



Appeal Decision

Site visit made on 20 July 2020

by **C Jack BSc MA MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 31 July 2020

Appeal Ref: APP/Q1445/D/20/3252633

5 Windsor Close, Hove BN3 6WQ

- 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 Bulent Ekinici against the decision of Brighton & Hove City Council.
 - The application Ref BH2020/00501, dated 12 February 2020, was refused by notice dated 11 May 2020.
 - The development proposed is a rear dormer amendment, Juliet balcony with frosted glazed screening, timber decking with privacy screen, and roof lights.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application form describes the development as 'partly retrospective and partly proposed'. I saw that the property has been significantly altered and extended, including changes to the roof and the construction of raised timber decking at the rear. I also noted that a timber privacy screen has been erected at the side of the raised terrace on the side closest to 6 Windsor Close, which is not shown on the proposed elevations drawing 0520/PP/05A.
3. The planning history indicates, among other things, a certificate of lawfulness BH2017/03835 for a loft conversion; a certificate of lawfulness BH2018/03805 for works including the relocation of the front door and revised fenestration; and a planning application BH2019/01978 for various works including roof enlargement, dormer with Juliet balcony, revised fenestration, and a raised terrace. The latter is subject to a separate appeal.

Main Issues

4. The main issues are the effect of the development on i) the character and appearance of the area and ii) the living conditions of the occupiers of 6 Windsor Close, with particular regard to privacy and light.

Reasons

Character and appearance

5. The appeal property, No 5, is one of a number of bungalows in Windsor Close, which appear to have originally been fairly uniform in their scale and traditional appearance. Numbers 1 to 6 are positioned in a consecutive row and are set lower than road level, which results in their roof profiles being a particularly notable feature of the street scene on that side, with each roof being discernible as the road gently rises.

6. The scale, form, and design of the roof alterations at No 5 are clearly and uncomfortably at odds with the prevailing and generally unassuming nature of the roofscape in the row. This adverse effect is exacerbated by use of materials of a different colour and texture, which serves to highlight the visual prominence of the roof alterations. The significantly increased height of the roof makes the alterations visible, in part, upon entering Windsor Close and in views along the close from various points. Particularly in side-profile, the roof at No 5 now has an incongruous and visually jarring effect, which is harmful to the character and appearance of the area.
7. I have not been provided with the approved plans relating to the certificates of lawfulness, or any significant details of the other appeal scheme. However, it is reasonably apparent that the as-built flat roofed rear dormer indicated in red and annotated as 'unauthorised extension' on drawing 0520/PP/03A does not form part of the lawful permitted development schemes. The proposal now before me shows the unauthorised dormer removed and a revised roof form including a rear gable-ended roof extension of relatively traditional design, and the ridge height of the rearward projecting roof section increased when compared to the existing hipped roof in that location. This revised design would result in some improvement to the appearance of the roof form, when considered against the unauthorised asymmetrical and boxy dormer as built.
8. Nevertheless, the proposal before me would result in significant additional bulk and mass to the roof form, beyond that which has been indicated as being within the scope of the certificate of lawfulness relating to roof enlargement. The certificate of lawfulness represents a legitimate fallback position. However, even discounting the unauthorised dormer element, the form, scale, and nature of the roof alterations harm the character and appearance of the area. The gable roof extension now proposed, and the greater height and mass of the roof associated with it, would further increase the roof bulk visible in the street scene. Thus, the proposed scheme would further harm the character and appearance of the area. As a result, the proposal would be visually unacceptable in its own right, and more harmful than the fallback position in terms of character and appearance.
9. I therefore conclude that the proposed development would harm the character and appearance of the area. It would conflict with Policy QD14 of the Brighton and Hove Local Plan 2005 (BHLP), which among other things seeks to ensure that development, including rooms in the roof, would be well designed in relation to the property, adjoining properties and the surroundings.

Living conditions

10. French doors have been installed in the rear elevation at first floor level, in a position that could give access to an area of flat roof. Due to their relative positions, it would be possible to overlook the rear garden area at No 6 Windsor Close through the glazed doors. However, this would not be materially different to the extent of overlooking from other windows at the rear of the property. Moreover, the proposed frosted balcony screen would reduce the area of glazing through which views out could be obtained, which would make the doors similar in effect to a window and reduce actual and perceived overlooking to a degree. Furthermore, I am advised that the French doors are positioned essentially where a window was included in the approved permitted development fallback.

11. A Juliet balcony railing has been installed, which would restrict access to the flat roof area, thus preventing any more-intrusive overlooking towards No 6 arising from people accessing the flat roof. However, I saw that the balcony railing in situ differs in design and materials from the frosted glazed screening indicated on the proposed plans. Subject to the installation of the frosted glazed screening, as proposed, the effect of the French doors in respect of overlooking the neighbouring garden would be akin to the fallback position. Without this proposed privacy measure, the proposal would have a moderately greater adverse effect on the living conditions of the occupiers of No 6. Had the appeal been allowed, the installation of the frosted glazed privacy screening, as proposed, could reasonably have been secured by condition.
12. The decking is raised to essentially the same level as the internal ground floor at the rear of No 5, which is significantly higher than the ground level of the garden below. Even if seated on the decking, the elevated position would allow uninterrupted views down the adjacent gardens, harmfully eroding the level of privacy experienced there. The elevated position is particularly significant here because the gardens slope away downwards, resulting in clear views from the decking over the boundary treatments on either side.
13. Softwood timber screens have been erected at both ends of the decking, which provide reasonable screening of the most private areas of the neighbouring gardens, closest to the rear of the bungalows. Had the appeal been allowed, the retention of side privacy screen could have been secured by condition. However, even with side screens, the harmful and unduly intrusive additional and elevated overlooking down the neighbouring gardens from the decking area remains. I note both neighbouring properties have raised balcony areas, but I saw these were relatively modest in size, which would significantly limit the likely nature and extent of their use, and so this does not alter my findings in relation to the raised decking at No 5.
14. In terms of light, while the proposal would be to the south of No 6, it would be set back from the boundary with the main bulk of the gabled-ended roof addition sloping away from No 6. The side screen of the decking is moderately taller than the adjacent section of the timber boundary fence, but the decking is also set in from the boundary. There may be some additional shading at No 6 arising from the proposal as a whole. However, given the separation between the properties, their positions relative to each other, and the boundary treatment, I am not persuaded that there would be loss of light to a degree that would amount to harmful overshadowing being experienced at No 6.
15. I therefore conclude that the proposed development would harm the living conditions of the occupiers of 6 Windsor Close having regard to privacy. This would be contrary to the requirements of Policies QD14 and QD27 of the BHLP, which together and among other things seek to ensure that development would not harm amenity at neighbouring properties, including in relation to privacy.

Conclusion

16. For the reasons given, I conclude that the appeal should be dismissed.

Catherine Jack

INSPECTOR