



Appeal Decision

Site visit made on 11 November 2020

by Michael J Muston BA(Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 November 2020.

Appeal Ref: APP/Q1445/D/20/3255245 39 Florence Avenue, Hove BN3 7GX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under a development order.
 - The appeal is made by Mr Hani Hakeem against the decision of the Brighton & Hove City Council.
 - The application Ref BH2020/00748, dated 5 February 2020, was refused by notice dated 7 May 2020.
 - The development proposed was originally described as a rear extension of 6m; single storey (ground floor); same materials will be used for the proposed to match the existing materials; two windows of 1.2m and one door of 3m; flat roof will be located above the new extension; the rear extension will be used as a kitchen and sitting/dining room.
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Decision

1. The appeal is allowed and prior approval is granted under the provisions of Article 3(1) and Schedule 2, Part 1, Class A, paragraph A.4 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the erection of a single storey rear extension, which would extend beyond the rear wall of the original house by 6 m, for which the maximum height would be 2.970m, and for which the height of the eaves would be 2.970m, at 39 Florence Avenue, Hove BN3 7GX, in accordance with the application BH2020/00748 made on 5 February 2020, and the details submitted with it, pursuant to Article 3(1) and Schedule 2, Part 1, Class A, paragraph A.4(2).

Procedural Matters

2. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended, under Article 3(1) and Schedule 2, Part 1, Class A, Part A.4(7) require the local planning authority to assess the proposed development solely on the basis of its impact on the amenity of any adjoining premises, taking into account any representations received. My determination of this appeal has been made on the same basis.
3. The proposed development was described on the application form as set out in the heading above. This was amended by the Council, and the revised description used by the appellant on his appeal form. This describes the proposal more succinctly, and I have therefore used this amended description as the basis for my decision.

Main Issue

4. I consider the main issue in this appeal to be the impact of the proposed development on the amenity of adjoining premises, with particular regard to a sense of enclosure, overshadowing, daylight and outlook.

Reasons

5. The proposal is to construct a single storey extension, projecting six metres beyond the rear wall of the dwelling. The Council has refused to grant approval on the grounds that the combination of the height and depth of the proposed extension would mean that it would harm the living conditions of the occupiers of 37 Florence Avenue, by reason of loss of daylight, loss of outlook, an increased sense of enclosure and overshadowing. The neighbour at No 37 has objected to the proposal. One of the reasons given is that the proposed extension would block light into their garden and alleyway.
6. The boundary between the rear gardens of Nos 39 and 37 is not at a right angle to the rear wall of the two houses, but angles gradually towards No 37. As a result, the submitted plans show the proposed extension as 0.73 metre away from the boundary closest to the house, widening to approximately 1.75 metres away at its maximum depth of 6 metres. The boundary between the two properties is marked by a panelled fence for at least the first 6 metres. The submitted plans show this as being 2 metres in height, although on my site visit I estimated that it is probably closer to 1.8 metres high.
7. The extension would be no more than about 1.2 metres higher than the existing fence and on the submitted plans is shown to be set back a variable distance of between 0.73 and 1.75 metres from that fence. The occupiers of No 37 would be aware of the extension and would see the upper section of its side wall over the boundary fence. However, this would not constitute an unacceptable impact on their outlook or the amount of daylight they receive, and not result in an undue sense of being overshadowed or enclosed.
8. The neighbour at No 37 also objected to the application on the grounds that it would overlook half of their garden, that an extension of the size proposed would make noise disturbance from gatherings of people in the house more likely, and that building works would produce unhealthy amounts of dust and noise. I do not consider that the proposed extension would create any additional overlooking compared to the existing situation, nor that the extension would in itself give rise to unacceptable noise and disturbance. Some disturbance caused by building works is inevitable; however if this were to be a reason for resisting development, then very little would ever be built.
9. Taking all of these factors into consideration, I do not consider that the level of impact I have identified on the amenity of the neighbouring occupiers and property at No 37 justifies resisting the appeal scheme.
10. For the reasons given above, I conclude that the appeal should be allowed and prior approval should be granted.

Michael J Muston

INSPECTOR