

<u>No:</u>	BH2012/00801	<u>Ward:</u>	PRESTON PARK
<u>App Type:</u>	Householder Planning Consent		
<u>Address:</u>	128 Beaconsfield Villas, Brighton		
<u>Proposal:</u>	Replacement of raised timber decking to rear. (Retrospective)		
<u>Officer:</u>	Liz Arnold	<u>Valid Date:</u>	15/03/2012
<u>Con Area:</u>	Preston Park	<u>Expiry Date:</u>	10 May 2012
<u>Listed Building Grade:</u>	N/A		
<u>Agent:</u>	C Change Ltd, 128 Edward Street, Brighton		
<u>Applicant:</u>	Mr Gordon MacColl, 128 Beaconsfield Villas, Brighton		

1 RECOMMENDATION

That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in this report and resolves to **REFUSE** planning permission for the following reasons:

1. The rear terrace, due to its elevated height and its location near to the northern boundary of the site with no. 130 Beaconsfield Villas, represents an overbearing addition and un-neighbourly development for the residents of this neighbouring property by reason of increased overlooking, loss of privacy and disturbance at an elevated position. The development is therefore of detriment to the amenities of this neighbouring property. The proposal is therefore contrary to policies QD14 and QD27 of the Brighton & Hove Local Plan.
2. The rear terrace, due to its elevated height represents an overbearing addition for the residents of southern and eastern neighbouring properties by reason of an increased sense of overlooking and loss of privacy, and therefore is of detriment to the amenities of these neighbouring properties. The proposal is therefore contrary to policies QD14 and QD27 of the Brighton & Hove Local Plan.
3. The proposed screening to the north of the terrace (as shown on the plans rather than as installed on site) would have an adverse impact upon the amenities of the occupiers of the upper level of 130 Beaconsfield Villas with regards to loss of light/sunlight and outlook. The proposal is therefore contrary to policies QD14 and QD27 of the Brighton & Hove Local Plan.

Informatives:

1. This decision is based on drawing no. 101A received on the 15th March 2012.

2 THE SITE

The application relates to a property located on the eastern side of Beaconsfield Villas, close to the junction with Preston Drive. The semi-detached property, which is located within the Preston Park Conservation Area, has an L-shape built form, a characteristic of properties within the area.

3 RELEVANT HISTORY

BH2011/03470: Replacement of raised timber decking to the rear (Retrospective). Withdrawn 28/12/2011.

4 THE APPLICATION

Retrospective planning permission is sought for the creation of raised timber decking at the rear of the property.

5 CONSULTATIONS

External

Neighbours: Two (2) letters of representation has been received from **Flat 1, 130 Beaconsfield Villas and 189 Havelock Road**, objecting to the application for the following reasons:

- the structure is too large and extremely invasive,
- it mars the use of rear gardens as a result of overlooking and gross invasion of privacy,
- 2 planks have been removed and some planting placed on top of structure but this completely and blatantly disregards feeling and objections,
- If applicant wishes to persist in claim that this is purely a replacement of raised decking then they must produce evidence that such a structure existed. As previously stated by several independent witnesses no such structure has ever existed, only a single flight of wooden stairs leading from the first floor to the garden,
- The decking is almost the same height as gardens in Havelock Road rather than many feet below, which makes these neighbours feel overlooked.

Five (5) letters of representation have been received from **126 Beaconsfield Villas, 4 Midhurst Rise, 43 Egmont Road, 24 Cleveland Road, Flat 6, 44 Hova Villas** supporting to the application for the following reasons:

- The structure is very sympathetic to the surroundings and in entirely appropriate,
- The structure is reasonable and proportionate when considered in the context of the age, size and character of the house and neighbouring properties,
- The rear gardens to these properties all rise above ground level to beyond the height of the structure which effectively means no additional overlooking has been created by a structure which has replaced the original timber structure from the garden to the bedroom,
- Previous structure was rotten and unsafe,
- Did not think planning permission was necessary,
- Would be a travesty if it had to be taken down,
- Do not feel it infringes on neighbours and have no issues with it,
- It is an attractive addition to the property and hope the applicant gets to enjoy the space,
- Was the carpenter involved in replacing original structure. The structure had to be replaced as the original timbers had rotten through under the bay window and were damaging the floor joist to the rear bedroom. The floor joists under the bay have been extended from the main house to form the seating area and steps leading to the garden,

- The as built deck is no higher than the original deck that was taken away and therefore cannot overlook the neighbouring gardens any more than before.

