



Appeal Decision

Site visit made on 4 June 2013

by Catherine Hughes BA (Hons) MRUP MRTPI

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

Decision date: 13 August 2013

Appeal Ref: APP/Q1445/A/13/2190770

Officreche, 52 Dyke Road, Brighton BN1 3JB

- 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 Ms Elizabeth Moody-Stuart, Office Creche Ltd against the decision of Brighton and Hove City Council.
 - The application Ref BH2012/02115, dated 9 July 2012, was refused by notice dated 20 September 2012.
 - The development is described as a 'retrospective' planning application for ramp to existing approved playdeck and rear entrance to nursery (application no. BH2011/00890).
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Decision

1. The appeal is dismissed.

Background and main issue

2. Planning permission was granted in 2011 for conversion of the building (Council ref. BH2011/00890). These works included new access ramps and raised decking areas to provide playing areas. The Council is now of the view that the approved plans are somewhat confusing and provide less than complete information. The Council draws attention to the fact that elevation drawings showing the entire extent of the decks, the ramps and boundary walls and the pavement levels were not submitted or sought as part of that application. Accordingly, the Council considers the whole of the deck structure to be unauthorised and (subject to the outcome of this appeal) is considering pursuing enforcement action. By contrast, the appellant considers that the deck has been built in accordance with the plans approved by the Council.
 3. It is not for me to determine this matter, as it is outside the scope of this appeal, which is concerned with the larger of the two ramps only, as I explain below. The appellant accepts that it has not been built in accordance with the approved plans and this appeal is in respect of an application which seeks to regularise that matter. However, in so far as this ramp and the decks are integral parts of the complete structure, and in order to set the context for my considerations regarding the ramp, it is necessary for me to set down my understanding of this background.
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4. Both the approved plans (Drawing Ref. DH/52dyke/01 and the Door/Ramp details dated 12.6.2011) and those submitted as part of this appeal (Drawing Ref. RPP642/12) show the lower deck to be approximately 1m above the existing ground level of the appeal site. This is noted on the side elevation drawings and is reinforced by the position of the decking in relation to the existing basement windows of the property. It would therefore appear that the height of the lower deck served by the ramp the subject of this appeal is as approved. However, the extent to which the plans take into account changing levels to Dyke Road, which forms a steep hill along the property's western boundary is as yet unresolved and, as this appeal is concerned with the ramp only, I am, in this regard, unable to pronounce on the lawfulness of the deck.
5. Accordingly, having regard to the Council's reason for refusal of planning permission for the ramp, I consider the main issue to be its effect on the appearance of the host property and whether it preserves or enhances the character or appearance of the West Hill and the Montpelier and Clifton Hill Conservation Areas.

Reasons

6. The site occupies a prominent position on the corner of Dyke Road and Albert Road on the edge of the West Hill Conservation Area and immediately adjoining the Montpelier and Clifton Hill Conservation Area. The recently refurbished property is occupied by Officreche, a day nursery which offers flexible child care facilities and employs 8-9 staff. Office space is provided for small business users on the upper floors, offering parents the option of being close to their children as they work. External play space for the nursery is provided in the form of two raised timber decks to the side and rear of the building accessed by two timber ramps, the larger of which runs along the side boundary wall of the property with Dyke Road. This larger ramp, which runs up to the lower deck, is the subject of this appeal.
7. The ramp is approximately 11 metres long and differs from that approved both in length and gradient. The appellant states in her evidence that the reason for this is to enable the ramp to comply as closely as possible with the requirements of the Disability Discrimination Act, providing a slope up to the deck that is accessible for small children and for parents with pushchairs to use. The Council whilst also noting that the ramp does not provide full compliance with the requirements of this Act, does accept that it has delivered benefits for users of the nursery in the form of a direct and convenient access to the outdoor recreation space.
8. Dyke Road is an important and busy main road across Brighton town centre which forms the boundary between the West Hill and the Montpelier and Clifton Hill Conservation Areas. I have only been provided with details of the West Hill Conservation Area, and therefore have concentrated my assessment on the impact of the ramp on the special character and appearance of this Conservation Area. However, in doing so I recognise that, given its location, the development is also highly visible from within the adjoining Montpelier and Clifton Hill Conservation Area.
9. The timber balustrading and ramp are very prominent on the corner of Dyke Road and Albert Road where Dyke Road slopes markedly upwards along the

