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# Appeal Decision

Site visit made on 7 October 2011

by **C J Leigh** BSc(Hons) MPhil(Dist) MRTPI

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

Decision date: 2 November 2011

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## Appeal Ref: APP/Q1445/A/11/2153786

### Land at the rear of 1-3 Clarendon Terrace, Brighton, East Sussex, BN2 1FD

- 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 R Rigg, against the decision of Brighton and Hove City Council.
  - The application Ref BH2010/02596, dated 16 July 2010, was refused by notice dated 24 November 2010.
  - The development proposed is the erection of a two storey dwelling, alterations to boundary walls fronting Chesham Place, and altering within garden including excavation and alterations to walls.
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### Decision

1. The appeal is dismissed.

### Main issue

2. The main issue in this appeal is the effect of the proposed development on the living conditions of adjoining occupiers in Clarendon Terrace, with particular reference to outlook.

### Reasons

#### *Living conditions*

3. To the south of the appeal site, within Clarendon Terrace, are existing residential properties set at a lower level. These look out across a short rear garden towards a retaining wall and a boundary fence. There is also a notable single storey projection to the rear of 2&3 Clarendon Terrace. The tall height of the Clarendon Terrace properties – and the flank elevation of 21 Chesham Place to the north – combine with all these characteristics to create an existing sense of enclosure to the rear of the Clarendon Terrace properties and their gardens.
  4. The proposed new dwelling would be set notably down into the existing ground level due to a considerable degree of excavation to the site. What is termed the ground floor of the proposed property is shown in the submitted drawings to be provided along the northern boundary of the site – away from the southern boundary with the Clarendon Terrace properties – save for a projecting element that would adjoin the existing pitched roof addition to the rear of Nos. 2&3. These design features have evidently been incorporated to seek to lessen any overbearing effect upon the neighbouring residents to the south; the projecting element in particular would not be appreciable.
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5. However, I still have concerns regarding the outlook from adjoining properties to the predominant side elevation of the proposed house. I am informed by the Council that the current scheme is unchanged from a previously refused application (ref. BH2005/05030), apart from window amendments and the creation of an external lift, and that an appeal was subsequently dismissed in December 2006 on the grounds of harm to loss of outlook arising from the proximity of the new building to the Clarendon Terrace dwellings. The appellant does not dispute this similarity and, although I have not been provided with copies of the previous drawings, I have no reason to doubt that this is the same scheme insofar as it relates to the relationship with the neighbouring properties.
6. I understand that letters of support were submitted with the planning application, but I note also that there have been objection letters from residents of Clarendon Terrace. There is no change in the proposed development from the scheme dismissed by the previous Inspector appointed by the Secretary of State, and so I come to a similar finding that the proposed development as shown would cause a loss of outlook to the adjoining residents of Clarendon Terrace. There would consequently be a conflict with Policy QD27 of the Brighton and Hove Local Plan 2005.

*Other considerations*

7. The location of the windows in the proposed house, and the obscure glazing of certain windows, would ensure no unreasonable loss of privacy or overlooking to adjoining occupants. A planning condition could be attached to secure the permanent retention of windows as obscure glazed. Similarly, the design of the dwelling, and the use of conditions, would ensure amenity space is provided and the flat roofs could not be used as sitting out areas. Thus, no harm would occur to residents from these aspects of the proposed development.
8. The design of the proposed building is creative in addressing the street scene considerations of the site. It would be a positive enhancement to the character and appearance of the East Cliff Conservation Area due to the removal of the existing unsightly 'gap' appearance of the appeal site. The building would also sit comfortably adjoining the listed buildings of Chesham Place.

*Conclusions*

9. Despite having found that the proposed development would not be harmful in a number of respects, and that there would be a positive enhancement to the character and appearance of the area due to the design of the building, these findings must be weighed against the main issue in this appeal. There has been no change in circumstances since the date of the previous dismissed appeal for the same scheme, insofar as it relates to the relationship with the adjoining properties: there is the same Local Plan and the same circumstances pertaining to the appeal site. I therefore come to the same consistent decision as previously and find that the conflict with Policy QD27 on the main issue outweighs other matters, and so the appeal is dismissed.

*C J Leigh*

INSPECTOR