
Appeal Decision

Site visit made on 20 August 2019

by Christopher Butler BA (Hons) PG Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 October 2019

Appeal Ref: APP/Q1445/W/19/3226849 6/6A, Channel View Road, Brighton BN2 6DS

- 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 Darren Guille & Angie Key against the decision of Brighton & Hove City Council.
 - The application Ref BH2018/03927, dated 18 December 2018, was refused by notice dated 22 March 2019.
 - The development proposed is demolition of existing conservatory and erection of two storey including lower ground floor rear extension to existing lower ground / ground and first floor flats, incorporating decking at first floor level. Roof alterations, including side dormer and rooflights to front, rear and side with associated works.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The submitted planning application form describes the development as the *"Demolition of existing conservatory and erection of two storey (plus lower ground floor) rear extension to existing lower ground / ground and first floor flats, together with loft extension, including side dormer and rooflights to front and rear elevations."* However, the Council's decision notice describes the proposal as the *"Demolition of existing conservatory and erection of two storey including lower ground floor rear extension to existing lower ground / ground and first floor flats, incorporating decking at first floor level. Roof alterations, including side dormer and rooflights to front, rear and side with associated works."* The appellant has adopted the Council's description in the submitted Planning Appeal Form and as this description more accurately describes the development proposed I will proceed to determine the appeal using the Council's description of development.

Main Issue(s)

3. The main issues are:
 - Character and appearance with particular regard to the host property and the wider area; and
 - The living conditions with particular regard to: i) No.4 Channel View Road regarding the proximity of the development, overshadowing and loss of

day / sun light to that property; and ii) Nos.4 and 8 Channel View Road in regard to overlooking.

Reasons

Character and appearance with particular regard to the host property and the wider area

4. The appeal property has the appearance of a detached house but is in fact a pair of flats. There is a mixed character of detached and semi-detached properties in the surrounding area. When viewed from the road, some of these properties are bungalows, but the predominant form of dwellings are two storey dwellings. The nature of the roofs of these properties are mixed with some being gabled (north / south) and others, including the appeal property, being fully hipped.
5. Due to the topography of the surrounding area the land drops from the north to the south resulting in the appeal property being set down at a much lower level than the adjoining street. The change in ground level continues within the rear gardens of these properties on the southern side of the road, where they drop further away to the south.
6. The appeal property is rendered under a fully hipped and tiled roof, with a large gable roofed porch to the front and a two storey 'outrigger' projection on the rear, south facing, elevation. The 'outrigger' is located on the western side of this rear elevation and extends approximately half the width of the property, beyond this and extending the remainder of the width of the property is a single storey flat roof projection that has a roof terrace serving the first floor flat. The roof to the 'outrigger' is hipped and ties back into the main roof slope of the property at a lower level.
7. To the rear of the 'outrigger' a conservatory has been erected, beyond which is a small terraced area. Within the rear garden of the appeal property decking has been erected. The submitted plans show that within the conservatory, stairs exist that lead down into an existing basement area.
8. The proposal seeks to demolish the existing conservatory and replace it with a full width rear extension that projects out some 2.6 metres to the ground floor flat at lower ground and ground floor levels. Above this the first floor flat would be extended. The first element of this upper floor extension would project out over the proposed lower ground and ground floor extensions located to the western side of the rear south facing elevation, matching its dimensions. The other element of this extension would project out over the existing balcony at the first floor level on the rear elevation by approximately 2 metres for the remaining width of the rear elevation to the east, with a balcony area being provided beyond this. In addition to the above, the proposals also includes a loft extension within the extended roof space that incorporates a new dormer window to the west facing side roof slope and roof lights in the north, south and west facing roof slopes.
9. Due to the change in ground levels, the properties on this side of the road and their roofs are highly visible in the streetscene. The property is also prominent when viewed from the junction of Channel View Road and Warren Rise. The proposed development by virtue of its increased rear projection and the increased roof form, which would be emphasised by the built form of the proposed dormer window, would result in a building of substantial mass and

bulk. This mass and bulk would be further emphasised by the change in ground levels, resulting in a prominent form of development that is detrimental to the host property and the character of the wider area in general.

10. When viewed from the street frontage, the proposal would be overly dominant to the original form of the property and not subservient in its appearance. As such the proposal would be an unsympathetic addition to the property adversely impacting on the character and appearance of the area in general, contrary to saved Policy QD14 of the Brighton and Hove Local Plan 2005 (Local Plan), which seeks to secure development that is well designed, sited and detailed in relation to the property to be extended, adjoining properties and the surrounding area.

The living conditions of adjoining properties with particular reference to Nos.4 and 8 Channel View Road.