boundary of the appeal site towards the junction. The ground levels inside the site are level with Albert Road. However given the sloping nature of Dyke Road they are up to approximately 1.3 metres higher than the pavement level outside the site, that figure being their height relative to the pavement at the northern end of the site. As a result the ramp and its balustrading are positioned at an elevated level in the street scene and are visible for most of their extent above the boundary wall.

10. The extensive views from Dyke Road of the West Hill Conservation Area contributes to its special character. Albert Road is characterised by three storey 19thC terraced properties and semi-detached villas, of attractively channelled stucco and painted rendered facades and with period architectural detailing. Within this setting the materials, form and scale of the prominent timber ramp and balustrading are highly incongruous. Furthermore, the bulk of the development when viewed from the Montpelier and Clifton Hill Conservation Area against the flank elevation of No. 52 is out of keeping with the traditional form and architecture of this elevation. This elevation is highly visible in the street scene when viewed from Dyke Road and Albert Road and the development harms these views.

11. I therefore conclude that the development is harmful to the appearance of the host property. It also fails to preserve or enhance the character or appearance of the West Hill and the Montpelier and Clifton Hill Conservation Areas. It is therefore contrary to Policies QD1, QD2 and HE6 of the Brighton and Hove Local Plan (2005) which require development to make a positive contribution to the visual quality of its environment, take account of local character, use materials and finishes which are sympathetic to the area and not to have a harmful impact on the townscape of a Conservation Area. This conclusion reflects the guidance in paragraph 132 of the National Planning Policy Framework ("the Framework") that great weight should be given to the conservation of designated heritage assets in assessing all new development.

12. That said, and in the context of the conservation areas as a whole, and in spite of the harm that would be caused to the appearance of the property, the harm to the conservation areas must be regarded as less than substantial. In that case, in accordance with paragraph 134 of the Framework, I need to have regard to the public benefits of the proposal. I consider this in detail below.

Other Matters

13. I have had regard to the fact that the traditional appearance of the prominent western elevation No. 52 is already affected by an external steel spiral staircase which runs from the ground to the top floor of the building. However, this is attached to the building and is more traditional in position, design and materials than the development the subject of this appeal.

14. I have also taken into account the many letters of support for the nursery and the flexible childcare and on-site office space it offers and for the nature of the external play space that this nursery provides. In particular, I note the support for the elevated aspect of the play decks, which allow the children to see passing traffic and enjoy the open air and a sense of space which belies the confined nature and limited size of the site. I acknowledge these benefits of the nursery to its users, which I consider are wider public benefits. Moreover, the

need for any ramp to access the deck to comply with current disability legislation is a matter which should be accorded still greater weight. I also accept that there has been an improvement to outlook as cited by many residents of Homelees House opposite the site as a result of the raised play areas and the associated improvements to the property's appearance as demonstrated by the photograph submitted by the appellant.

15. In my judgment, and without prejudice to any views I may have, these are matters which are capable of outweighing the harm to the conservation areas. However, the striking of any balance on this matter is plainly heavily coloured by the, as yet, unresolved issue of whether the deck structure as a whole is, or is not, unauthorised. Since that is not a matter for me in dealing with this appeal, this is not therefore a judgment which I can make in determining it.

Conclusion

16. Accordingly, for the reasons given above, and having considered all other matters raised, I conclude that the appeal should be dismissed.

Catherine Hughes

INSPECTOR