



Appeal Decision

Site visit made on 10 September 2019

by Martin Small, BA (Hons), BPI, DipCM, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th November 2019

Appeal Ref: APP/Q1445/D/19/3232610

1A Beechwood Avenue, Brighton, BN1 8ED

- 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 Alex Burt against the decision of Brighton & Hove City Council.
 - The application Ref: BH2019/00767 dated 28 February 2019, was refused by notice dated 9 May 2019.
 - The development proposed is extensions and alterations to the existing detached garage to form annex accommodation.
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Decision

1. The appeal is allowed, and planning permission is granted for extensions and alterations to the existing detached garage to form annex accommodation at 1A Beechwood Avenue, Brighton, BN1 8ED in accordance with the application Ref: BH2019/00767 dated 28 February 2019, 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: 21810/PL/01 Planning Application Site & Location Plans, 21810/PL/02 Planning Application Elevations, plan as existing and 21810/PL/03 Planning Application Elevations, plan and views as proposed.
 - 3) Prior to their use on site, details and samples of all external facing materials to be used for the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved details.
 - 4) The annex hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as 1A Beechwood Avenue.

Procedural Matter

2. The appellant has submitted a revised plan with the appeal omitting the shower from the bathroom in the proposed annex to help address the Council's concern over the potential use of the proposed annex as a self-contained dwelling. However, the shower is not the only facility identified by the Council as being of a self-contained dwelling and it is not a matter on which my decision turns. I

have therefore based my decision on the plans originally submitted to the Council and on which its decision was based and which were available for public comment.

Main Issues

3. The main issues are the effect of the proposed development on i) the character and appearance of the area, ii) the living conditions of the occupiers of neighbouring properties and iii) the living conditions of the future occupiers of the development.

Reasons

Character and appearance

4. The appeal property is located in an established residential area comprising a mix of bungalows and 2-storey dwellings. It is a chalet bungalow with a detached flat-roofed garage to the rear, accessed by a driveway alongside the dwelling. The ground levels to the rear of the property are such that the garage is at a lower level than the dwelling and the rear garden is on two levels. Steps lead down from a terrace to the rear of the dwelling to an area of lawn from which more steps lead down to a further area of lawn at the end of the garden, including an area to the rear of the garage.
5. The proposals include an extension to the rear of the garage on a platform with a small terrace and steps down to the lower garden level and a new pitched roof with two roof lights in the elevation facing the garden. The submitted proposed internal layout of the annex includes a lounge, bedroom, kitchen area and bathroom with a toilet and shower.
6. The Council is concerned that the proposed development includes all the facilities and access required for a self-contained unit of accommodation with no demonstrable dependency to the existing main dwelling. Considered as a stand-alone dwelling the Council contends that the development would, in summary, represent an incongruous form of development that would significantly harm the character of the area, which the Council notes is characterised by sizeable plots and generous spacing between properties.
7. From the evidence before me I consider that the extension as built provides facilities for independent day-to-day living and is physically capable of being occupied independently from the main dwelling. However, this does not mean that it would necessarily become a separate planning unit from the main dwelling. Notwithstanding the lack of need for occupiers of the proposed annex to enter the main house or pass through any gates, the proximity to the main dwelling, the intervisibility between the proposed annex and the main dwelling, the shared access and the shared garden all indicate to me that the extension is also capable of being occupied as an annex ancillary to the main dwelling.
8. I have not been provided with a copy of SPD12: Design Guide for Extensions and Alterations to which reference is made in the Planning Officer's Report, although not in the Council's reasons for refusal of planning permission for the development. However, that Report explains that with regard to SPD12, detached annexes will only be acceptable where a 'clear dependency' is retained at all times with the main building, with a 'clear dependency' defined as the clear sharing of facilities with the main dwelling, such as sharing garden space and site access.

9. Given the relationship between the annex and the main dwelling as I have identified above, I consider that occupation of the annex as an independent dwelling could be prevented by means of a planning condition requiring that occupation is solely for purposes ancillary to the residential use of the main dwelling. Notwithstanding the Council's view as expressed in the Planning Officer's Report, I consider that such a condition would meet the requirements for the imposition of planning conditions as set out in paragraph 55 of the National Planning Policy Framework, including enforceability. Although I do not have the full details of the developments before them and it is an established planning principle that each application should be considered on its own merits, I note that previous Inspectors have used this approach in the two appeal decisions provided to me by the appellant¹.
10. The proposed extension, platform and new pitched roof would result in a significant increase in bulk relative to the existing garage and main dwelling. However, the footprint and general massing would be less than the main dwelling and it would be set at a lower level and be lower in height than the main dwelling. I therefore agree with the Council's view that the annex would appear subordinate to the main dwelling. The Council has not expressed any concerns over the size or appearance of the proposed development.
11. I am aware that the appeal property is itself an infill development on a plot smaller than those of the neighbouring properties. However, the garage already exists, and the only additional development footprint proposed would be the extension and terrace to the rear of the garage. I do not consider that this limited additional development would represent overdevelopment of the plot or harmfully increase the density of development in the area. The Council consider that creating more defined garden area would have a negative impact on the pattern and grain of development in the area but the submitted plans do not indicate any creation of a separate garden area for the annex.
12. Accordingly, subject to a planning condition restricting the use of the annex, I conclude that the proposed development would not conflict with Policies CP12 and CP14 of the Brighton & Hove City Plan Part One. Policy CP12 requires, amongst other matters, development to respect the diverse character and urban grain of the city's neighbourhoods and Policy CP14 requires, amongst other matters, development to be of a density appropriate to the identified positive character of the neighbourhood.

