
Appeal Decision

Site visit made on 23 September 2019

by Rajeevan Satheesan BSc PGCert MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7th October 2019

Appeal Ref: APP/Q1445/D/19/3231895

45 Dyke Road Avenue, Hove BN3 6QA

- 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 & Mrs Prior against the decision of Brighton & Hove City Council.
 - The application Ref BH2018/03149, dated 12 October 2018, was refused by notice dated 3 April 2019.
 - The development proposed is the erection of a two storey side extension, single storey rear extension, demolition of existing garage and erection of new garage building to the front, swimming pool and associated landscaping.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the proposals would preserve or enhance the character or appearance of the Tongdean Conservation Area (CA).

Reasons

3. The appeal property is a large, detached residential property built in 1905¹ occupying a corner plot on the junction of Dyke Road Avenue and Tongdean Road situated within the CA. It is a building of some charm that has been described in the Tongdean Conservation Area Character Statement (TCACS) as a typical Edwardian example of vernacular revival in a mixture of materials but very well detailed, with a rounded turret bay and three tall red brick chimneys. There is one large protected elm tree in the rear garden². Within the highway verge along the boundary with the appeal site is a row of mature trees (elm and sycamore) on Tongdean Road. These mature trees make a positive contribution to the streetscape, and the character and appearance to the CA.
4. With regards to the effect on the designated heritage asset, Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of the conservation area.
5. The TCACS explains that the character of the CA is that of a well-to-do residential suburb with impressive individual large houses, imposing boundary

¹ Taken from the appellant's appeal statement.

² Subject to Tree Preservation Order (TPO) 1993/4 (T1).

walls and extensive mature greenery. In particular, there are a substantial number of Edwardian houses on Dyke Road Avenue. Its special interest derives from the grouping of individually-designed large houses dating mainly from the early C20 on generous plots, with mature street trees and dense garden and boundary planting. The houses are substantial in footprint and scale, set back behind generous front gardens and driveways. A number of houses are largely hidden from view by mature trees, shrubs and high boundary walls which give the area visual continuity. There is a variety of architectural styles and materials in the CA, but the most common style is a form of Tudorbethan or vernacular revival in brick, tile and half-timbering. Important features within the CA include prominent pitched roofs, chimneys and gables. Because No 45 shares these characteristics it makes a positive contribution to the significance of the heritage asset.

6. The proposed garage, swimming pool, and rear extension would be adjacent to the root protection area (RPA) of the row of elm and sycamore street trees on Tongdean Road, and the protected elm tree in the rear garden. The Council have raised concerns over the potential root damage to these adjacent mature trees given the appellant's Tree Protection Plan indicates that construction would take place within the RPA. In support of the appeal the appellant has submitted an Arboricultural Implications Assessment³ (AIA), which indicates that the existing boundary wall foundations mean that the works are unlikely to adversely disturb the root systems of a number of off-site trees. Although the AIA and the Tree Protection Plan indicates that with suitable tree protection measures and a suitably worded pre-commencement condition there would be minimal harm to root damage of these trees, insufficient evidence has been submitted at this stage for me to be satisfied of this.
7. For instance, whilst the AIA suggests that the foundations of the double garage could comprise a shallow (<35cm deep) reinforced raft or pad and raft or parallel strip and slab foundation, the AIA further states that this is "subject to further site investigations". The AIA also states that whilst the principle of the garage location should be acceptable, that this is subject to "a detailed foundation design subject to an Arboricultural Consultant supervised hand tool excavation of the northern garage wall alignment. The design would then be based on actual root presence and a specific methodology for installation". In the absence of sufficient evidence regarding this, it would be premature to approve the development as there is no certainty that the development could proceed without harming these mature trees.
8. Furthermore section 14 of the AIA further states "the production of an Arboricultural Method Statement at this stage is considered inappropriate until the principles of the proposals and the measures to protect the trees have been accepted by the Council's Tree Officer". However, there is no evidence before me which demonstrates that the Council's Tree Officer supports the principles of the proposals, and any method statement should be submitted with the application/appeal to ensure that the development can proceed as planned. Therefore, in the absence of sufficient evidence, I do not agree that the Arboricultural Method Statement could be satisfactorily dealt with at a later stage by condition.

³ Prepared by Tim Laddiman dated 30 May 2019.

