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# Appeal Decision

Site visit made on 30 September 2014

**by Megan Thomas BA(Hons) in Law, Barrister**

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

**Decision date: 7 October 2014**

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## **Appeal Ref: APP/Q1445/A/14/2221515**

### **20A Cromwell Road, Hove, East Sussex BN3 3EB**

- 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 M Wood against the decision of Brighton & Hove City Council.
  - The application Ref BH2013/02905, dated 22 August 2013, was refused by notice dated 14 January 2014.
  - The development proposed is "retrospective application for one bedroom dwelling".
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### **Decision**

1. The appeal is dismissed.

### **Main Issue**

2. The one bedroom dwelling which is the subject of the appeal has already been occupied as an independent residential unit. The main issue in the appeal is the effect of the proposal on the living conditions of occupants of the one bedroom dwelling and on occupants of flat 1, 20 Cromwell Road with regard to privacy.

### **Reasons**

3. The appeal site lies within the Willett Estate Conservation Area. 20 Cromwell Road is a grade II listed building split into flats with accommodation on 5 floors including the basement and roof space. Flat 1, occupied by the appellant, is on two floors with rooms at the rear ground level looking out to the garden and rooms on the floor above also looking out over the rear. There are another 3 flats on upper levels of no.20 which also have rear views.
  4. 20A Cromwell Road is a single storey rectangular residential unit situated at the rear of no.20 at the end of the garden. It is slightly elevated and has large windows and a flat roof. It is approximately 36sqm. There is no vehicular access to it. Pedestrian access is gained from Cromwell Road by walking down the eastern side of no.20. There is no subdivision of the garden or boundary treatment proposed as part of this appeal. There is a large cycle store in the rear garden of no.20 and a pathway leading to the one dwelling unit. Retrospective planning permission is sought for the unit to be occupied as a self-contained residential dwelling. Currently it can be used as ancillary accommodation to the residential use of the main building.
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5. The separation distance between the main dwelling and proposed self-contained residential unit is about 26m. The Council has a recent Supplementary Planning Document entitled *Design Guide for Extensions and Alterations* (2013) which, in the context of new two storey or more residential extensions, suggests that in most cases a minimum separation of 14m to the nearest facing residential window should be achieved in order to avoid amenity issues. Whilst in this case the separation distance would be comfortably over 14m, there are several other factors which are of importance in assessing privacy.
6. The proposed unit has four large windows at the front which are its only fenestration and it has a shallow footprint. It also has a raised patio area at the front as its only or main amenity space. The majority of the windows can be directly overlooked by at least one window in flat 1 and it is likely that there are similar views from upper floor flats. Whilst the overlooking is from a distance, it is exacerbated by the ability to look down from the main building onto the patio area and onto the windows in the one-bedroom unit. I have come to the view that there would be insufficient privacy for the occupants of the one-bedroom unit whilst in the property and when using the amenity space. As well as actual overlooking, there would also be a strong perception of being overlooked when in the one-bedroom unit or when using its patio area as the number of windows in the rear elevation of the main building is large and some of the rear windows to no.21 Cromwell Road also gain views of the patio area, albeit obliquely. I consider that there would be little respite from overlooking for the occupants of the one-bedroom dwelling.
7. Turning to the living conditions experienced by occupants of flat 1, I acknowledge that there is a communal garden and a shared cycle and bin store to the rear of the property which brings residents of 20 Cromwell Road into the rear area. However, to have a self-contained residential unit as proposed would allow much more regular views into a garden level room of flat 1 currently used as a bedroom. The comings and goings up and down the pathway from a self-contained unit would be intrusive in my view. Similarly, at least one upper floor rear window of flat 1, which serves a kitchen/dining/living area, would be very visible from the new unit and its patio area and I consider that would be reasonably intrusive for the occupants of flat 1.
8. I have borne in mind that use of the unit as a self-contained residence for a period of about two years has not led to any reported privacy or nuisance issues. In a similar vein, the appellant points out that there are closer back-to-back distances in the urban area and indeed in Cambridge Mews adjacent to the appeal site. However, I have assessed the privacy issue in this case on the particular and individual relationships that exist at no.20 & 20A Cromwell Road and their environs and those other factors do not outweigh the concerns I have in relation to loss of privacy and intrusiveness.
9. I conclude therefore that the development would materially harm the living conditions of occupiers of the one bedroom dwelling and of occupiers of flat 1, 20 Cromwell Road by reason of loss of privacy. It would be contrary to saved policy QD27 of the Brighton & Hove Local Plan 2005. Having taken all representations into account, including those relating to the need for one bedroom units in the area, I dismiss the appeal.

*Megan Thomas*      INSPECTOR