6 MATERIAL CONSIDERATIONS

Section 38 (6) of the Planning and Compulsory Purchase Act 2004 states that “If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.”

The development plan is:

- The Regional Spatial Strategy, The South East Plan (6 May 2009);
- East Sussex and Brighton & Hove Minerals Local Plan (November 1999);
- East Sussex and Brighton & Hove Waste Local Plan (February 2006);
- Brighton and Hove Local Plan 2005 (saved policies post 2004).

The National Planning Policy Framework (NPPF) was published on 27 March 2012 and is a material consideration which applies with immediate effect.

Due weight should be given to relevant policies in the development plan according to their degree of consistency with the NPPF. At the heart of the NPPF is a presumption in favour of sustainable development.

All material considerations and any policy conflicts are identified in the considerations and assessment section of the report.

7 RELEVANT POLICIES & GUIDANCE

Brighton & Hove Local Plan:

- | | |
|------|---|
| QD14 | Extensions and alterations |
| QD27 | Protection of Amenity |
| HE6 | Development within or affecting the setting of conservation areas |

The National Planning Policy Framework (NPPF)

8 CONSIDERATIONS

The site is subject to Enforcement Investigation as a result of the Council receiving a complaint following the construction of the raised terrace area. The applicant has stated that the terrace is a replacement of a former terrace area which provided access from the door within the rear elevation of the projecting wing of the property to the lower garden area. However the applicant has been unable to provide evidence of what the original structure looked like, its size and positioning.

The plans submitted as part of the application indicate that the raised terrace area is a replacement of a previous structure of the same depth and height but with steps leading to the rear garden area and without detailed balustrading. However as the applicant is unable to provide evidence of the former structure within the determination of this current application the presence of a former raised terrace area will not be considered and therefore the existing plan submitted is not refer to in section 1 above.

Application BH2011/03470 also sought retrospective permission for the rear terrace area, however this was withdrawn by the applicant as a result of the Local Planning Authority having concerns regarding the impact of the development upon the amenities of neighbouring properties.

Since withdrawal of the earlier application the applicant has altered the existing terrace area. The main differences to the structure seen during the Case Officers site visit in respect of application BH2011/03470 and the development with the current application are the reduction in width of the area from approximately 3.8m to 3.3m and the planting of vegetation along the northern edge of the terrace, an issue discussed in more detail later.

The main considerations in the determination of this application relate to the impacts that the terrace area has upon the visual amenities of the parent property and the wider area including the surrounding Preston Park Conservation Area in addition to the impacts upon the amenities of the neighbouring properties.

Design:

The property has an L-shape built form. The ground floor level of the dwelling is set at a higher level than the road level along Beaconsfield Villas but lower than the rear lawned garden area. An outbuilding has been erected to the north-east of the projecting wing of the property upon the lower patio area of the garden area, which is located adjacent to the property. The timber decking and related balustrading has been erected above this outbuilding and is accessed from partially glazed doors within a bay located on the north-eastern elevation of the projecting wing of the dwelling, at first floor level.

The decking projects from the flush north-eastern most elevation of the dwelling by approximately 2.5m and has a width of approximately 3.2m. Since the withdrawal of the previous application the structure has been amended so that it is sited approximately 0.6m away from the northern boundary of the site, which is shared within no. 130 Beaconsfield Villas.

The timber decking is located approximately 0.9m above the lawned area of the garden and approximately 2.6m above the lower patio area which is located adjacent to the dwelling. Four timber posts have been erected on the north-eastern side of the terrace for support. Balustrading of approximately 1.1m is located round the perimeter of the decking.

