



Appeal Decision

Site visit made on 1 November 2011

by Michael Evans BA MA MPhil DipTP MRTPI

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

Decision date: 2 November 2011

Appeal Ref: APP/Q1445/D/11/2160973
36 Halland Road, Brighton BN2 4PF

- 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 A Nassir-Pour against the decision of Brighton and Hove City Council.
 - The application Ref BH2011/02075, dated 8 July 2011, was refused by notice dated 9 September 2011.
 - The development proposed is a single storey rear extension.
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Decision

1. The appeal is allowed and planning permission is granted for a single storey rear extension, at 36 Halland Road, Brighton BN2 4PF, in accordance with the terms of the application Ref BH2011/02075, dated 8 July 2011, subject to the following conditions:
 - 1) The development hereby permitted shall begin before the expiration of three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 477/03 and 477/04.
 - 3) The materials to be used in the construction of the external surfaces of the extension hereby permitted shall match those used in the existing building.
 - 4) The roof area of the extension hereby permitted shall not be used as a balcony, roof garden or similar amenity area without the grant of further specific permission from the local planning authority.

Main Issue

2. The main issue in the consideration of this appeal is the effect on the living conditions of the occupiers of the adjacent dwelling at 38 Halland Road, with regard to whether the extension would appear overbearing.

Reasons

3. The neighbouring dwelling at no. 38 has its rear elevation modestly tilted towards the appeal site and is set about a metre lower, with a low wire fence separating the properties. However, the nearest ground floor window is
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relatively small and set back from the appeal site. Other significantly larger openings, which provide a more important outlook to the adjacent occupiers, would be appreciably further from the proposed addition. In any case, the extension would be set a metre back from the boundary and have a height of only about 2.9m to the top of the flat roof, significantly limiting the perception of bulk from the adjacent dwelling. Despite the addition extending about 3.6m along the boundary, it would not therefore appear overbearing when seen from the ground floor windows of no. 38 Halland Road.

4. Consequently, it is concluded that the living conditions of the occupiers of the adjacent dwelling would not be harmed. The proposal therefore accords with Brighton and Hove Local Plan 2005 Policies QD14 and QD27, which, among other things, seek to avoid such adverse effects.
5. Because of the absence of harm that has been found and taking account of all other matters raised, it is determined that the appeal succeeds. In reaching this decision the representations of a local resident have been considered.
6. Otherwise than as set out in this decision and conditions, it is necessary that the development shall be carried out in accordance with the approved plans for the avoidance of doubt and in the interests of proper planning. A condition specifying the approved plans is therefore justified. A condition requiring the facing materials of the extension to match those of the existing building would be sufficient to protect the visual amenities of the area. In order to avoid undue overlooking of neighbouring properties it is necessary to prevent the use of the roof of the addition as a roof garden or similar amenity area by imposing the model condition contained in Circular 11/95.

M Evans

INSPECTOR