



## Appeal Decision

Site visit made on 10 May 2016

by **D Cramond** BSc MRTPI

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

Decision date: 03 June 2016

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**Appeal Ref: APP/Q1445/D/16/3143467**  
**29 Hove Park Way, Hove, BN3 6PT**

- 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 Ms Maria Higgins against the decision of Brighton & Hove City Council.
  - The application Ref BH2015/03330, dated 14 September 2015, was refused by notice dated 29 December 2015.
  - The development proposed is a raised terrace and garden wall to rear garden.
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### Decision

1. The appeal is dismissed.

### Procedural Matter

2. The development has been largely completed; this does not alter my approach to determining the merits of the proposal.

### Main Issue

3. The main issue is the effect of the proposal on the living conditions of neighbours.

### Reasons

4. The appeal property is a detached two storey dwelling with roof level accommodation and a generous garden to the rear which slopes away from the home. It is in an area of broadly similar detached and semi-detached houses which come together to form a locality of pleasing appearance and which generally offers residents a good standard of amenity. The proposal is as described above.

#### *Living conditions*

5. The most significant part of the scheme is the upper level of the 3 part terrace. This projects about 3.4 metres out from the rear of the house at around internal floor level and runs across the full width alongside a relatively recent single storey extension element. It has a solid screen wall towards the north, almost on the boundary with No 31 which lies beyond. To the south the terrace has a planned planting area with a lower side footpath between it and the common boundary with the rear garden of No 27.
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6. The surface height of the key part of the terrace has unfortunately not been properly influenced or designed by having due regard to the garden levels of the appeal site or its neighbours and it is unduly extensive in all directions. It is understandable to wish to exit at internal floor level but if this is to be accommodated it would be easier to design a benign arrangement for neighbours if the consequent upper terrace does not run full width across the house.
7. In this instance the need to seek to screen the terrace to limit direct overlooking into No 31 has led to the erection of a substantial solid wall virtually on a boundary. Seen from the neighbours' garden, and because of ground levels, this wall is overly extensive and is unduly overbearing and dominating. Render and painting would do little to assist on this front. To my mind the wall would be the final straw extending from the flank of an extension which is itself not without appreciable bulk and mass. The proposal would make these neighbours feel unduly hemmed-in.
8. To the other side I would not be content to rely on planter vegetation to offer full screening for right angle viewing and in any event the form of this from such a relatively raised base would be alien and visually unsettling. The scheme would lead to undue overlooking of No 27.
9. Forward areas towards the corners of the upper terrace cannot readily be screened and add to scope for viewing of both adjoining gardens. I appreciate that there will always be inter-visibility in suburban areas but this would be an unnecessary and inappropriate addition to that.
10. Given all the circumstances I conclude that the proposed works would unacceptably conflict with the aims of achieving well designed neighbourly development which takes account of topography and boundary relationships and generally protects living conditions as called for within Saved Policies QD14 and QD27 of the Brighton & Hove Local Plan.

*Other matters*

11. I understand the Appellant's wish to improve the outdoor space of this property and that there may have been a mis-understanding over what can be deemed 'permitted development'. The expense incurred is regrettable but I have to deal fairly with proposals and consider this in the same way as I would a non-retrospective scheme.
12. I appreciate that there may be greater light penetration to neighbours as a result of vegetation removal as part of the scheme and I recognise that the lowering of the side path amongst other works has resulted in potentially less impact at particular points for neighbours. Visual amenity in the wider context is not an issue and I would agree that dwellings to the rear are not the subject of loss of amenity from the appeal works by reason of their distance. There was an original terrace in situ but it is clear that this projected very much less than the appeal proposal at or around internal floor level. It might theoretically be possible to require the implementation of further screening towards No 27 by planning condition but this would not resolve all the issues with this development and there would be a very real risk that such elevated screening would in turn lead to an associated concern of an overbearing impact.

13. I have carefully considered all the points raised by the Appellant but these matters do not outweigh the concerns which I have in relation to the main issue identified above.
14. I confirm that policies in the National Planning Policy Framework have been considered and the development plan policy which I cite mirrors relevant objectives within that document.
15. As a final point I would add is that the neighbour at No 27 raises within the case correspondence the matter of the south side window to the appeal property's 'dining area' extension. This clear glazed window facing the neighbouring patio area is obviously of considerable concern to this resident. The extension and its window are not within my remit and I do not know its background as I am only dealing with the external area. However I would hope that the Council, if it has not already done so, would contact the occupier of No 27 and explain whether or not the window has planning permission and the background relating to its existence.

*Overall conclusion*

16. For the reasons given above I conclude that the appeal proposal would have unacceptable adverse effects on the living conditions of neighbours. Accordingly the appeal is dismissed.

*D Cramond*

INSPECTOR

