
Appeal Decision

Site visit made on 28 September 2017

by Lynne Evans BA MA MRTPI MRICS

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

Decision date: 18 October 2017

Appeal Ref: APP/Q1445/D/17/3179049

12 Colebrook Road Brighton BN1 5JH

- 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 Sean Bleach against the decision of Brighton & Hove City Council.
 - The application Ref: BH2017/01397 dated 19 April 2017 was refused by notice dated 19 June 2017.
 - The development proposed is demolition of existing garage and erection of two storey detached annexe (non self-contained) (resubmission of BH2016/05832).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. One of the Council's reasons for refusal relates to the effect of the proposal on the living conditions of the neighbours at No 10 and reference is made in the Officer's report to a side facing first floor window serving a bedroom in an extension to the main house, granted permission under the Council's reference BH2016/02702 and under construction. At the time of my site visit, I noted that the extension was at a relatively advanced stage of construction with an opening in the side elevation at first floor level facing towards the appeal property. I have therefore requested the permitted plans relating to the permission and have invited further comments from both the Appellant and the Council on these plans in relation to this appeal, but no representations have been received.
3. I note that a previous application for a similar form of development has been refused by the Council, but my consideration relates to the proposal before me.

Main Issues

4. The main issues in this appeal are:
 - a) The effect of the proposal on the living conditions of adjoining neighbours, with particular regard to loss of outlook,
 - b) Whether the proposal would constitute a separate unit of residential accommodation rather than an ancillary use, and
 - c) The effect of the proposal on the character and appearance of the local area.

Reasons

Issue a) Living Conditions

5. The appeal property is a detached house with an existing detached garage to the south within a predominantly residential area. There is considerable variety to the design and form of the surrounding properties. The land slopes down from north to south with the neighbouring property at No 10 set at a lower level than the appeal property. The neighbours at No 10 are constructing an extension pursuant to planning permission BH2016/02702, which includes a bedroom at first floor level with a single window facing towards the appeal property and therefore the only source of light and outlook to that room.
6. I have taken into account the existing boundary treatment and the spacing to the boundary. However, the height, together with the extended bulk and massing of the proposed annexe along this boundary would, in my view, significantly harm the outlook from that room to the detriment of the living conditions of the neighbours. The harm would be exacerbated because of the slope of the land with the neighbouring property set at a lower level than the appeal property. The proposal would appear as an over dominant form which would significantly restrict the outlook from that room.
7. The Appellants have contended that the proposal would not result in any overshadowing to the adjacent property and would reduce overlooking between the neighbours and the side facing windows in the main house at the appeal property. However, my principal concern is with the effect of the proposal on the outlook from the neighbouring bedroom with the side facing window. I note that the neighbours have not objected to the proposal, but the proposal would endure for subsequent occupants and it is one of the Core Principles of the National Planning Policy Framework (Framework) to ensure a good standard of amenity for all existing and future occupants of land and buildings. The proposal would in my view fail to meet this Core Principle of sustainable development.
8. This harm would also conflict with Policy QD27 of the Brighton and Hove Local Plan (Local Plan) which also seeks to protect the amenities of neighbours. The Council has not specifically referenced Policy QD14 of the Local Plan in this regard but I consider that it would also conflict with criterion b of that policy which similarly seeks to protect the amenities of neighbours.

Issue b) The Proposed Residential Accommodation

9. The proposed annexe would provide a living room and bedroom with shower room on the ground floor (in addition to a single garage) and bedroom and bathroom at first floor. I agree with the Council that although no kitchen facilities have been included, the accommodation would be large enough for these to be subsequently incorporated. Notwithstanding the close proximity of the proposed annexe to the main house, given the size of the accommodation and the inclusion of bathrooms, and potentially some kitchen facilities, I also agree that the occupier(s) of the proposal would be able to benefit from some independence in their living arrangements from the main house in a number of ways.
10. I note the Council's concerns regarding the potential suitability of the proposal as a separate dwelling, both in terms of its general siting and accessibility.

However, from the information provided by the Appellant regarding the annexe and the way in which it would operate this would not appear to be the Appellant's intention and it is not what has been applied for. Given that the proposal is for an annexe, the issues relating to its potential suitability as a separate dwelling have not therefore been addressed or examined.

11. The proposal would not be attached to the main dwelling but this would not, on its own, lead me to conclude that the proposed building would form an independent residential unit. There would be a very close proximity between the proposal and the main house in terms of accessibility and outlook from the main house, particularly from the side facing windows. From the information before me, as well as my site visit, I conclude that the proposed accommodation in the circumstances of this case would provide and would be suitable to provide ancillary accommodation for the main house, rather than being tantamount to the creation of a new dwelling. Furthermore, in the event that there were no other matters of concern and planning permission were to be granted, a condition could be imposed to ensure that the occupation of the proposed annexe would remain ancillary to the main dwelling. Contrary to the views of the Council and given that the application is specifically for an annexe (non self-contained) I see no reason why such a condition would not be appropriate and in turn enforceable.
12. I therefore conclude that the proposal would be ancillary to the main dwelling and that there would be no conflict with Policies QD14 and QD27 of the Local Plan and policy CP12 of the Brighton & Hove City Plan Part One (City Plan) with regard to the proposed form of the development.
13. The Council has referred to an appeal decision in Chichester from 2002 although a copy of that decision has not been provided to me. I am not aware of the particular circumstances in that case. Each decision must be based on its individual planning merits and I have come to my conclusion in this case based on the facts and evidence before me.

Issue c) Character and appearance

14. The proposal would be of similar width to the existing garage but higher to enable accommodation at roof level with the ridge running east to west and presenting a gable end under a barn hipped roof to the front and to the rear. Its scale, height, bulk and massing would still, in my view, appear ancillary to the size and form of the main property and would not appear as a cramped or over-intensive form of development in relation to the size of the plot.
15. I have noted the Council's concerns regarding the barn hipped roof which does not, in its view, relate to the design and form of the main property. However, I do not consider that this feature, given its small scale in relation to the main property, would appear visually incongruous. This design element would not, on its own, be sufficient to withhold planning permission, were no other matters of concern and planning permission were to be granted.
16. There is considerable variety to the scale and massing of the individual properties in this part of Colebrook Road, with some extending close to the boundaries with neighbouring properties. Given the variety in scale and form and my view that the proposal would be appropriate in relation to the existing property and plot, I am also satisfied that the proposal would not harm the character and appearance of the local area.

17. I therefore conclude that the proposal before me would not result in harm to the character and appearance of the existing property or to the local area. There would be no conflict with Policy CP12 of the City Plan and Policy QD14 of the Local Plan as well as the Framework and in particular Section 7: *Requiring good design*. These policies all seek a high standard of design which respects the local context and re-enforces local distinctiveness.

Conclusion

18. I have concluded, under my first main issue, that the proposal would harm the living conditions of the neighbours at No 10. Although I have found that the proposal would not harm the character and appearance of the local area and the proposal could be addressed by condition to control its ancillary nature, these findings do not outweigh the harm I have concluded under my first main issue.
19. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

L J Evans

INSPECTOR