



Appeal Decision

Site visit made on 24 February 2009

by **Philip Willmer BSc Dip Arch RIBA**

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

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Decision date:
10 March 2009

Appeal Ref: APP/Q1445/A/08/2090249
5 Village Close, Portslade, East Sussex, BN41 2GT.

- 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 Rault against the decision of Brighton and Hove City Council.
- The application Ref BH2008/02125, dated 23 June 2008, was refused by notice dated 11 September 2008.
- The development proposed is described as "Re-submission of retrospective application BH2008/01071. Provision of proposed decking and raised planter (retrospective-partially complete)".

Decision

1. I dismiss the appeal.

Main Issue

2. I consider the main issue to be the effect of the development on the living conditions of neighbouring residential occupiers in terms of visual dominance and the potential for overlooking leading to a loss of privacy.

Reasons

3. The property, the subject of this appeal, is the end house in a terrace of five separated from a similar terrace of four houses by a common passageway. It is part of a recent residential development known as Village Close. The two terraces at the northern end of the site are cut into steeply sloping ground so that the houses' small rear gardens, along with an access path serving some of them, have level access from the properties. However, beyond the path, but within the residential curtilage, each house has a small area of ground which rises at a relatively steep angle away from the path. One occupier has terraced their piece with railway sleepers while others are laid to grass or left unkempt.
4. The appellant has constructed two terraces on his section of land. The lower and wider one is accessed by steps from the path, is decked and has a protective balustrade. The upper one, which does not have steps to it, is identified on the application drawings as a raised planter.
5. The structure, as built, is substantial and, while not visible from the road, is nevertheless highly prominent when viewed from the rear facing rooms and private gardens of neighbouring properties. Due to the close proximity of the structure to neighbouring dwellings and private garden areas, I consider that it is overly dominant and therefore overbearing.

6. The lower terrace is sufficiently wide and accessible as to be utilised by the appellant and his family as an extension of their garden and, I imagine, would be a pleasant place to sit. However, as I saw, anyone on the terrace has a clear view into a number of the private rear gardens and, through rear facing windows, into neighbouring houses. The appellant proposes 1.5 metre high screens to either side of the decked areas. These would, to some limited extent, reduce the potential for overlooking. However, they would not have such a significant affect, due to their limited height, as to overcome my concern. Further, the introduction of such screening would tend, in my opinion, to make the structure even more visually dominant.
7. I appreciate that there will be some mutual overlooking by the nature of the form of the original town house development. However, I do not believe this to be as direct as from the newly built terrace even if access is, as proposed, restricted to just the lower section. The appellant points out that if the deck were removed then he and his family could use the grassy bank to sit on. This is so and may well lead to some overlooking. However, the formation of a raised deck means that sitting out here is more accessible and people are likely to use it for extended periods. I have noted the appellant's concern in respect of the initial advice given to him by the Council. However, although sympathetic to his concerns, I have considered this appeal on its planning merits.
8. I conclude in respect of the main issue that the proposal, the subject of this appeal, is an inappropriate form of development that would have a detrimental impact on the living conditions of neighbouring residential occupiers in terms of visual dominance, and the potential for overlooking leading to a loss of privacy. It would therefore not accord with the objectives of Brighton and Hove Local Plan Policies QD14 and QD27 as they relate to the quality of design and the amenity of residential occupiers.
9. For the reasons given above and having regard to all other matters raised, including the letters of support for the decking from some of the appellant's neighbours, I conclude that the appeal should be dismissed.

Philip Willmer

INSPECTOR