
Appeal Decision

Site visit made on 30 December 2013

by S J Papworth DipArch(Glos) RIBA

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

Decision date: 3 January 2014

Appeal Ref: APP/Q1445/D/13/2208306

89 Hove Park Road, Hove BN3 6LN

- 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 Miss Kate Birss against the decision of Brighton & Hove City Council.
 - The application Ref BH2013/01805, dated 30 May 2013, was refused by the Council by notice dated 23 August 2013.
 - The development proposed is erection of a tree house in rear garden (retrospective).
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Decision

1. I dismiss the appeal.

Reasons

2. The main issue in this appeal is the effect of the structure on the living conditions of neighbouring residential occupiers with particular regard to outlook and privacy. Policies QD14 and QD27 of the Brighton & Hove Local Plan seek extensions and alterations that would not result in significant loss of privacy or outlook to neighbouring properties, and would not cause material nuisance and loss of amenity to adjacent users, residents, occupiers or where it is liable to be detrimental to human health.
3. The application is retrospective and the structure was in place at the time of the site inspection. The appellant refers in the Grounds of Appeal to possible changes to the window arrangements, and to the addition of vegetation to cover the structure in views from the rear of properties on Goldstone Crescent. The Council's Arboriculturalist comments that such shielding may be a solution but that the structure would need to be moved forward, away from the fence.
4. However, the nature of the application for consideration at this appeal is clear, as shown by the structure on the site and most of the drawings, being a structure closely backing onto the boundary with 35 Goldstone Crescent. It is not the role of the appeal process to redesign proposals, or otherwise suggest ways in which development could be made acceptable. Changes of the type suggested should form a distinct and fully detailed new application, giving the Local Planning Authority opportunity to consider the proposals and to seek comments afresh from those affected, such as neighbours.
5. Due to the fall in land levels, the high fence on the boundary to number 35 is already at or about first floor level of that neighbouring dwelling, the rear wall of which is placed close to the boundary here, having more of its garden to the

south side. The appeal structure, being on two levels, projects above the top of this fence, so that it appears as an incongruous feature in views from both ground and first floor windows, harming the outlook. In addition, there would be a feeling of being overlooked that would not be there with the fence alone. These adverse effects are felt by the occupiers of number 35, and they have written to the Council at the time of the application, and in representation to this appeal. The neighbours at 37 have also written, but although they would be able to see the structure in oblique views, it is not in such a direct relationship as to be harmful in planning terms.

6. In conclusion, the location and size of the structure causes unacceptable harm to the living conditions of the occupiers of 35 Goldstone Crescent such that the aims of Policies QD14 and QD27 are compromised through the effect on their outlook and privacy. Whilst there may well be satisfactory solutions to the siting of this essentially mobile structure, which could allow its continued enjoyment by the children of the appeal property as sought by the appellant, the present siting in this retrospective appeal is unacceptable for the harm it causes and hence, for the reasons given above it is concluded that the appeal should be dismissed.

S J Papworth

INSPECTOR