
Appeal Decision

Site visit made on 20 April 2015

by Isobel McCretton BA(Hons) MRTPI

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

Decision date: 15th June 2015

Appeal Ref: APP/Q1445/W/15/3005929
65 Dyke Road Avenue, Hove BN3 6DA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Joseph Prince against Brighton & Hove City Council.
 - The application Ref. BH2014/03787 is dated 11 November 2014.
 - The development proposed is extension and refurbishment of the existing dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Council's decision notice was dated 9 March 2015. However, on 2 March 2015 the appellant submitted an appeal on the grounds that the Council had failed to determine the application within the required period. I have therefore considered the appeal on this basis, noting the Officers' report and the decision notice as being the Council's view had it retained the power to determine the application.
3. The description of development set out above is taken from the application form. The appeal form and the Council's notice describe the proposal as *'remodelling of existing house incorporating front and rear extensions and rear terrace at ground and first floor level. Replacement of existing roof with extension to create second floor level. Erection of new perimeter wall and front boundary wall rendered with timber panels'*. In my view this describes the work shown on the submitted drawings more fully and I have determined the appeal accordingly.

Main Issues

4. The main issues are the effect of the proposed development on the character and appearance of the area, and the effect on the living conditions of the adjoining occupiers in terms of privacy.

Reasons

Character and Appearance

5. The appeal property is a detached house, built around the late 1950s, situated on the south-western side of Dyke Road Avenue. It has an integral garage, a

hipped roof with a front gable feature and a cat-slide roof on the north-western elevation facing no.67. There is a single storey, flat-roofed addition at the rear with a false-pitched element to the side, and a raised terrace along the full width of the house. The main elevations are brick with rendering to the front gable and the rear ground floor and the roof is tiled. To the front there is a low brick wall topped with railings and hedging between tall piers between 2 sets of high wrought iron gates with a similar height brick wall to either side. The land slopes gently from front to rear so that the house sits slightly below road level and the rear terrace is raised above the garden.

6. No.67 to the north-west is a detached house and no.63 to the south east is a care home which has undergone considerable extension at the rear with single and 2-storey flat-roofed additions.
7. It is proposed to remodel and extend the appeal dwelling. At ground and first floor level the main additions would be at the rear. There would be a single story extension to the ground floor incorporating a family/dining area, living room and pool. At first floor level there would be bedroom extensions and a terrace which is shown on the floor plan, but not the elevations, as being surrounded with a privacy screen (though the plans also suggest a screen in front of the balcony doors). At second floor level the roof would be replaced with a flat roofed master bedroom suite. At the front there would be a small single storey extension to enlarge the garage area to provide an internal utility/boot room. The ground floor would be faced in stone and the upper floors would be a mix of render and timber cladding. A 2.4m high rendered wall with timber panels would be provided along the side and rear boundary, and the front boundary wall would also be rendered with timber infill panels.
8. The surrounding area is predominantly residential with substantial, detached houses set back from the road on generous plots. Dyke Road Avenue is a wide road. The houses vary considerably in age and design with no cohesive character. One of the main defining characteristics of the area is that the houses are substantial 2 or 2½ storey dwellings with pitched or hipped roofs. The roof form emphasises the gaps between the properties, provides visual separation and adds to the spaciousness of the area. The main materials are brick, or brick and render, with tiled roofs. Some houses have half timbered features or tile hanging.
9. Objectors have referred to the fact that the remodelled dwelling would bear no relation to the existing house or others in the area. Nevertheless, the Officers' report notes that the setting of the appeal property is not so sensitive that a modern design, if well conceived and executed, would necessarily be detrimental to the prevailing character and appearance of the area. I have no reason to disagree. This is not a conservation area and there is sufficient space and variety in the street scene to accommodate a contemporary design.
10. The proposed design would be contemporary in style, with staged flat-roofed elements to all the elevations, and it would be a modern, more sustainable building than the current house. The overall height would be about 850mm higher than the existing building. Despite the objections of neighbours, with the variations in building height along the road I do not consider that this would be particularly discernable or unacceptable.
11. However, while the enlarged house would sit on a similar footprint as the existing dwelling at the front and sides, it would be higher on the side

elevations (2-storey rather than single storey) and would not have a roof which would slope away from the boundary on each side. Rather, there would be an imposing, flat-roofed 2-storey wall. This would reduce the characteristic gap between the dwellings, particularly to no.67 where both the appeal and neighbouring dwellings sit relatively close to the boundary, as seen on drawing no.010. There would be an awkward relationship between the 2 dwellings at this point and, in the context of the dwellings in Dyke Road Avenue, the appeal property would appear cramped on the plot. I realise there are a few instances in the area where the gaps have been closed down, but to my mind this underlines the harm to the character of the area and the street scene.