The proposed plans submitted show the planting of vegetation along part of the northern boundary of the site in order to provide a screen. The height of the vegetation shown in the plans is approximately 3.5m from the level of the lawned garden area. During the Case Officer's site visit it became apparent that the side screening cannot be planted in the ground due to the presence of the existing outbuilding located under the terrace. Instead a planter has been placed on top of the roof of the outbuilding between the northern boundary of the site and the northern edge of the terrace. The planting seen on site is not as high or as dense as that shown in the proposed plans (it only raised to the glazing bar within the existing doors which provide access to the terrace rather than to the

top of the bay as shown in the plans provided), which is intended to provide a screen to the north of the terrace area.

During the Case Officer's site visit a small terrace area and staircase, located at the rear of no. 124 Beaconsfield Villas, was seen, which appears to provide direct access from the upper floor flat to the rear garden area. No planning history has been identified in respect of this neighbouring structure. This structure differs to that within the application as the platform area appears smaller and it provides access rather than a formal raised amenity area, although it is acknowledged that a chair could be placed on the top level.

Despite the semi-detached built form of the dwelling, the development is not visible from within Beaconsfield Villas, however the terrace is visible from within parts of the Preston Park Conservation Area such as from the rear sections and rear garden areas of neighbouring properties. Overall it is not considered that the terrace area or associated northern screening is of detriment to the visual amenities of the parent property, the Beaconsfield Villas street scene or the wider area, especially the surrounding Conservation Area.

Impact on Amenity:

Policy QD27 of the Brighton & Hove Local Plan states that planning permission for any development or change of use will not be granted where it would cause material nuisance and loss of amenity to the proposed, existing and/or adjacent users, residents, occupiers or where it is liable to be detrimental to human health.

The terrace area has been erected approximately 0.6m from the shared boundary with no. 130 Beaconsfield Villas. The applicant has attempted to screen the northern edge of the terrace by way of placing a planter, although as stated above the planting differs to that shown in the submitted plans.

130 Beaconsfield Villas is sub-divided into flats. A bay window is located at first floor level within the north-eastern elevation of the projecting wing of this northern neighbouring property. It is considered that the proposed vegetation screening would adversely affect the amenities of the occupiers of the upper level of the northern neighbouring property with regards to loss of light and outlook due to the potential height of the screening (it is acknowledged that a satellite dish on the neighbouring property obscures part of the lower window of the southern side of the rear bay window).

The garden area of no. 130 Beaconsfield Villas is set at a lower level than the lawned area of no. 128. The existing shared northern boundary wall measures approximately 0.8m on the side of 128 Beaconsfield Villas and approximately 1.2m from the side of 130. Unless immediately adjacent to this boundary wall, from the lawned area of 128, it is not possible to achieve views into the rear garden area of 130. The terrace area provides elevated views into part of the rear garden area of no. 130 and therefore it is considered that its construction has had an adverse impact upon the amenities of the northern neighbouring property.

Although the terrace area is located approximately 3.2m away from the shared boundary with no. 124 Beaconsfield Villas, elevated views are also achievable towards the garden area of this southern neighbouring property. In addition views are achievable from the south-eastern corner/southern side of the terrace towards the existing windows within the rear elevation of no. 126.

A large wall is located at the rear of the site, adjoining properties on Havelock Road. When standing on the deck views over this wall towards the rear elevation of these neighbouring properties are achievable.

It is considered that the increased elevated activity at the rear of 128 near to the existing bay window in the rear of 130 would have an un-neighbourly impact upon the amenities of the northern neighbouring property.

9 CONCLUSION

For the reasons set out above it is considered that the terrace area has an adverse impact upon the amenities of the neighbouring properties and that the proposed northern screening would exacerbate the impacts.

10 EQUALITIES IMPLICATIONS

None identified.

BH2012/00801 128 Beaconsfield Villas, Brighton.



**Brighton & Hove
City Council**



Scale: 1:1,250

