
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: 15th October 2019

Appeal Ref: APP/Q1445/W/19/3232878

39 Barcombe Road, Brighton BN1 9JQ

- 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 Toby Hamilton against the decision of Brighton & Hove City Council.
 - The application Ref BH2018/01999, dated 19 June 2018, was refused by notice dated 21 February 2019.
 - The development proposed is the erection of single-storey rear extension at an existing dwellinghouse (C4).
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Decision

1. The appeal is allowed, and planning permission is granted for erection of single-storey rear extension at an existing dwellinghouse (C4) at 39 Barcombe Road, Brighton BN1 9JQ, in accordance with the terms of the application, Ref: BH2018/01999, dated 19 June 2018, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan; Site Plan; BR39/0418.
 - 3) The external surfaces of the extension hereby permitted shall match those used in the construction of the existing building.
 - 4) 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 external windows or doors other than those shown on the approved drawings shall be installed in the extension hereby permitted.
 - 5) 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 balustrades or other means of enclosure shall be erected on the roof of the extension hereby permitted. No part of the roof of the extension shall be used for recreational purposes and access shall only be for purposes of the maintenance of the property or means of emergency escape.

- 6) The extension hereby permitted shall not be occupied until the windows in the side elevations facing towards Nos 38 and 40 Barcombe Road have been fitted with obscured glazing, and no part of those windows that are less than 1.7 metres above the finish 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.

Main Issues

2. The main issues are:
- The effect of the proposed development on the character and appearance of the host building and the area;
 - the effect of the proposal on the living conditions for the occupiers at No 38 Barcombe Road with particular regard to daylight and sunlight.

Reasons

Character and appearance

3. The appeal property is a two storey semi-detached property which benefits from a relatively long rear garden. The proposed single storey flat roof extension would have a relatively low roof and would have a stepped design so that the mass and bulk of the extension would be sited away from the neighbouring property at No 38 Barcombe Road.
4. The design of the extension, with matching brick materials, and its modest height would appear subservient to the existing building. Although the proposed extension would be more than half the depth of the existing building, owing to its low roof profile, together with its set back away from both neighbouring properties and the relatively long rear garden, the development would not appear unduly dominant, would not occupy a disproportionate area of the garden and would maintain the character and appearance of the building. Furthermore, the appellant has provided an aerial photograph which demonstrate that similar extensions exist in the surrounding area, and therefore the proposal would be in keeping with the area.
5. I therefore conclude that the proposed development would preserve the character and appearance of the host building and area. It would therefore be in accordance 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.

Living conditions for the occupiers at No 38 Barcombe Road

6. Both main parties have submitted their views on the effects of the proposal on daylight and sunlight to No 38. This includes a Daylight and Sunlight Impact Assessment¹ submitted in support of the appeal. From my examination of the detailed material submitted, I agree with the appellant

¹ Prepared by Impact Sustainability Limited dated 6th June 2019.

that the proposal would not have a harmful effect in relation daylight and sunlight. Furthermore, given the distance away from No 38 combined with the modest height of the extension, the development would not have any harmful effect on the living conditions of neighbouring occupiers at No 38 with particular regard to daylight and sunlight. As such I find no conflict against LP Policy QD27, which states that planning permission will not normally be granted for new development where it would cause material nuisance and loss of amenity to proposed, existing and / or adjacent users, residents, occupiers. Whilst this policy is of some age, it is consistent with the National Planning Policy Framework (2019) which requires all development to protect the amenity of existing and future users.

Other Matters

7. Third parties have raised a range of further concerns stating that the development would have the potential to increase in noise, disturbance, parking pressure and refuse, that the loss of family accommodation would have a harmful impact on community uses such as schools and health facilities, and that Landlords for HMOs tend not to look after their gardens, giving the area a neglected appearance. It is also requested that if permission is granted a condition is attached which restricts the extension from being used as additional bedroom space.
8. With regards to the likely effect on noise, disturbance, parking pressure and refuse the existing building is currently in use as four single occupancy bedrooms. The appellant states² the lawful use of 39 Barcombe Road is a Class C4 small house in multiple occupation (HMO) and has provided details of the Tenancy Agreements showing four unrelated persons occupying the property between 2010 and the present day. The current proposal for a six single-occupancy bedroom HMO would maintain the existing lawful use of building as a Class C4 small HMO and therefore would not be expected to result in any significant increase in noise, disturbance, refuse and parking pressure that would warrant a refusal of planning permission. On this basis it is not considered necessary or reasonable to restrict the use of the extension. Furthermore, the existing property and garden is currently well maintained and there is no substantive evidence before me to suggest that the continued use of the building as a small HMO for six persons would result in harm to the appearance of the property. As the use in the building as a small HMO is not changing it is not necessary for me to consider the loss of family accommodation and the implications of this on community uses in the area.

Conditions

9. I have considered the conditions proposed by the Council, and in the interest of accuracy and clarity I have undertaken some minor editing. Apart from the usual time limitations, a condition specifying the approved drawings is necessary to provide certainty. A condition is imposed to require matching materials to be used, in the interest of the character and appearance of the area. Conditions relating to the use of the flat roof, windows and doors, and details of obscure glazing have been attached to protect the privacy of neighbours.

² Taken from the appellant's planning statement.

Conclusion

10. For the reasons given above I conclude that the appeal should be allowed.

Rajeevan Satheesan

INSPECTOR