



Appeal Decision

Site visit made on 11 May 2011

by Elizabeth Lawrence BTP MRTPI

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

Decision date: 25 May 2011

Appeal Ref: APP/Q1445/D/11/2150115
6 The Green, Hove, East Sussex, BN3 6TH.

- 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 S Pilbeam against the decision of Brighton & Hove City Council.
 - The application Ref BH2010/03767, dated 6 December 2010, was refused by notice dated 21 January 2011.
 - The development proposed is for the conversion of existing flat roof to form a roof terrace.
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Decision

1. I allow the appeal and grant planning permission for the conversion of existing flat roof to form a roof terrace at 6 The Green, Hove, East Sussex, BN3 6TH, in accordance with the terms of the application, Ref BH2010/03767, dated 6 December 2010, subject to the following condition:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: 0128.EXG.001a, 0128.EXG.002a, 0128.PL.001a & 0128.PL.002a.

Preliminary matters

2. The construction of the proposed roof terrace has commenced with the placement of the balustrade supports around the perimeter of the terrace.

Main Issues

3. The main issue is the effect of the proposal on the living conditions of the occupiers of 5 The Green, with particular regard to visual impact and privacy.

Reasons

4. The Appeal site is located in an area which is characterised by low density, individually designed dwellings, occupying mature soft landscaped gardens, on land which slopes down steeply to the southwest. A significant number of properties in the area have balconies, which afford panoramic views towards the coast.
 5. The proposed balcony would be sited in a central position on the rear elevation of the Appeal property and would provide views over the rear garden and above the boundary planting towards the coast. It would be largely screened
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- from the rear ground floor windows and garden at 5 The Green by boundary planting, particularly during the summer months when the balcony would be more likely to be in use.
6. From the closest first floor bedroom at 5 The Green, approximately one fifth of the terrace would be seen, when standing up close to the northwest end of the bedroom window. From most points within the bedroom the terrace would not be seen at all. The main aspect from the terrace itself would be to the southwest. Notwithstanding this, the first floor bedroom window at 5 The Green would be seen from the northwest corner of the terrace, if the occupant were to look to the northeast, away from the open, panoramic view to the southwest. However unless the lights in the bedroom were on and the curtains left open they would not be able to see into the bedroom. This is due to the distance and orientation between the terrace and the bedroom and the leaded pane design of the bedroom window.
 7. From the terrace it would also be possible to view the first floor terrace at 5 The Green, however having regard to the ancillary nature of the terraces and the distance between them the level of inter-looking would not be excessive or unreasonable.
 8. As a result the level of overlooking would be minimal and would not amount to a reason for dismissing this Appeal.
 9. Visually the proposed terrace would be screened in most views from 5 The Green. The terrace would be sited over 13 metres from the boundary with No.5 and would occupy an area of less than 11m². At the same time first floor terraces are a common feature in the area. As a consequence the terrace would not have a visually overbearing impact on the occupants of 5 The Green.
 10. I conclude on this issue that the proposed terrace would not have a materially harmful impact on the living conditions of the occupiers of 5 The Green due to loss of privacy or visual impact. Accordingly it would comply with policies QD14 and QD27 of the Brighton & Hove Local Plan, which seek to prevent developments that would result in material harm to the living conditions of nearby residents.

Other matters

11. Although the terrace would be visible from 10 & 12 Tongdean Road, due to the distance between the terrace and those properties it would not result in either a material loss of privacy or overbearing visual impact to the occupants of 10 & 12 Tongdean Road.
12. In relation to design, the proposed railings and balustrade would be in keeping with the existing modern appearance of the rear elevation of the dwelling. In particular they would be consistent with the design of the windows and doors serving the bedrooms on either side of the terrace. Having regard to both the minimal height and length of the balustrade and the fact that the terrace would be generally well screened from neighbouring properties and public viewpoints, the proposal would not result in a material level of glare or light within the surrounding area.

13. In relation to noise, having regard to the limited size of the proposed terrace, its access through a bedroom and the generous size of the rear garden area, the garden is far more likely to be used as the main outdoor entertaining area. As such its use would be unlikely to result in an excessive amount of noise or disturbance in the immediate locality.
14. It is noted that when planning permission was granted for the single storey rear extension a condition was attached which prevented the use of its roof for a terrace. However this does not prevent the submission of an application to form one and any application submitted has to be considered on its individual merits and in light of the prevailing planning policies. The Appeal scheme has been assessed on this basis.
15. Finally although the Council has not suggested any conditions I consider that it is necessary to include a condition to ensure the development is carried out in accordance with the approved drawings, for the avoidance of doubt and in the interests of proper planning.

Conclusion

16. For the reasons stated and having taken all other matters into consideration I conclude that the Appeal should be allowed.

Elizabeth Lawrence

INSPECTOR

