



Appeal Decision

Site visit made on 3 December 2019

by S J Papworth DipArch(Glos) RIBA

an Inspector appointed by the Secretary of State

Decision date: 19 December 2019

Appeal Ref: APP/Q1445/D/19/3238150

2 Dyke Close, Hove BN3 6DB

- 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 P Papanichola against the decision of Brighton & Hove City Council.
 - The application Ref BH2019/00150, dated 17 January 2019, was refused by notice dated 19 August 2019.
 - The development proposed is erection of two storey rear extension, formation of lower ground floor, roof alterations incorporating front rooflights and rear terrace area with balcony, revision to garage location, rear terrace with access to garden and associated works.
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Decision

1. I dismiss the appeal.

Application for Costs

2. An application for costs was made by Mr P Papanichola against Brighton & Hove City Council. This application is the subject of a separate Decision.

Reasons

3. The main issue in this appeal is the effect of the proposal on the living conditions of adjoining residential occupiers with particular regard to sunlight, daylight and visual impact. Policy QD14 of the Brighton and Hove Local Plan on extensions and alterations states that permission will only be granted if the proposal is well designed, sited and detailed in relation to the property to be extended, adjoining properties and to the surrounding area; would not result in significant noise disturbance or loss of privacy, outlook, daylight/sunlight or amenity to neighbouring properties. Policy QD27 states that planning permission for any development or change of use will not be granted where it would cause material nuisance and loss of amenity to the proposed, existing and/or adjacent users, residents, occupiers or where it is liable to be detrimental to human health.
4. Paragraph 124 of the 2019 National Planning Policy Framework states that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Paragraph 127f seeks a high standard of amenity for existing and future users.

5. The Council refer Supplementary Planning Document 12 '*Extensions and Alterations*' and the statement that extensions greater than half the depth of the original dwelling-house can be acceptable upon substantial detached properties within spacious plots of land. But, that only concerns single-storey extension, and no such provision is made in the case of 2-storey extensions. In those cases the Document refers to a 45° rule relative to windows in the rear of adjoining properties, and states that the extra height and bulk compared with a single storey structure can exacerbate problems of, among other failings, a general sense of enclosure.
6. The appeal house is presently wide on its plot, with an accessway to the north against the boundary with number 1, and quite tight to the boundary with number 3 to the south. The extension would be arranged as 2 wings each with a hip-ended pitched roof, and a terrace between over the first floor and hence at about eaves level of the wings. Each wing would be set in from the side building line and hence the neighbouring boundaries.
7. Looking first at the sunlight and daylight element of the Reason for Refusal, this concerns only the effect on number 1 Dyke Close. The appellant has supplied a report which confirms that the proposal would not breach the 45° 'rule of thumb' set out within Building Research Establishment guidelines and that the rear windows on the adjoining property would remain compliant with regards to the recommended levels of No Sky Line, Vertical Sky Component and Annual Probable Sunlight Hours.
8. However, that does not take account of an extant permission to convert the garage at number 1 to a habitable room with glazing in the rear wall (Ref BH2017/03369) that would be within the 45° line were the proposed addition at the appeal site to go ahead. That permitted extension at number 1 had been built by the time of the site inspection, extending approximately 3m to the rear, close to the mutual boundary, although the proposed rear wall glazing was not in place, that wall being blank. The addition is not shown on the application drawings nor the sunlight drawings which appear to have been derived from them.
9. A further desk-top study and diagrams show that whilst there would be shadow over parts of the rear amenity area to number 1 on 21 March each year, more than the required 50% of that dwelling's amenity space would still receive 2 hours of direct sunlight that day.
10. The Reason for Refusal also alleges that the proposal would represent an overbearing structure to both neighbouring houses. The proximity of the blank north facing wall of the appeal extension would appear intrusive and overbearing in the outlook from habitable rooms in number 1 as well as from the immediately adjacent patio areas, and completion of the extant permission would result in that room being adversely affected due to its set-back location. This finding acknowledges the open aspect to the rear and the large garden that would not change, but the bulk of the extension together with the pitched roof would be an ever-present intrusion into the outlook and the depth, height and proximity taken together with being to the south of the neighbouring dwelling would result in planning harm to the living conditions of the occupiers of 1 Dyke Close. Notwithstanding the BRE findings, the sense of enclosure would likely be greater from a large structure to the south.

11. The arrangement of rooms is different in number 3 as it would be closest to a part of the kitchen on the north-east corner of the house, while the dining room and a living room are further away and have an open aspect to the rear. The projecting games room and lounge has windows directly facing the proposed addition, but at a greater distance still. Being to the south of the appeal structure, the sense of enclosure would likely be less and although there would be change, the overall effect would not reach the level of planning harm.
12. To conclude, on a technical level the proposal would allow sunlight and daylight to the neighbouring houses as they stand at present without undue adverse effects, but the extant permission at number 1 has not been taken into account and overshadowing of a habitable room window could result. Be that as it may, the depth and height of the addition and its siting relative to the location of that neighbouring property would be unduly overbearing and intrusive, contrary to the aims of the Supplementary Planning Document as well as Policies QD14 and QD27 and that failing alone is sufficient to conclude that for the reasons given above the appeal should be dismissed.

S J Papworth

INSPECTOR