



Appeal Decisions

Site visit made on 4 November 2008

by **Simon Hill MRTPI**

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

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**Decision date:
12 December 2008**

Appeal A Ref: APP/Q1445/A/08/2078235

Land adjoining 2 Croft Road, Brighton BN1 5JJ

- 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 Total Vegetation Management Ltd against the decision of the Brighton and Hove City Council.
- The application Ref BH2007/03965, dated 18 October 2007, was refused by notice dated 17 December 2007.
- The development proposed is the erection of a 2 storey house.

Appeal B Ref: APP/Q1445/A/08/2078227

2 Croft Road, Brighton BN1 5JJ

- 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 G.Vallier against the decision of the Brighton and Hove City Council.
- The application Ref BH2007/03950, dated 15 October 2007, was refused by notice dated 17 December 2007.
- The development proposed is described as: 'Demolish ground floor conservatory. Build ground floor rear extension with terrace over. Build first floor front extension with terrace. New pitched roofs. New elevated parking space.'

Preliminary matters

1. Both appeals are considered in one decision letter because of the overlap of some considerations, but a decision is made on each appeal in its own right. Although the applications are made in different names and on different dates, both site plans show the full extent of the existing garden of 2 Croft Road divided into the two proposed curtilages as being in the same ownership.
2. In relation to Appeal B, the proposed alterations and extension to the dwelling are physically independent of the proposed parking space and would only be functionally linked in the event of Appeal A being allowed. As Appeal A is dismissed a split decision on Appeal B can be issued.

Decisions

3. I dismiss Appeal A. I dismiss Appeal B insofar as it relates to the elevated parking space and otherwise allow it and grant planning permission for the demolition of the ground floor conservatory and building of a ground floor rear extension with terrace over, a first floor front extension with terrace and new pitched roofs at 2 Croft Road, Brighton, BN1 5JJ, in accordance with application Ref BH2007/03950, dated 15 October 2007, and drawing nos. TA 269/10-14

inclusive insofar as they relate to the development hereby permitted, subject to the following conditions:

- 1) The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.
- 2) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 3) No development shall take place, including any works of demolition, until a Waste Minimisation Statement has been submitted to, and approved in writing by, the local planning authority. The Statement shall provide for the management of construction waste that reduces the amount to be sent to landfill. The approved Statement shall be adhered to throughout the construction period.

Main issues

4. In relation to both appeals the effect on the character and appearance of the building and the area is a main issue. In relation to Appeal A the effect on living conditions of the occupants of 2A Croft Road and of the future occupants of the proposed new dwelling is also a main issue.

Reasons

Character and appearance of the existing building and of the area

Appeal A

5. The proposed dwelling would be on land that slopes steeply down away from the road and be positioned behind and at a lower level than 2 Croft Road. It would be relatively small and have its front elevation partly sunk into the ground. However, because of the shape of the appeal site and the angle and level at which no.2 is set, it would be glimpsed from the pavement when looking down between no.2 and the existing garage to be retained. In the foreground of that view would also be the proposed steps and walkway, the angled unspecified boundary treatment between the two plots and the elevated parking space in front of no.2¹. The combination of these features in close proximity to each other viewed from the pavement (which the artist's impression from a viewpoint above the garage does not fully show) would give a jumbled and cramped impression. This is notwithstanding potential landscaping and the acceptable design of the dwelling itself.
6. The appellant company refers to examples of backland development that have been permitted elsewhere in the City. From the information available these appear to be set further back from the road and more fully behind the original frontage dwelling than the current proposal. The appeal decision cited refers to

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¹ The part of the proposal subject of Appeal B that would be necessary if no.2 were to have its own off street parking in the event of Appeal A being allowed.

that development not significantly affecting the street scene. The position of the proposed dwelling, being set only just behind and partly to the side of no.2, would be seen as a discordant backland development within an area where the prevailing layout is of dwellings facing the road with their own frontages wider than the dwellings.

7. The Appeal A proposal would thus harm the character and appearance of the area, including the setting of no.2. It therefore conflicts with policies QD1 and QD2 of the Brighton and Hove Local Plan (LP) which require development to make a positive contribution to the quality of the environment.

Appeal B

8. The proposed alterations and extension to the existing house are not in dispute and, subject to the appropriate choice of materials (condition 2 refers), would result in a significant overall improvement to its character and appearance.
9. The proposed elevated parking space, projecting from the road over the steep bank down to the dwelling would appear ungainly and obtrusive seen both from the road and from the stepped approach to the house. The harm to the setting of the dwelling and to the character and appearance of the area might be outweighed by the benefit of an additional dwelling if Appeal A were allowed. Otherwise there is insufficient justification for that part of the proposal to outweigh the harm that it would cause to the character and appearance of the area and the setting of no.2.
10. The part of Appeal B proposal that relates to the alterations and extension to the dwelling of no.2 would thus accord, and the elevated parking space conflict, with the requirement of LP policies QD1 and QD2 identified above.