Living conditions of the occupiers of neighbouring properties

13. The Council's first reason for refusal refers to a genuine risk of the separate occupation of the proposed development and an increase in activity and associated intensity of movements, noise, light and activity without relation to the main dwelling resulting in, by implication, a harmful effect on the living conditions of the occupiers of adjacent dwellings.
14. However, the Planning Officer's report only refers to a likelihood of a harmful increase in noise disturbance to the occupiers of the neighbouring property, No. 1 Beechwood Avenue. The Council has provided no evidence in support of this assertion nor in support of its other contentions in the reason for refusal. Furthermore, I note that the garage at No. 1 is sited forward of the garage at

¹ APP/Q1445/D/18/3209479, APP/Q1445/D/18/3209282

- No. 1A and would provide a measure of screening for the occupiers of No. 1 from any noise and activity taking place in the area between the proposed annex and the main dwelling at No. 1A.
15. I am not persuaded therefore that the use of the annex as accommodation ancillary to the residential use of the main dwelling would result in an increase in noise, or indeed light or general activity, that would harmfully change the living conditions of the occupiers of No. 1 or the other neighbouring properties.
 16. The increased bulk, particularly the pitched roof, would result in the increased visibility of the development. However, given the length of the gardens neighbouring the appeal site and the vegetation I noted during my site visit I do not consider that the outlook for the occupiers of the neighbouring properties would be harmfully changed.
 17. I acknowledge that the proposed annex would be in an elevated position relative to the rear gardens of neighbouring properties on Surrenden Road and the proposals include a large area of glazing and roof lights in the elevation facing those gardens. However, given the intervening vegetation and the positioning of the roof lights in the roof slope above head height, the development would not harmfully increase overlooking of those properties. The occupier of a neighbouring property has suggested that accommodation could be provided in the roof space, but notwithstanding the pitch of the roof, due to the relatively narrow width of the annex I do not see any realistic scope for the provision of usable habitable accommodation in the roof space.
 18. The Council has not identified any significant harm arising from the proposed development in terms of the loss of daylight, sunlight, outlook or privacy for occupiers of neighbouring properties. Nor has it expressed any concerns over the potential use of the roof space as habitable accommodation. None of these matters are cited in the reasons for refusal and I am not persuaded to disagree with the Council's conclusions on these matters.
 19. Concern has been expressed by local residents that the annex could potentially be used for a commercial purpose, and about potential issues associated with such use such as disturbance and need for additional parking. However, the planning condition I have imposed will prevent such commercial uses taking place lawfully without a further express grant of planning permission, and such issues could be considered should an application for such permission be made at a future time.
 20. Subject therefore to a planning condition restricting the use of the annex, I conclude that the proposed development would not conflict with Policies QD14 or QD27 of the Brighton & Hove Local Plan (BHLP) which protect the living conditions of the occupiers of nearby dwellings.

Living conditions of the occupiers of the proposed development

21. The Council contends that, considered as a separate dwelling, the proposed development would provide a substandard quality of accommodation as no defined garden is proposed to meet the likely needs of the future occupiers. The Council is also concerned that the future occupiers of the proposed development would suffer a loss of privacy from the occupiers of the main dwelling using their rear garden due to the large area of glazing proposed in the elevation facing the garden.

22. However, if the use of the proposed development is restricted to an annex, the garden area would be shared between the occupiers of the main dwelling and the annex, and I consider it adequate for this purpose. With a familial relationship between the occupiers of the dwelling and the annex, complete privacy would not be necessary. Whilst the bedroom in the proposed development may not be large enough for a double bed, it would be of an adequate size for an annex.
23. Subject therefore to a planning condition restricting the use of the annex, I conclude that the proposed development would not conflict with Policies QD27 or HO5 of the BHLIP. Policy QD27 protects the living conditions of future occupiers and Policy HO5 requires the provision of private amenity space in new residential development where appropriate to the scale and character of the development.

Other Matters

24. Concern has been expressed by an occupier of a neighbouring dwelling that the development would set a precedent. However, no specific evidence is provided as to other garages or outbuildings in the locality that could potentially be the subject of similar applications to extend and / or convert into ancillary accommodation. In any event, as I consider this proposed development to be acceptable, if it were to set a precedent, it would be for similarly acceptable development. Furthermore, it is an established planning principle that each application should be considered on its own merits.

Conditions

25. I have based the planning conditions on those suggested by the Council but have revised the condition relating to materials as the application form indicates that it is proposed not to replicate the external materials of the existing garage or main dwelling. Conditions 1 and 2 are necessary in the interests of certainty. Conditions 3 and 4 are necessary to safeguard the character and appearance of the area. Condition 4 is also necessary to safeguard the living conditions of the occupiers of neighbouring properties and to allow any unauthorised use easier to enforce through the breach of planning condition procedure.

Conclusion

26. For the reasons given above, and having regard to the other matters raised, I conclude that the appeal should be allowed and permission granted subject to conditions.

Martin Small

INSPECTOR