9. In the absence of sufficiently compelling evidence to the contrary, given the size of the trees and their proximity to the proposed works, I consider it reasonable to determine that the proposed works would likely threaten the health and longevity of the adjacent street trees and protected elm tree in the rear garden. Consequently, the potential damage to or loss of the trees would have a harmful effect on the character and appearance of the streetscene and the CA.
10. With regards to the design of the proposals, a number of properties within the CA have been subject to various extensions and alterations and have had detached garages constructed within the front gardens forward of the front building line, including the neighbouring property at No 43 Dyke Road Avenue. Given the overall large size of the front garden, the proposed garage would not result in any significant loss of openness of this corner plot. Indeed, sufficient space would remain around the garage building, which would also ensure that the garage would not harmfully obscure any important views of the house. Furthermore, the existing street trees along Tongdean Road and the existing high boundary treatment would also screen views of the garage, such that it would not appear as a visually discordant feature. In these respects, the detached garage would be in keeping with the character and appearance of the CA.
11. The proposed dormer windows on both the front and rear elevations by reason of their small scale and position within the roof slopes would not be visually dominant nor would they detract from the appearance of the property. Furthermore, they would include narrow dormer cheeks and positioned directly above the first floor windows and would have a satisfactory appearance. I also observed that similar sized dormer windows exist on neighbouring properties within the CA. Similarly, the proposed roof lights would be sensitively located and not unduly prominent. As such this aspect of the proposal would preserve the character and appearance of the CA.
12. The proposal retains the existing chimney, and the existing tiled slope would be incorporated into open porch design. The introduction of a new door and the open porch at the base of the chimney, would help emphasise this quirky and characterful feature of the property, without resulting in harm to its appearance. The roof design of the porch would match that of the existing property. Overall, I consider that the proposed porch, and alterations to the base of the chimney would be in keeping with the host property whilst retaining this feature.
13. The proposed two storey side extension would be set back behind the front central gable, with a pitched roof set down from the main ridgeline of house. This would ensure that the extension reads as a subservient addition to the original dwelling. The contrasting materials between the ground and first floor would add visual interest to the front elevation.
14. With regards to the rear elevation, the proposal would result in the loss of a number of existing features, which include the belvedere and rear open porch, which are both visible from Tongdean Road. Whilst these features provide some visual interest to the existing property, they are of no significant architectural merit and do not make any special contribution to the character and appearance of the CA. Therefore, subject to a satisfactory replacement extension, no objection is raised to the loss of these features in principle.

15. The proposed extensions and alterations to the rear elevation, would have sufficient variation and detail to ensure that it would be satisfactorily assimilated to the host property and the CA. The scale of the proposed extensions is considered to be in keeping with a number of residential dwellings in the CA which have also undergone significant alterations and extensions. Furthermore, the mass and bulk of the development would be broken up with variation in roof line/eaves height, together with the use of flat and pitched roofs and gables/sloping roofs. The materials proposed, which include matching brick, roughcast render, and tile roofs would match and compliment those of the existing building and surrounding CA. In this respect the proposed extensions and alterations to the rear elevation would preserve the character and appearance of the host property and the CA.
16. The proposal also seeks to largely retain the existing front brick boundary wall, with new gates set back from the pavement in order to allow cars to safely enter and exit the site. New black metal railings are proposed in-between the existing brick piers, which would be in keeping with other gates within the CA. It is also proposed to retain/rebuild the existing three chimneys mentioned within the TCACS.
17. I therefore consider that on balance, the proposed extensions and alterations to the host property themselves together with the proposed detached garage and alterations to the front boundary treatments would have an acceptable effect upon the character and appearance of the building, street-scene and the CA. In this respect the proposal complies with policy QD14 of the Brighton & Hove Local Plan, 2005 (LP), which states that planning permission for extensions or alterations to existing buildings, will only be granted if the proposed development is well designed, sited and detailed in relation to the property to be extended, adjoining properties and to the surrounding area.
18. However, for reasons set out above, it has not been satisfactorily demonstrated that the proposals would not have a harmful effect on adjacent street trees and the protected elm tree. Consequently, the potential damage to or loss of the trees would have a harmful effect on the character and appearance of the streetscene and the CA as a whole. Whilst the harm to the significance of the CA would be less than substantial, there are no public benefits that would outweigh that harm, and great weight should be given to the conservation of the heritage asset.
19. I conclude overall, that the proposals would be harmful to the character and appearance of the CA as a whole. As such, it would fail to preserve or enhance the character or appearance of the CA, contrary to the policies QD16 and HE6 of the LP, which seeks to retain existing trees and hedgerows, and states that development which would damage or destroy a preserved tree will not be permitted, and that proposals within or affecting the setting of a conservation area should preserve or enhance the character or appearance of the area. The proposals would also conflict with policies CP12 and CP15 of the Brighton & Hove City Plan Part One, 2016, which amongst other things, seek conserve or enhance the city's built heritage and its setting.
20. Whilst the LP is of some age, LP policies QD14, QD16 and HE6 are broadly consistent with the National Planning Policy Framework, 2019, in relation to design and conserving and enhancing the historic environment. Therefore, I attach significant weight to them.

Conclusion

21. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

R Satheesan

INSPECTOR