
Appeal Decision

Site visit made on 27 January 2014

by Kenneth Stone BSc(Hons) DipTP MRTPI

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

Decision date: 7 February 2014

Appeal Ref: APP/Q1445/A/13/2209028

36 Castle street, Brighton BN1 2HD

- 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 Ivan Topper against the decision of Brighton & Hove City Council.
 - The application Ref BH2013/02129, dated 13 August 2013, was refused by notice dated 8 October 2013.
 - The development proposed is removal of existing timber store and erection of 1 x 1 no. bedroom dwelling house.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are:
 - (a) The effect the proposed development would have on the character and appearance of the Regency Square Conservation Area;
 - (b) The effect of the proposed development on the living conditions of the occupiers of surrounding properties with particular regard to outlook, visual impact and privacy; and
 - (c) Whether the proposed development would provide for satisfactory living conditions for the future occupiers' with particular regard to space, outlook, light and ventilation and lifetime homes.

Procedural Matter

3. The appellant contends that Policy QD14 of the Brighton and Hove Local Plan 2005 (saved policies post 2007) (LP) which refers to extensions is not relevant given that the proposed development is a free standing building infilling an area at the rear of the building but which is not physically linked. However, the submitted plans show that the building would directly abut the rear of 36 Castle Street (No 36) and the basement and ground floor layout show there is no physical separation but that it would utilise the rear wall of the existing building as such therefore I conclude that it is reasonable to describe the proposal as an addition to that building and that Policy QD14 is therefore relevant.

Reasons

Character and appearance

4. The appeal site is located to the rear of No 36 within the Regency Square Conservation Area (CA). The Character Statement¹ for this conservation area describes the special character of the area as being derived from the strong grid pattern with streets running downhill towards the sea intersecting others following the contours. But recognises the grid is irregular reflecting the piecemeal fashion of its development. In relation to the specific environs of the appeal site it is further noted that there is a marked contrast between the formal architecture of the grander houses in prestigious locations such as Regency Square and the smaller scale buildings which have traditionally provided services, such as the artisan housing in Western Street and Castle Street.
5. The CA is subdivided into different character areas with the appeal site being located within the Northeast area and where the Character Statement notes 'Further west are Stone Street, Castle Street and Regency Mews, an artisan area of small two and three storey houses interspersed with commercial and light industrial premises.' The appeal site is a yard area to the rear of No 36 a three storey terraced property divided into flats. An archway within the terrace provides access to the rear area which has a mixed character, comprising the rear outrigger to No 36, the Brighton Little Theatre and Castle Mews a more recent development dating from 2003. Castle Street is formed of short terraces of varying height with that to the North being a lower 2 storey building the overall scale, bulk and roofscape is therefore varied.
6. The proposed building would replace an existing timber store and decked area with a three storey building above a basement having significantly greater bulk and mass. The building would fill the space between the rear of the existing outrigger and the Little Theatre building where it would appear cramped and unrelated to the adjoining buildings. The building would sit above the ridged roof of the theatre and the eaves line of the out-rigger at No 36 with little regard to either building. In this respect it would dominate and overwhelm those buildings and the intimate nature of the space between the buildings in this discreet location.
7. The proposed design with modern materials and the incorporation of balconies would introduce features, materials and a design which would be significantly at odds with those in the surrounding area. Whilst this is a deliberate architectural response and in some cases can be successfully employed it would not be so here. There is little regard paid to the surrounding properties in terms of scale, mass, floor heights etc which would successfully integrate the proposed development
8. Whilst the site is in an area set away from the main frontage and views into it are restricted, this forms part of the character of the area along with the scale and mass of the artisan and workshop buildings and glimpses through to areas to the rear. The modern materials and design would be visible at lower levels through the archway from Castle Street and would be readily visible to the occupants and users of Castle Mews. This would be harmful to the character and appearance of the CA.

