



Appeal Decision

Site visit made on 16 March 2020

by Rachael Pipkin, BA (Hons), MPhil, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26th March 2020

Appeal Ref: APP/Q1445/W/19/3241947

16 Clarke Avenue, Hove, BN3 8GA

- 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 Chris Squelch against the decision of Brighton & Hove City Council.
 - The application Ref: BH2019/01402 dated 10 May 2019, was refused by notice dated 10 September 2019.
 - The development proposed is described as 'To site a 9 x 3 metre portacabin on the extended garden land of the property for use as office/storage. To rebuild the retaining wall at roadside and clear away the earth that has encroached onto the pavement. To erect a fence on top of the wall to match the fence already along the original garden wall. To clear the site of brambles and debris from an old demolished shed garage and lay decking and planters on the site. To clad the portacabin in proprietary woodgrain cement board to look like a summerhouse cabin.'
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development on:
 - the character and appearance of the surrounding area; and
 - the living conditions of neighbouring occupiers, with regard to privacy.

Reasons

Character and appearance

3. The appeal site forms part of the rear garden to 16 Clarke Avenue (No. 16), a first-floor maisonette, on the corner of Clarke Avenue and Downland Drive. The site is formed of an area of hardstanding and partially overgrown with vegetation which was previously occupied by a demolished garage. It has an open frontage to Downland Drive.
4. Development within the area is predominantly two-storeys and semi-detached, with the rear of properties fronting Clarke Avenue facing towards the rear of properties fronting Poynings Drive and separated by undeveloped garden land. This gives the surrounding area a spacious and open character.
5. The proposed development would be clearly visible along the Downland Drive frontage. Its large size and position set forward of the side elevations of Nos.

- 14 and 16 and Numbers 2 and 2A Poynings Drive (Nos. 2 and 2A) would reduce the space between the rear elevations of these properties. It would be visually prominent and out of keeping with the established pattern of development, making it appear as an incongruous feature within the street scene and would erode the open and spacious character of the area.
6. Whilst lower in height than surrounding development and therefore subordinate in scale, the proposed development with a flat roof, would nevertheless be entirely different in character and appearance and would not integrate visually within the street scene. The use of wood grain cement board, whilst of a similar colour to properties fronting Clarke Avenue and providing a better quality finish and appearance to the building, would nonetheless appear incongruous with the brick or render finish of properties along Downland Drive onto which the proposed outbuilding would have its frontage.
 7. Low retaining walls forming the boundary between the private front and side gardens and the pavement are characteristic of properties within the immediate vicinity of the appeal site. Whilst a section of this retaining wall to No 16 is topped by a fence indicated to be 1.2m high, the majority of the Downland Drive frontage remains open. The proposed development would extend the retaining wall to the Downland Drive frontage and install a 1.8m high fence above. This would be a high boundary treatment which would extend beyond the building line and across the open side garden area and would appear visually intrusive. The appellant has indicated that he would be willing to alter the height of this fence if considered necessary to make it more acceptable. However, this would expose the outbuilding more clearly, thereby giving rise to other harms.
 8. The appellant has also indicated that he would be willing to provide landscaping to provide screening of the proposed development. However, this would not overcome the visual intrusion and harm to the open and spacious character of the area that would arise from the size and position of the proposed building.
 9. I accept that the site in its current state does not contribute to the appearance of the area. However, it seems to me that there are other ways in which this site could be improved without the harm to character and appearance of the area that arises from the appeal proposal.
 10. I conclude the proposed development would significantly harm the character and appearance of the surrounding area. It would therefore conflict with Policy CP12 of the Brighton and Hove City Plan Part One 2016. This policy seeks development that is well designed and establishes a strong sense of place by respecting the diverse character and urban grain of the city's identified neighbourhoods.

Living conditions

11. The proposed development would be used as an office and storage building ancillary to the residential use of No. 16. An area of decking is proposed to the front of the proposed outbuilding. Due to the higher ground level of the site, it would be possible for people using this decking area to gain a view directly into the ground floor maisonette at No. 14 and that of the adjacent property, as well as into the relatively short neighbouring gardens of these properties.

12. The Council considers the proposal could provide a separate dwelling. However, the appellant did not apply for planning permission for a separate dwelling and the proposed scheme must be assessed on the basis of what was applied for which is ancillary accommodation. If, at a later date, the appellant were to seek to create a separate dwelling then this would require a separate planning permission.
13. Nevertheless, even as ancillary accommodation to No. 16, the use of this decking area would give rise to overlooking. There would be some loss of privacy to neighbouring occupiers arising from this.
14. The appellant has indicated that he would be willing to change the decking to paving slabs or pea shingle to reduce the overall height of this outdoor area, thereby mitigating against any overlooking. However, without details of ground levels I cannot be sure that this would overcome the harm that I have identified.
15. I conclude that the proposed development would harm the living conditions of neighbouring occupiers, with regard to privacy. It would therefore conflict with Saved Policy QD27 of the Brighton and Hove Local Plan 2005 which requires development to protect the amenity of existing occupiers.

Other Matters

16. The lack of objection from neighbouring occupiers during the appeal process cannot automatically be assumed to demonstrate support for the scheme and does not justify the proposal. I therefore give this no weight.

Conclusion

17. For the reasons set out above, I conclude the appeal should be dismissed.

Rachael Pipkin

INSPECTOR