
Appeal Decision

Site visit made on 5 December 2016

by S M Holden BSc MSc CEng MICE TPP FCIHT MRTPI

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

Decision date: 9th December 2016

Appeal Ref: APP/Q1445/W/16/3154954
13 Middleton Rise, Brighton BN1 9AN

- 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 Dr Ryan Scott against the decision of Brighton & Hove City Council.
 - The application Ref BH2016/01551, dated 3 May 2016, was refused by notice dated 28 June 2016.
 - The development proposed is described as a 'first floor extension over existing single storey creating two additional bedrooms; change of use: currently a 5 bed HMO it is proposed to increase it to a 7 bed HMO. This is an amended application re-submission following a refusal'
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Decision

1. The appeal is allowed and planning permission is granted for a first floor extension over existing single storey creating two additional bedrooms; change of use: currently a 5 bed HMO it is proposed to increase it to a 7 bed HMO at 13 Middleton Rise, Brighton BN1 9AN, in accordance with application Ref: BH2016/01551, dated 3 May 2016, subject to the conditions set out in the Schedule of Conditions attached to this permission.

Procedural Matters

2. The application form described the proposal as a 'first floor extension over existing single storey creating two additional bedrooms; change of use: currently a 5 bed HMO it is proposed to increase it to a 7 bed HMO. This is an amended application re-submission following a refusal'. However, although in Part E of the appeal form it is stated that the description of the development has not changed, a different wording has been entered, which appears to have been taken from the Council's decision notice which described the proposal as a 'change of use from small house in multiple occupation (C4) to large house in multiple occupation (Sui Generis)'.
 3. Neither of the main parties has provided written confirmation that a revised description of development has been agreed and in any event the alternative description does not refer to the extension, so it is not completely accurate. Accordingly, I have used the description on the original application, omitting the phrase 'this is an amended application re-submission following a refusal' as that does not form part of the development before me.
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Main Issues

4. The main issues are:

- a) the effect of the extension on the character and appearance of the host property and the surrounding area;
- b) whether the enlarged property would provide satisfactory living conditions for future occupants in relation to the provision of communal space.

Reasons

Character and appearance

5. Middleton Rise includes a short cul-de-sac serving several pairs of semi-detached houses. No 13 already has a single-storey side extension with a flat roof. Its flank wall is at an angle to that of the original house and therefore the extension is wider at the rear of the building than at the front. However, this is not apparent from the street due to the modest height of the extension, the orientation of the house on its plot and the surrounding topography.
6. The proposed first floor extension would occupy a similar footprint to the existing extension so its width would not be disproportionate. Its ridge would be set down. The existing side extension is in line with the host property. However, the first floor extension would be set back in order to appear subservient to the existing building. Whilst the junction between the ground and first floors could appear awkward, it would not stand out in the street scene. This is because the house is at an angle due to the semi-circular arrangement of the houses around the end of the cul-de-sac. Consequently, the flank elevation would not become a prominent feature that would appear out of place in its context.
7. I acknowledge that the existing pair of semis is symmetrical at first floor and roof level. This symmetry would be lost with the proposed extension. However, the different treatment of the existing front elevations on this pair of properties, and others in this part of Middleton Rise, has already reduced the sense of uniformity in the street scene. I am therefore not persuaded that the loss of symmetry, particularly given the property's location at the end of the street, would be sufficiently harmful to justify rejecting the scheme. Furthermore, the proposal includes the replacement of the existing tile hanging on the upper part of the front elevation with timber cladding. This would complement the treatment on No 15 and would improve the continuity of the building as a whole.
8. Taking all these factors into consideration, I conclude that the proposed extension would not be harmful to the character and appearance of the host property or the surrounding area. It would therefore comply with saved Policy QD14 of the Brighton & Hove Local Plan (Local Plan), which requires extensions to be well-designed, sited and detailed in relation to the property to be extended, adjoining properties and the surrounding area. The Council also referred to its Supplementary Planning Document: *Design Guide for Extensions and Alterations* (SPD12) in its reasons for refusal. However, as my attention has not been drawn to any conflict between the appeal proposal and its advice, it has not influenced my decision.

