
Appeal Decision

Site visit made on 7 June 2016

by C Jack BSc(Hons) MA MA MRTPI

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

Decision date: 5 July 2016

Appeal Ref: APP/Q1445/D/16/3144923 3 Ash Close, Hove BN3 6QS

- 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 Simon Elyas against the decision of Brighton & Hove City Council.
 - The application Ref BH2015/03495, dated 29 September 2015, was refused by notice dated 24 December 2015.
 - The development proposed is remodelling of existing dwelling including one storey extension to side and two storey extension to rear, roof alterations including removal of chimney, new entrance porch, enlargement of garage, revised fenestration and associated works.
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Decision

1. The appeal is allowed and planning permission is granted for remodelling of existing dwelling including one storey extension to side and two storey extension to rear, roof alterations including removal of chimney, new entrance porch, enlargement of garage, revised fenestration and associated works at 3 Ash Close, Hove BN3 6QS in accordance with the terms of the application, Ref BH2015/03495, dated 29 September 2015, subject to the conditions set out in the Schedule to this decision.

Application for costs

2. An application for costs was made by Mr Simon Elyas against Brighton & Hove City Council. This application is the subject of a separate Decision.

Main Issue

3. The main issue is the effect of the proposed development on the living conditions of the occupiers of neighbouring properties, with particular regard to privacy, outlook and light.

Reasons

4. The appeal property (No 3) is situated in an established residential area. It is a detached chalet bungalow with dormer windows to the front and rear. The rear garden is roughly triangular and the house is set at a notably higher level than 11a and 12 Woodlands. The main issue principally relates to the rear two storey element of the proposed development.

5. 12 Woodlands (No 12), which is also known as The Old Stables, lies close to the boundary with the appeal site. I accept that the development would be visible from No 12, including from the modest patio garden area to the side of the house. However, the first floor part of the proposed rear extension would not extend across the full width of No 3 and as a result there would be adequate separation to ensure that it would not be significantly overbearing or enclosing with regard to the outlook from No 12.
6. The proposed first floor window closest to No 12 would be obscure glazed, which could be secured by condition if I were to allow the appeal, limiting any adverse effect on privacy, which would anyway not be significant. The first floor rear dormer at No 12 would face the side of the proposed two storey extension, and so would not be directly overlooked from it. The reasonable degree of separation between the properties, and their relative orientation, also mean that any loss of daylight experienced by occupants of No 12 would not be significant.
7. 11a Woodlands (No 11a) lies beyond the rear boundary of the appeal site, reasonably well separated from the position of the proposed development, and shares only a short section of boundary. The separation and relative orientation mean that any effect on daylight would not be significant. The side elevation of No 11a faces the appeal site. It is single storey at the point of the shared boundary and largely set below the boundary fence. The primary windows in the rear elevation of No 11a are essentially perpendicular to the rear of No 3 and do not face the appeal site. Therefore, there would not be direct overlooking through those windows from the proposed development and any effect on privacy and outlook experienced at No 11a would not be significant.
8. No 4 Ash Close (No 4) has an existing two storey extension, the position and nature of which would essentially buffer that property from any effects of the appeal development. The first floor window in the proposed side elevation, facing No 4, would be obscure glazed, at some distance away from, and oblique to, the two facing windows in the side of No 4, which are not primary windows. Any adverse effect on privacy, outlook and sunlight or daylight experienced at No 4 would not be significant.
9. Representations have been made to the effect that the rights of the owners of No 12 Woodlands, Mr and Mrs J Hoole, under Article 1 of the First Protocol and Article 8 of the Human Rights Act 1998, would be violated if the appeal were allowed. I do not consider this argument to be well-founded because I have found that the proposed development would not cause unacceptable harm to the living conditions of occupiers of No 12 Woodlands. The degree of interference that would be caused would be insufficient to give rise to a violation of rights under Article 1 of the First Protocol or Article 8.
10. Taking the above matters into consideration, I conclude that there would be no significant harm to the living conditions of the occupiers of neighbouring properties. Therefore the proposed development does not conflict with Policies QD14 and QD27 of the Brighton and Hove Local Plan 2005. These policies seek to ensure, among other things, that development would not result in a significant adverse impact on the living conditions of neighbouring occupiers, including in terms of privacy, outlook and light. It would also be

generally consistent with the Brighton and Hove City Council 'Design Guide for Extensions and Alterations' Supplementary Planning Document, adopted 2013, which seeks to provide detailed design guidance for extensions and alterations to residential buildings.

Other Matters

11. There is a substantial tree in the garden of No 12, adjacent to the boundary with the appeal site. I saw during my site visit that this tree has been heavily lopped on one side such that its canopy does not currently overhang the rear garden of No 3. The tree, which is not protected, is visible from the street and provides some limited value to the street scene. There is no substantive evidence before me that the proposed development would materially harm the tree, or that its presence would be likely to adversely affect the living conditions of occupiers of the proposed development in the future.
12. Representations have also been made relating to the stability of land during and after construction, including in relation to the integrity of existing structures and in relation to the aforementioned tree. I have no significant evidence before me that the development would result in damage to the appeal site or other property and structures.
13. I consider that the proposed development, which would maintain adequate separation from nearby properties, would not amount to 'backland' development or 'town cramming'.

Conditions

14. In addition to the standard three year time limit for commencement, I have imposed a condition requiring the development to be carried out in accordance with the submitted plans, as this provides certainty. I have also imposed a condition relating to external materials as this is necessary to ensure the satisfactory appearance of the development. A condition relating to the use of obscure glazing to the en-suite bathrooms is necessary for privacy.

Conclusion

15. For the reasons given above, and having regard to all matters raised including in regard to Human Rights, I conclude that the appeal should be allowed.

C Jack

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Y0129-A01 D; Y0129-A02 D; Y0129-A03 B; Y0129-A04 B; Y0129-A05 B; Y0129-A06 B; Y0129-A07; Y0129-A08; Y0129-A09 D; Y0129-D01 C; Y0129-D02 D; Y0129-D03 D; Y0129-D04 C; Y0129-D05 D; and Y0129-D06 C.
- 3) The materials to be used in the construction of the external surfaces of the development shall match those used in the existing building.
- 4) The extension hereby permitted shall not be occupied until the windows to the en-suite bathrooms shown on drawing Y0129-D02 have been fitted with obscured glazing, and no part of those windows that is less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. Details of the type of obscured glazing shall be submitted to and approved in writing by the local planning authority before the window is installed and once installed the obscured glazing shall be retained thereafter.