12. In addition, the pallet of materials proposed would not reflect that of the surrounding area. There is white render to parts of many of the houses, and half timbering to the houses and wooden fencing on the boundaries are quite prevalent. Nonetheless, grey stone is not typical of the area where the main material is brick. The rendered boundary walls with timber panelling, particularly on the front elevation, while complementing the clean lines of the remodelled building itself, would be very stark and would contrast unfavourably with the more mellow brick and/or timber front boundaries, generally softened by vegetation, found at most properties in the vicinity. I appreciate that further along Dyke Road Avenue there are one or two rendered front walls but, it seems to me, they serve to emphasise the unsympathetic nature of such boundary treatment.
13. The National Planning Policy Framework advises that local planning authorities should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles. Even so, the Framework states that it is proper to seek to promote or reinforce local distinctiveness.
14. Thus, while there is no objection in principle to contemporary design, as set out above, I find that there are elements of the proposal which would not reflect and respond to some of the distinctive attributes of the area to the detriment of its character and appearance. As such, I conclude that the scheme would not accord with saved policies QD1 and QD2 of the Brighton and Hove Local Plan 2005 which, among other things, require all new development to make a positive contribution to the visual quality of the environment and be designed to emphasise and enhance the positive qualities of the local neighbourhood.

Living Conditions

15. The Council's second reason for refusal relates to the effect on no.63 in terms of loss of privacy. In the proposed scheme there would be a terrace at ground floor level in front of the swimming pool extension, and another at first floor level, both close to the boundary with no.63. There appears to be only one habitable room window in the flank of no.63, and this is set back from the boundary and towards the front of the property. It would not be materially affected by the proposed development where there would be no windows in the first floor flank elevation on this side of the house.
16. To the rear, there is already a raised terrace at the appeal site close to this boundary, albeit set further back than the proposed terrace would be. The care home has large single and 2-storey rear extensions which screen the view into the rear garden from the upper floor windows at the appeal site. A privacy

- screen to the first floor terrace could be required, by condition, if permission were granted, and the proposed extensions themselves would further foreshorten the view from the second floor master suite. I therefore do not consider that there would be an unacceptable loss of privacy to occupiers of the care home at no.63.
17. The neighbours at no.67 and 1 Dyke Close have also raised concerns about loss of privacy.
 18. There is an existing first floor balcony close to the boundary with no.67. I do not consider that the oblique views which would be obtained from the first floor bedroom windows in the proposed scheme would result in a significantly greater degree of overlooking. In built-up areas such as this, a certain level of intervisibility between properties is commonplace.
 19. The nearest window in the second floor extension would be to an en-suite bathroom and it could be required that this is glazed with obscured glass. The main master bedroom windows would be offset from the boundary by over 10m and the views down into the garden of no.67 would be partially obscured by the flat roofs of the proposed ground and first floor extensions. I am also mindful of the fact that it is likely that dormer windows could be inserted in the existing roof without the need for planning permission.
 20. With regard to 1 Dyke Close, the objector states that most of the boundary trees have been removed and so there would be further loss of privacy to the house and garden. The proposed extension would be visible from no.1, but that house is offset from the appeal site with the garden of no.67 running along much of its north-eastern boundary. Views from the proposed second floor extension towards the house at no.1 and the more private area of garden would be at some distance, at an oblique angle and partially obscured by vegetation in the garden of no.67. I therefore do not consider that there would be a substantial loss of privacy for the occupiers.
 21. I conclude that there would not be a harmful effect on the living conditions of the neighbouring occupiers in terms of loss of privacy and that the proposal would accord with Local Plan policies QD14b and QD27 which seek to protect the privacy and amenity of adjacent residents. However, this does not outweigh my conclusion on the first issue with regard to the effect on the character and appearance of the area.

Conclusion

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

Isobel McCretton

INSPECTOR