "Retention of existing fence to side of site. Reduction in height of 350mm of existing fence to front of site".
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### **Procedural Matters**

1. The development has already been undertaken in part. However, this is not an appeal in relation to a breach of planning control. Instead it is an appeal against the refusal to grant planning permission and I have dealt with it on that basis.
2. I consider that the parts of the development as described above are clearly severable. Therefore, I propose to issue a split decision in this case. I have described that part of the proposal involving the retention of the existing fence to the side of the site as Part A; and the reduction in height of 350mm of the existing fence to the front of the site as Part B.
3. Appeals against the refusal of planning permission for other works at this and the adjoining semi-detached bungalow, No 38, have also been lodged. Those appeals, Ref APP/Q1445/D/11/2149183 and APP/Q1445/D/11/2149187 respectively, are the subject of separate decisions.

### **Decision**

4. I dismiss the appeal insofar as it relates to the reduction in height of 350mm of the existing fence to the front of the site (Part B), and I allow the appeal insofar as it relates to the retention of the existing fence to the side of the site (Part A) at 36 Beechwood Avenue, Brighton, East Sussex BN1 8EE, in accordance with the terms of the application, Ref BH2010/03750, dated 1 December 2010, and the plans submitted with it so far as relevant to that part of the development hereby permitted.
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## **Main Issue**

5. The main issue is the effect on the area's character and appearance.

## **Reasons**

6. The appeal property is one half of a pair of semi-detached bungalows and is situated adjacent to the junction with Westfield Crescent in a predominantly residential part of the built-up area of Brighton and Hove. Dwelling types in the wider context are a mix which includes detached and semi-detached bungalows and houses that appear to be set in reasonably generous plots. Despite the differences in the properties, the various styles tend to be arranged in groups which in combination with their ordered siting and building line are cohesive influences on the area's character and appearance. In addition, having regard to the width of the roads and adjacent verges, overall these influences contribute to the area's suburban character. Opposite the site is a sizeable open grassed area, which, to my mind, enhances the area's spatial quality and is a particular focal point in the street scene. Whilst a variety of boundary treatments, including a mix of vegetation of differing heights in places, can be seen in the area, their type and relatively modest height in the main are also a significant influence on the area's spatial quality.
7. The description of the proposed development involves the reduction of the height of the timber fence along the frontage to Beechwood Avenue by 350mm. A document supporting the application indicates that this section of fence measures between 1.6 and 1.7 metres above the "pavement" (as described by the appellant), and 1.25m above the front garden. However, these heights, purportedly of the existing fence along the frontage, are significantly less than those shown on the application drawings and which I observed on site. From the details shown on the submitted drawings, the overall height of the existing fence above the "pavement", which I understand to be the footway along the Beechwood Avenue frontage, ranges between some 1900mm (from the 1600mm and 300mm shown on the drawing) at the end adjacent to Westfield Crescent, and 2350mm (from the 1650mm and 700mm shown on the drawing) adjacent to the boundary with No 38 Beechwood Avenue. The same drawings show no difference in the height of the fence, as existing and proposed, along the site's return frontage to Westfield Crescent.
8. The appellant has indicated that when reduced by 350mm, the height of the fence above the "pavement" would be between 1.25m and 1.35m. However, this does not accord with the details on the submitted drawings which show the proposed height of the fence to be distinctly higher. I note the aim of the appellant to lower the fence, but the information shown on the application drawings is, nevertheless, a significant consideration in the assessment of this proposal. Whilst a reduction of 350mm is a notable amount, in relation to the figures shown on the application drawings this would not reduce the height of the fence to a scale that would be characteristic of the frontages to dwellings in the area. Furthermore, the resultant height, as shown on the application drawings, for a fence of this type would be excessive and an intrusive and discordant feature in a prominent location to the detriment of the street scene.

9. Along the site's Westfield Crescent frontage is another section of high timber fencing. However, from what I saw at my visit this section bounds an important area of garden pleasantly laid out and where I would expect the appellant and future occupiers of the property to want to enjoy a reasonable degree of privacy. Moreover, despite the height of this section of fence and its position adjacent to the footway along Westfield Crescent, it is, nevertheless, sufficiently set back from the Beechwood Avenue frontage so as not to detract from the spatial quality of the street scene.
10. Other examples of high boundary walls and fences in the site's locality have been referred to by the appellant and I viewed these at my visit. However, the full circumstances of these are not before me to consider. Moreover, each case should be dealt with on its respective merits as I have done here. In any case, I do not consider such high means of enclosure are characteristic of the wider context. Furthermore, they do not justify the harm arising from Part B of this appeal development.
11. I find that Part B of the proposal would have a harmful effect on the area's character and appearance. In this regard it would conflict with Policies QD1 and QD2 of the Brighton and Hove Local Plan 2005 (LP), which seek to achieve a high standard of design and emphasise and enhance the positive qualities of the local neighbourhood, and more particularly LP Policy QD14 which relates to alterations (as well as extensions to existing buildings). However, I do not find a harmful effect in relation to Part A.
12. For the reasons given above and having regard to all other matters raised, I conclude that Part B of the appeal should be dismissed and that Part A should be allowed. No conditions have been suggested by the Council. Having regard to the advice contained in Circular 11/95 *The Use of Conditions in Planning Permissions*, and bearing in mind that Part A of the development has been undertaken, it is not necessary to condition a time-limit on the commencement on that part of the development for which the appeal has succeeded.

*Peter Bird*

INSPECTOR

