



Appeal Decision

Site visit made 29 June 2011

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

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

Decision date: 4 July 2011

Appeal Ref: APP/Q1445/D/11/2152744
5 Sudeley Street, Brighton, East Sussex, BN2 1HE.

- 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 Paul Chandler against the decision of Brighton & Hove City Council.
 - The application Ref: BH2011/00304 dated 2 February 2011, was refused by notice dated 5 April 2011.
 - The development proposed is addition of balcony to rear first floor kitchen.
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Decision

1. The appeal is dismissed.
2. The views of local residents have been taken into account in reaching this decision.

Main Issues

3. I consider the two main issues in this case to be the effect of the proposed development on: firstly, the character and appearance of the area, with particular reference to the East Cliff Conservation Area (ECCA) for which I have a duty to pay special attention to the desirability of preserving or enhancing its character or appearance; and secondly, on the living conditions of the adjoining occupiers, with particular reference to privacy.

Reasons

Character and appearance

4. From my site visit and the planning history, it looks to me that the appeal property is a maisonette above a lower ground floor flat, which is occupied separately. It is in a period terraced building within an urban residential area. The building has not been identified to be a particular heritage asset. The proposed development would alter the appearance of part of the rear elevation of the appeal property in connection with the remodelling of an original Georgian style rear sash window opening above the lower ground floor.
 5. The Council raises no objections concerning the ECCA. Owing to its siting on the rear elevation of the appeal property, enveloped by adjoining walls and the rear of a terrace building closely opposite, the proposed development would be
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entirely concealed from general view. I am satisfied that it would have no material impact upon the character or appearance of the ECCA.

6. Policy QD14 of the Brighton & Hove Local Plan 2005 (LP) requires development to be well detailed in relation to the subject property, adjoining properties and the surrounding area. In the absence of information to the contrary, I read that requirement to be in the interests of the continuity of urban form and enhancement of local distinctiveness; or in other words, for development not to be incongruous.
7. The first floor window in question sits in a deeply recessed rear elevation between dominant, three-storey rear spurs that define areas of private space. It is above the lower ground floor window opening that supports modern patio doors. In the circumstances, the modern addition resulting from the proposed development would have a limited impact and would not upset the rhythm of the appeal building. I share the Appellant's view that the proposed development would add a discrete modern architectural feature that would not be out of keeping with its setting. I acknowledge that there are other examples where this has been achieved on a period building within a Conservation Area. Thus, I find that the proposed development would not be at odds with the continuity of the urban form and local distinctiveness.
8. I conclude on the first issue that the proposed development would not be harmful to the character and appearance of the area, in accordance with the requirements of Policy QD14 of the Development Plan.

Living conditions

9. The terraced housing of Millfield Cottages closely backs onto the appeal site. A rear first floor window of no.7 is directly opposite the appeal window and above a small private courtyard. The appeal window is above similar, though larger, courtyard type outdoor space accessed through the ground floor flat in the appeal building. The thrust of LP policies QD14 and QD27 is to protect the amenity of adjoining occupiers.
10. The propensity for mutual overlooking through the respective windows exists because of their close proximity. An observer using the proposed balcony would make that overlooking very blatant by presence. Downward views towards the respective outdoor spaces would be restricted to an extent by orientation (regarding the ground floor flat) and by boundary walling (regarding no.7).
11. From my examination of those areas from the second floor windows of the appeal property, I came to the conclusion that should such views be obtainable from the proposed balcony (a floor level lower and closer) then an unacceptable loss of privacy of the adjoining occupiers would result owing to the proximity. However, in the absence of scaled drawings showing the relationship of the proposed balcony to those areas I am unable to make a full assessment about that.
12. The attractive use of the outdoor space that would be afforded by the proposed development would increase the propensity for overlooking the adjoining occupiers opposite to an uncomfortable extent. That, and in the absence of information to the contrary about the potential impact upon the outdoor amenity spaces, leads me to conclude on the second 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.

13. Concerns about noise and disturbance are expressed by neighbours. The proposed balcony would be too small to enable social gatherings to take place and noise volumes would be not unreasonable with casual and limited use. A telling feature here is that the courtyards are tightly situated not far below the proposed balcony. To my mind, aural privacy would suffer as voices would carry over the short distances involved. That element reinforces me in my conclusion on this issue.

Conclusions

14. I have considered all other matters raised, including the merits of providing outdoor space to the appellant household, but none alters my conclusions on the main issues.
15. Notwithstanding my conclusion on character and appearance, my conclusion on the second main issue is sufficient reason for me to dismiss the appeal.

B C Scott

INSPECTOR

