



Appeal Decision

Site visit made on 14 May 2013

by R Barrett BSc (Hons) MSc, Dip HistCons, Dip UD, MRTPI, IHBC
an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 30 May 2013

Appeal Ref: APP/Q1445/D/13/2195833
4 Bennett Road, Brighton, BN2 5JL

- 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 Helen Lyons against the decision of Brighton & Hove City Council.
 - The application Ref BH2012/03611, dated 13 November 2012 was refused by notice dated 20 February 2013.
 - The development proposed is demolition of existing rear porch and replacement with new porch, external steps and timber decking (retrospective).
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The proposed development has been carried out on site. As the description of development is not for retention of the proposal, and I am unable to determine whether the development on site accords exactly with the submitted plans, I am determining this appeal on the basis of the plans submitted with the appeal application.

Main issue

3. The main issue is the effect of the proposal on the living conditions of the adjacent occupiers at 6 Bennett Road, with regard to outlook and surrounding occupiers with regard to overlooking.

Reasons

4. The appeal site includes a two storey terraced property with a relatively small rear garden. At the rear of some of the houses in this terrace, there are small porches at the side of a rear outrigger, close to the common boundary. They sit in an elevated position at the top of a small set of stairs that provide access to the rear garden, which is at a lower level.

Living Conditions - Outlook

5. Views from the rear dining room window at No 6 have been interrupted by the porches on the rear of that property and the appeal site since the porches in question were first built. Whilst the proposed porch would be larger, higher and closer to the boundary than the previous porch, thereby slightly closing the gap between the two, the effect of the additional bulk, even though at a raised level, would not cause material harm to the outlook from that room.

6. In addition, as the proposal would relate satisfactorily to the main house and would be appropriate in design, close to the main house, even though it would be in an elevated position, the structure would not appear as overbearing, in comparison to the previous porch, when viewed from the rear garden of No 6.
7. I conclude that the proposal would not cause material harm to the living conditions of the occupiers at 6 Bennett Road with regard to outlook and in relation to this matter, the proposal would comply with Policies QD14 and QD27 of the Brighton and Hove Local Plan (2005) (LP), which together aim to ensure that new development is well designed and protects the amenity of proposed, existing or adjacent users, residents or occupiers. I find these policies generally consistent with The National Planning Policy Framework.

Living Conditions-Overlooking

8. The proposed porch and decked platform would be very close to the boundary with the neighbouring property. As they would be in an elevated position, the proposed decking and the windows and a door to the proposed porch would together allow open, close range views into the rear garden and dining room of the neighbouring property, No 6. Whilst there is some planting on the common boundary, this would not be sufficiently high to overcome this harm.
9. In addition the elevated decked platform would allow open and relatively close range views to the surrounding private rear gardens. The fact that those gardens are relatively small adds to my concern in this respect. Whilst I accept that a certain level of mutual overlooking is accepted in a relatively dense urban setting such as this, high level close range views would be particularly imposing and would significantly reduce existing levels of privacy within rear gardens. In addition to the occupiers at 6 Bennett Road, my concern is particularly for the occupiers at 2, Bennett Road and 1 and 3 Rugby Place in this respect.
10. A condition to obscure glaze the windows and door of the proposed porch may overcome the harm identified in this respect, but as the appeal fails for other reasons I have not pursued this matter further. Any planting to mitigate the harm identified would by necessity be very high and would appear overbearing when viewed from both sides of the common boundary. A condition to this effect would therefore not be appropriate in this case. Whilst there may be some increase in activity in the proposed porch, due to the increased floor area, as it would still be relatively small, this would not be material.
11. I conclude that the proposal would cause unacceptable harm to the living conditions of the occupiers of surrounding properties identified, with regard to overlooking and would fail to accord with LP Policies QD14 and QD27, in this respect.

Other Matters

12. The Council also raises concern regarding the effect of the proposal on the character and appearance of the locality. Whilst it is larger than the neighbouring property's porch (No 6), as it would generally be similar in form, of appropriate materials and design, would relate satisfactorily to the main house, and would be in a relatively secluded location, I consider that it would generally be acceptable in this respect. I make this judgement, even though it may be visible from the surrounding properties and Bristol Gardens.

13. Matters relating to the proposal's detailed construction are not covered within the planning regime. The fact that the appellant was unaware that planning permission was required for the proposal does not alter my decision. Matters regarding any advice given by Council Officers should be discussed with the Council in the first instance.

Conclusion

14. For the above reasons, and taking all other matters raised into consideration, I conclude that the appeal should be dismissed.

R Barrett

INSPECTOR