¹ Regency Square Conservation Area Character Statement adopted 20 October 2005

9. The harm to the character of the conservation is however in the context of paragraph 134 of the National Planning Policy Framework (the Framework) less than substantial. The public benefits of the scheme including the provision of an additional housing unit, the efficient use of land and the potential to achieve a development meeting Code for Sustainable Homes level 4 are not however sufficient to outweigh the harm identified.
10. For the reasons given above I conclude on this main issue that the proposed development would result in material harm to the character and appearance of the Regency Square Conservation Area. Consequently it would conflict with Policies QD1, QD2, QD14 and HE6 of the LP. Collectively these seek development of a high standard of design that makes a positive contribution to the visual amenities of the area taking account of height, scale and bulk and which is well designed and sited in relation to the property to be extended and adjoining properties. Proposals within conservation areas should preserve or enhance the character or appearance of the area with the design and detailing reflecting the scale and character or appearance of the area. The development also conflicts with the Framework and in particular paragraph 131 which advises that account should be taken of the desirability of sustaining and enhancing the significance of heritage assets.

Living conditions of neighbours'

11. The proposed development would be some 2.5m higher than the existing height of the out rigger of 38 Castle Street. This additional height over the existing built form would fill an existing break in the built development between the rear of No 36 and the little Theatre building and would thereby add to the sense of enclosure presently experienced by the occupants of the properties to the north. Given the enclosed nature of this space the additional sense of enclosure would be harmful to the amenities presently enjoyed by the occupants of those properties. The contrasting materials, bulk and mass of the additional form would be readily visible and conflict with the traditional form and materials of the adjacent properties and adversely affect the visual amenities enjoyed by those occupants.
12. Whilst the appellant has suggested that the glazed nature of the walls and roof of the building will allow light to penetrate this will not address the sense of enclosure created by the built form which will be readily visible. The use of obscure glazing could however effectively safeguard the privacy of the occupants of the properties to the north.
13. The front elevation would incorporate glass and balconies which would offer significant potential for overlooking of those properties to the south. However, the rear northern elevation of the closest block of Castle Mews has windows of restricted size which appear to be obscure glazed such that there would not be an unacceptable level of overlooking and harm to the privacy of the occupants of those properties. Furthermore given the separation to the front elevation of the further block of Castle Mews and the courtyard form of that development the proposed development would not further compromise the privacy of the occupants of those properties.
14. For the reasons given above I conclude on this main issue that the proposed development would result in material harm to the living conditions of the occupants of those properties to the north with particular regard to outlook and visual impact. Consequently it would conflict with policies QD14 and QD27 of

the LP which amongst other things seek to ensure development does not result in a loss of amenity or outlook to neighbouring properties. This is consistent with the Framework and in particular paragraph 17 bullet point 4 which advises that decision taking should always seek a good standard of amenity for all existing and future occupants of land and buildings.

living conditions of future occupiers'

15. Policy H013 of the LP requires new dwellings to be built to lifetime homes standards such that they can be adapted to meet the needs of people with disabilities without major structural alterations. The proposed development provides a raised ground floor to the building with access gained from a short flight of stairs. Internally the corridors circulation space and stairways are narrow and not easily accessible for future occupiers with disabilities. Moreover the limited footprint and internal space would mean that adaptation would be difficult. A point acknowledged by the appellant who suggests that it may not be suited to those less mobile due to the arrangement of one room per floor. In this regard the proposed development would not be well designed and would not afford a good standard of space for future occupiers.
16. The basement level provides a habitable room with a high level window that to secure a satisfactory level of privacy and amenity for future occupiers would need to be obscure glazed. This in turn would provide a poor level of outlook for the future occupants. When associated with the concerns raised with regard to the internal space within the dwelling leads me to conclude that the standard of accommodation provided would be inadequate.
17. For the reasons given above I conclude on this main issue that the proposed development would not provide for satisfactory living conditions for the future occupiers' with particular regard to space, outlook and lifetime homes. In consequence it would conflict with policies QD27 and HS01 of the LP which amongst other things seek adaptable accommodation that does not harm the amenity of proposed occupiers. This would also conflict with the Framework and in particular paragraph 17 bullet point four which seeks to secure high quality design and a good standard of amenity for future occupants of land and buildings.

Other matters

18. The issue of private rights and access as raised by Brighton little theatre is a private matter. In the context of noise generated by the proposal impacting on the theatre given the residential nature of the use and the existing surrounding buildings I do not view this would cause unacceptable harm.
19. I note the comments about cycle storage however this is a matter that could suitably be addressed by way of condition had I found the scheme acceptable.
20. I note that the site is in a sustainable location and that the scheme could be constructed to meet Code for Sustainable Homes level four however these benefits are limited and not sufficient to outweigh the harm that I have identified above.

Conclusions

21. For the reasons given above I conclude that the appeal should be dismissed.

Kenneth Stone

INSPECTOR