Living conditions

9. The house is currently shared by five people. The existing kitchen/living room is a long narrow room at the back of the house. Whilst it appeared to offer an adequate area for preparing and eating meals, the space available for relaxing was more limited. The enlargement from the existing 17m² to 21m² would provide more space and a room which is a better shape. It is therefore likely to be more usable for future occupants.
10. I appreciate the Council's concern that with two more residents the communal area would continue to feel rather cramped. However, the size of the kitchen/living room would be significantly above the minimum standard of 14m² that is set out in the Council's document *Standards for Licensable Houses in Multiple Occupation* (HMO) in respect of an HMO that would accommodate seven people. In these circumstances, I have no conclusive evidence to demonstrate that the proposal would be inadequate. Neither do I have any substantiated reason to set aside these minimum requirements, in the absence of any other space standards approved by the local planning authority.
11. I therefore conclude that the proposal would provide satisfactory living conditions for future residents. In this respect the proposal would comply with saved Policy QD27 of the Local Plan, which seeks to protect the living conditions of existing and future occupiers of development.

Other Matters

12. Local residents have raised concerns about a number of other matters including the number of students living in the area, loss of privacy, loss of light, increased noise and disturbance, additional pressure on parking and potential structural damage during construction.
13. Policy CP21 of the Brighton and Hove City Plan Part One recognises the increasing demand for accommodation for students attending the city's two universities and other education establishments. This policy specifically addresses the issue of student accommodation and seeks to restrict the number of HMOs in any one particular area. In this case the Council undertook an assessment and concluded that the proposal would not give rise to an unacceptable concentration of HMOs in this area. I see no reason to come to a different view.
14. The officer's report also dealt with issues of privacy, light, noise, disturbance and parking and found that the proposal would not give rise to material harm that could justify withholding planning permission. Whilst I appreciate the concerns of local people, I have no substantive evidence to cause me to come to different conclusions in relation to any of these matters. Concern about structural damage during construction is not an issue that I can address in the context of a S78 appeal, which is confined to a consideration of the planning merits of the proposal.

Conditions

15. In addition to the standard time limit the Council has suggested a number of conditions in the event that the appeal was allowed. I have considered these in the light of the tests set out in paragraph 206 of the National Planning Policy Framework. I have imposed them where I have found them to be necessary and reasonable, whilst amending them for the sake of clarity and precision.

16. A condition specifying the plans is necessary in the interests of certainty. A condition requiring the materials to match the existing building is not required, as the plans show different materials with the express purpose of improving the appearance of the building. I have therefore imposed a condition requiring the extension to be constructed using the materials specified on the plans and within the application form.
17. Conditions limiting the number of people who can occupy the property and requiring the kitchen/living room to be retained in accordance with the approved plans are necessary to safeguard the living conditions of the occupants.
18. The Planning Practice Guidance (PPG) advises that conditions restricting the future use of permitted development rights will rarely pass the test of necessity and should only be used in exceptional circumstances. Nevertheless, I am satisfied that that withdrawal of some permitted development rights is necessary to protect the living conditions of neighbours and the character and appearance of the area. However, I have replaced the single condition suggested by the Council with two that only withdraw those rights that are specifically relevant to this case.
19. A condition requiring the provision of secure cycle storage is needed to encourage sustainable travel and ensure that the proposal complies with Policy TR14 of the Local Plan. However, I have amended the wording for the sake of clarity and precision.

Conclusions

20. For the reasons set out above, I conclude that the appeal should be allowed, subject to conditions.

Sheila Holden

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin within three years of the date of this decision.
- 2) The development hereby permitted shall be carried out strictly in accordance with the following approved plans:

Site location and block plan	025-(PL)-001 Rev 01
Existing plans	025-(PL)-002
Existing elevations	025-(PL)-003
Proposed plans	025-(PL)-004 Rev 01
Proposed elevations	025-(PL)-005 Rev 01
Sections	025-(PL)-006 Rev 01
Contextual elevations	025-(PL)-007
- 3) The external finishes of the development hereby permitted shall be carried out in accordance with those set out on the application form and on the approved plans.
- 4) The development hereby approved shall not be occupied by more than seven persons.
- 5) The kitchen/ living room identified on the proposed floor plan (Drawing No 025-(PL)-004 Rev 01) shall be retained as communal space at all times.
- 6) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development)(England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no windows shall be inserted in the first floor element of the flank elevation of the extension hereby permitted.
- 7) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development)(England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no dormer windows or rooflights shall be inserted in the roof of No 13 without the prior approval of the local planning authority.
- 8) The extension hereby permitted shall not be occupied until secure, covered cycle storage facilities for a minimum of two bicycles have been installed in accordance with details which have first been approved by the local planning authority. The cycle storage facilities shall be retained thereafter at all times for use by the occupants of and visitors to No 13.

End of Schedule of Conditions