



Appeal Decision

Site visit made on 27 November 2013

by **C J Leigh BSC(HONS) MPHIL MRTPI**

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

Decision date: 3 December 2013

Appeal Ref: APP/Q1445/D/13/2205165

120 Eldred Avenue, Brighton, BN1 5EH

- 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 N Collins against the decision of Brighton & Hove City Council.
 - The application Ref BH2013/02161, dated 12 April 2013, was refused by notice dated 22 August 2013.
 - The development proposed is described as 'raised decking to rear with stores & utility room below (revision to BH2012/03562) retrospective.
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Preliminary matters

1. The works are most accurately described as set out on the Council's decision notice, namely the erection of a garden store incorporating roof terrace and balustrade above and the formation of steps and flanking wall between the terrace and rear garden, and I have determined this appeal on that basis. I saw at my site visit that the works the subject of this appeal have been largely undertaken, though not yet fully complete.

Decision

2. The appeal is allowed and planning permission granted for the erection of a garden store incorporating roof terrace and balustrade above and the formation of steps and flanking wall between the terrace and rear garden at 120 Eldred Avenue, Brighton, BN1 5EH, in accordance with the terms of the application, Ref BH2013/02161, dated 12 April 2013, subject to the development being carried out in accordance with the following approved plans: 433/02 & 433/03.

Main issues

3. The main issues in this appeal is the effect of the development upon, firstly, the living conditions of adjoining occupiers and, secondly, the character and appearance of the surrounding area.

Reasons

Living conditions

4. I have been informed of the planning history relating to the appeal property, and also to other properties in the vicinity. I see the essential matter being the grant of permission in May 2011 for raised decking to the rear of the property with garden store below (ref. BH2011/00666). The development as-built on site differs from this permission with the appellant informing me the depth of

the terrace being 2.3m as oppose to the permitted 2m, which is not disputed by the Council.

5. The terrace as-built allows views towards the rear gardens of adjoining properties. However, I could ascertain from my site visit that views over these gardens would also be possible if the terrace was to the lesser depth as permitted under application BH2011/00666. In my judgment there is only a marginal increase in the ability to overlook adjoining gardens from the as-built situation, and this does not lead to a material loss of privacy to adjoining occupiers. Similarly, the marginal increase in size of the terrace does not indicate any likelihood that there would be a material increase in noise and disturbance to adjoining neighbours that might occur from the approved terrace.
6. The increased depth leads to some partial additional ability to look towards the rear windows of the adjoining property of 118 Eldred Avenue, due to the projection beyond the rear building line of that house. However, to achieve such views one must stand in a very limited part of the as-built terrace, and so there is little material loss of privacy. Furthermore, I note that the existing rear terrace to No. 118 similarly projects beyond the rear building line and so affords the opportunity to look towards No. 120 and its garden. In any event, the proposed development shows the erection of a 1.8m high privacy screen along the edge of the terrace. This would be sufficient to prevent unreasonable views into the windows of No. 118 from the appeal property (and *vice versa*), as well as providing adequate screening from noise and disturbance.
7. It is thus my conclusion on the first issue that the development would accord with Policies QD14 and QD27 of the Brighton and Hove Local Plan 2005 which resist new development, including extensions, that would result in significant noise disturbance, loss of privacy or outlook to neighbouring properties.

Character and appearance

8. The scale, siting and design of the extension and terrace differ from the approved raised decking to the rear of the property. However, the development would still be appropriate to the character of the host property and the wider area, where I saw a number of properties have also had rear extensions with terraces. The works would incorporate facing brickwork, with the use of render and timber boarding to part of the staircase. Although these materials would differ from the host property, it is a modest and non-obtrusive use of these contemporary materials and not imposing upon the house or wider area. The glazed balustrades would similarly be modest additions. The size of the works would remain proportionate to the host property and its plot.
9. On the second issue it is concluded that the design and scale of the development would be acceptable and not harmful to the appearance of the host property or the surrounding residential area. Thus, it would be consistent with the objectives of Policy QD14 of the Local Plan that seeks to ensure all new extensions are well designed, sited and detailed in relation to the property and the surrounding area.

Conclusions and conditions

10. For the reasons given, and having regard to all other matters raised, the appeal is allowed. The Council have suggested a condition requiring matching materials. However, the drawings show certain materials would not match and,

in any event, as noted above the development is largely complete. I therefore consider the only necessary condition to be one specifying the approved drawings in order that the development shall be carried out in accordance with the approved plans, including the use of the materials as shown. This is also for the avoidance of doubt and in the interests of proper planning, and to ensure the inclusion of the shown balustrades and privacy screen.

C J Leigh

INSPECTOR