11. The Council considers that due to the orientation of the site and the height, depth and proximity of the proposed development to the common boundary with No.4 Channel View Road the proposed development would have an overbearing impact on the occupiers of that property and result in a development that increases overshadowing and a loss of daylight / sunlight to the rear windows of that property.
12. The Council also raises concern with regard to overlooking, arising from the proposed raised deck located to the rear of the development and the proposed first floor balcony in regard to the living conditions of the adjoining occupiers at both Nos.4 and 8 Channel View Road.
13. A gap of approximately 1.7 metres exists between the side elevation of the appeal site and the side elevation of No. 4 Channel View Road. The proposed rear addition replaces the existing conservatory and would be two storeys in height and project some 2.6 metres further out than the existing property. Whilst the two storey addition does increase the mass of the west facing flank elevation it does not increase it to such a degree as to result in that elevation being overbearing on the occupiers of the adjoining property at No.4 Channel View Road.
14. With regard to the concerns related to increased overshadowing and the loss of daylight / sunlight to the rear windows of No.4 Channel View Road, no substantive evidence has been submitted by the Council justifying their concerns in this regard. It was clear on site that due to the orientation of the site and the way the sun rises and falls, a limited impact, in the form of overshadowing and a loss of daylight / sunlight to the rear windows already occurs to No. 4 Channel View Road. Whilst the proposed extensions would marginally increase this impact, it would be limited and gone between the mid to late morning period.
15. Turning to the matter of overlooking arising from the proposed raised deck located to the rear of the development and the proposed first floor balcony, the Council in their delegated report note that in the absence of a privacy screen, such a development would not be acceptable. However, the Council could have imposed a planning condition requiring details of such privacy screens to be submitted and approved by them and installed prior to the first use of the raised deck and balcony areas. The condition could also require the retention of the approved privacy screens whilst the raised deck and balcony areas are retained. Such a condition would have met the standard tests as set out in the National

Planning Practice Guidance related to the 'Use of Planning Conditions'¹. With such a condition in place no direct overlooking and / or loss of privacy would arise from either the proposed raised deck or balcony areas.

16. Bearing in mind the above, I do not consider that the development would result in an unacceptable increase in overshadowing and / or a loss of daylight and sunlight to the rear windows of No.4 Channel View Road, over and above that which already occurs. Furthermore, whilst the resulting development would increase the mass of the west facing flank elevation, it does not increase it to such a degree as to result in that elevation being overbearing on the occupiers of the adjoining property at No.4 Channel View Road. Finally, with the imposition of appropriately worded conditions no overlooking or resultant loss of privacy would occur from the proposed raised deck or first floor balcony areas, on the living conditions of the adjoining occupiers at Nos.4 and 8 Channel View Road.
17. The proposed development is therefore compliant with Saved Policies QD14 and QD27 of the Local Plan, in this regard, which seeks to protect the amenity of an area, its users, residents and occupiers, including a development's future users, residents and occupiers.

Other Matters

18. I note the appellants consider that the site is situated on a good size plot. I also note that they have drawn my attention to other properties in the vicinity, which they advise have been extended to a similar or greater extent to that than proposed in this appeal. However, I have not been provided with any specific details of those planning permissions and am not aware of the planning background to those cases, the majority of which appears to predate current national policy in the National Planning Policy Framework and Saved Policies QD14 and QD27 of the Local Plan. In any event I am required to consider each case on its own merits.

Conclusion

19. For the reasons set out above, the proposed development would not adversely impact the living conditions of adjoining occupiers, with particular regard to Nos.4 and 8 Channel View Road. However, when weighed against the harm that would arise from the design of the development, the proposal would result in an over dominant form of development that would harm the original form of the property and not be subservient in its appearance when viewed from the adjoining street. As such the proposal would be an unsympathetic addition to the property and would adversely impact on the character and appearance of the wider area in general. The development is therefore unacceptable in terms of its design. This matter is one to which I attach significant importance and weight. Therefore, the adverse impacts of granting permission for the scheme as proposed would significantly and demonstrably outweigh the benefits of the scheme in this case.
20. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. I have found conflict with saved policies QD14 and QD27 of the Local Plan and

¹ National Planning Practice Guidance related to the 'Use of Planning Conditions' (Paragraph: 003 Reference ID: 21a-003-20190723),

therefore consider that the proposal conflicts with the development plan as a whole.

21. Overall, taking account of the Framework and the above considerations, including the benefits of the development, I find that material considerations do not indicate that planning permission should be granted for the development, which conflicts with the development plan.
22. For the reasons given above, I conclude that the appeal should be dismissed.

Christopher Butler

INSPECTOR