Living conditions

Appeal A

Occupants of no.2A

11. The walkway and front door of the proposed dwelling would be about 10m from the nearest edge of the raised terrace at the back of no.2A and about 16m from the patio doors that face on to it. The south west facing window of the living/dining room of the proposed dwelling would be about 4m from the boundary with no.2A. It would directly face the garden area close to the house and would be about 8m from its terrace and around 13m from the patio doors. At these distances unobstructed overlooking, even where at an angle, and noise disturbance incidental to a front entrance would be unduly intrusive of privacy of the private amenity area of no.2A.
12. Some tall mature vegetation near the boundary within the appeal site is insufficient to provide a comprehensive boundary screen on its own. Screening is also provided by tall vegetation within the garden of no.2A. However its occupants cannot be expected to devote the space and effort needed to maintain a tall screen of vegetation in order to prevent undue harm to their privacy resulting from an adjacent development. In any event, even if a landscape screen had been specified within the appeal site, vegetation which is

potentially impermanent cannot be relied upon to prevent unacceptable effects caused by such proximity of permanent development.

13. Because of the significant differences in levels, I had difficulty at my visit assessing, without the benefit of a ground survey and relevant scaled vertical sections, whether a 2m high boundary fence would prevent overlooking from either the walkway or the window. I was not therefore satisfied that undue intrusion of the privacy of the occupants of no.2A could be prevented by standard boundary treatment and none other is specified. Although there is suggestion of relocating the walkway, no such proposal is before me. Even if the window were obscure glazed, it would by its presence give an impression of intrusion. That would accentuate the overbearing effect of sight of the proposal situated close to the boundary and well to the back of no.2A, which would be a feature uncharacteristic of the area. The Appeal A proposal would thus cause undue harm to the living conditions of the occupants of no.2A. It therefore conflicts with LP policy QD27, which requires development not to harm the amenity of occupiers of the adjacent property.

Future occupants of the proposed dwelling

14. As it now exists the south elevation of no.2 has two first floor bedroom windows and a balcony about 10-13m away from the front lounge and bedroom window of the proposed dwelling. It would be possible to look down into those rooms which, at those distances, would be unacceptably intrusive of the privacy of the future occupants of the proposed dwelling. If the alterations were implemented, the bedroom windows would be blocked up and a bathroom window inserted, which could be obscure glazed, thereby reducing the overlooking of the proposed dwelling from the first floor of no.2. However, the existing balcony would remain and a new terrace introduced projecting from the east elevation, the southern railing of which would be about 10m away from the windows of the proposed dwelling. Although the line of sight would be at a horizontal angle, the windows in the proposed dwelling are large and I judge that it would be possible to see into a significant amount of the rooms. From the terrace it would also be possible to see into the smaller kitchen window about 14m away, which would also be intrusive. Although that is a secondary window obscure glazing has not been suggested.
15. Whether altered or not, the ground floor of the south elevation of no.2 has/would have windows and patio doors opening from the lounge and dining room onto a patio/terrace set significantly above the ambient ground level in front of the proposed dwelling. As far as I could judge on site without the aid of a ground survey and relevant vertical scaled sections, that would allow overlooking into the lounge of the proposed dwelling over the top of a 2m high boundary treatment which appears to be indicated on drawing no. TA 269/13. That overlooking would be at a distance of about 9-13m. The sunken position of the front bedroom window of the proposed dwelling probably means that sight into it from the ground floor of no.2 would be blocked by boundary treatment and/or the retaining wall, but I am not certain. Thus on the evidence available I conclude there would be potential for overlooking at close quarters into the lounge window, and possibly the bedroom, of the proposed dwelling which would be unduly intrusive of the privacy of future occupants.

16. Each of the opportunities for overlooking that are identified above would be unduly intrusive of the privacy of the future occupants of the proposed dwelling. In combination they would result in an overall poor standard of privacy well below that which prevails even at the front of dwellings, particularly in a relatively low density suburban area such as Croft Road. The Appeal B proposal thus conflicts with LP policy QD27, the requirements of which are referred to above.

Other matters

17. The absence of details of how construction waste would be reduced to a practical minimum formed one of the reasons for refusal in relation to Appeal B and the appellant has indicated his willingness to accept a relevant condition. Condition 3 is thus necessary to ensure compliance with LP policy SU13, which requires the minimisation and reuse of construction waste.

18. The Council refers to the lack of outdoor amenity space available to the future occupants of no.2 and of the proposed dwelling. However both dwellings would have adequate sitting out areas for those not wanting a large garden and the Council does not refer to any minimum standards of which they fall short. In addition, as seen from my visit and from plans, there are a number of apparently relatively recent dwellings nearby that have equally small useable areas of amenity space. I therefore give little weight to the Council's concern on this matter.

Conclusion

19. For the reasons given above and having regard to all other matters raised, I conclude that the Appeal A should be dismissed and Appeal B dismissed in relation to the elevated parking space and otherwise allowed and permission granted subject to conditions.

Simon Hill

INSPECTOR

