



# Appeal Decision

Site visit made on 23 August 2011

**by Ann Skippers BSc (Hons) MRTPI**

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

**Decision date: 14 September 2011**

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## **Appeal Ref: APP/Q1445/A/11/2151429**

### **49 Sillwood Street, Brighton, East Sussex BN1 2PS**

- 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 Miss. Charlie Dwight against the decision of Brighton and Hove City Council.
  - The application Ref BH2011/00266, dated 26 January 2011, was refused by notice dated 24 March 2011.
  - The development proposed is 'demolition of single storey rear extension at basement level and erection of supporting structure at basement level, with two storey rear extension above and roof terrace at second floor level'.
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### **Decision**

1. The appeal is dismissed.

### **Preliminary Matter**

2. The Council has altered the description of the proposal and as this more fully reflects the development, this has been used.

### **Main Issues**

3. There are two main issues in this case. The first is the effect of the proposal on the character and appearance of the Regency Square Conservation Area. The second is the effect on the living conditions of the occupiers of No 47 Sillwood Street and No 10 Norfolk Buildings.

### **Reasons**

4. No 49 falls within the Regency Square Conservation Area. There is a statutory requirement to have regard to the desirability of preserving or enhancing the character or appearance of the Regency Square Conservation Area in accordance with section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990.
  5. No 49 is an unusual property over four storeys with a small yard at basement level which houses the kitchen and single storey 'L' shaped bathroom extension. The upper floors have one room to each floor with a ground floor living room and two bedrooms on each of the upper floors. It is proposed to demolish the existing single storey extension to enable the proposed extension to be constructed to provide bathroom facilities at first floor (three storey) level nearer the bedrooms so that the layout is more convenient for the occupiers of
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- the property. Special medical circumstances have been submitted in support of the proposal. It is proposed to construct a two storey extension supported by masonry plinths to allow some external space to be retained albeit most of it under the proposed extension and together with a proposed roof garden, this would provide some additional outdoor space for the property.
6. The existing basement level yard area is surrounded on all four sides by high flank walls of the host property and neighbouring properties. Even with the suspended design and the set back of a metre or so, the extension would infill most of the yard area and the space and gap it retains at all four storey levels and above into the roofscape. The general character of the surrounding area is a close knit, intimate and densely developed area. Whilst the yard area and the space it creates cannot be readily seen from the street, the space it gives and the relief it offers to the otherwise tightly knit pattern of development is important and should be retained as it is a distinctive and integral part of the development pattern and townscape and the Conservation Area's character and appearance. The loss of this space and gap in an otherwise built up form and infilling of this space would harm the plan form of the host property and surrounding townscape.
  7. On the first issue, I find the proposal would not preserve or enhance the character or appearance of the Regency Square Conservation Area and would, in fact, be harmful to it. This would not accord with Policies QD14 and HE6 of the Brighton and Hove Local Plan (LP) 2005 which, amongst other things, seek well-designed and sited extensions and to preserve or enhance the character and appearance of Conservation Areas in line with the statutory requirement.
  8. Turning now to the effect on the occupiers of neighbouring properties, the flank wall to the east, which serves No 47, has a small window to this elevation. The proposed extension would mean that the area directly outside the window and above it would be totally enclosed by the extension. Even though the window is small and obscure glazed apparently serving a non-habitable room and the existing outlook from this window is limited, some natural light can presently reach this window together with some natural ventilation. Indeed the neighbour indicates that the window feeds light into a kitchen/diner at basement level. It would not be acceptable to completely enclose the space around this window and despite the proposed mitigation measure of a solar light pipe, little information has been submitted about how this might mitigate this unfortunate effect. This measure also appears to rely heavily on the occupiers of No 49 to retain and maintain it and this would be difficult to secure through the appellant's suggestion of a Section 106 agreement.
  9. To the southern elevation is No 10 Norfolk Buildings which has a roof terrace. There is a high degree of mutual overlooking from the fourth storey bedroom window and the neighbour's roof garden at the present time. Whilst I tend to agree with the appellant that the proposed wall and opaque screen would help to remedy the existing relationship for the occupiers of the host property, given the proximity of the roof terrace and the relative height difference between the terraces, it would also add to a sense of overbearing as the already densely developed area would become closer knit for the occupiers of No 10 and this would also potentially result in a feeling of, if not actual, loss of privacy.

10. However, I do not agree with the Council's view that a screen would necessarily add bulk to the extension as a screen of suitable design which reflected the building's location within a Conservation Area could be found.
11. I have also noted the appellant's suggestion of a legal agreement to deal with the use of the roof terrace and potential noise and disturbance issues, but this would not be an appropriate mechanism to deal with these issues and would be hard to enforce and in any case the Council have not raised any concerns in these respects.
12. These two impacts on the neighbouring properties taken together reinforce my view that the proposal is not acceptable and would have a harmful effect on the living conditions of the occupiers of No 47 Sillwood Street and No 10 Norfolk Buildings. This would be contrary to LP Policies QD14 and QD27 which seek to protect the amenities of neighbouring occupiers.
13. I appreciate that the appellant has tried hard to overcome objections to a previously refused scheme by revising its design and offering mitigating measures including the replacement of windows and doors. I also have sympathy with the circumstances put forward by the appellant in support of the proposal. However, none of these matters which weigh in favour of the proposal outweigh the objections to it detailed above.
14. The appellant has also pointed to what is described as the Council's 'ad hoc' approach to building and development in the Conservation Area, but this is not a matter before me.
15. Having carefully weighed all these matters, I conclude that the proposal would not preserve or enhance the character or appearance of the Regency Square Conservation Area and would, in fact, be harmful to it and would have a harmful effect on the living conditions of the occupiers of No 47 Sillwood Street and No 10 Norfolk Buildings. The proposal would therefore not accord with the development plan policies outlined above.
16. For the reasons given above and having had regard to all other matters raised, the appeal should not succeed.

*Ann Skippers*

INSPECTOR

