



---

# Appeal Decision

Site Visit made on 21 April 2021

**by Rory MacLeod BA (Hons) MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 30 April 2021**

---

**Appeal Ref: APP/Q1445/D/20/3260714**

**2 The Conifers, Tongdean Avenue, Hove, East Sussex BN3 6TN**

- 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 Ms N Mutawa against the decision of Brighton & Hove City Council.
  - The application Ref BH2020/02202, dated 10 August 2020, was refused by notice dated 21 September 2020.
  - The development proposed is described as additional first floor storey and small side extension to existing detached garage - part retrospective.
- 

## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. Permission has been refused and dismissed on appeal<sup>1</sup> for the retention of the present full first floor addition over the detached garage. The current proposal is to replace the first floor vertical rear wall with a sloping roof at an angle of about sixty degrees.

## Main Issue

3. The main issue is whether or not the development would have an overbearing impact on the living conditions of the occupiers of 3 Barrowfield Close.

## Reasons

4. The appeal concerns a backland plot with trees and shrubs to both sides of the boundary between 2 The Conifers and 3 Barrowfield Close. The present garage structure is a conspicuous feature when viewed through gaps in this vegetative screen from No.3. Land levels fall from the boundary to the house at No.3 accentuating the apparent height and overbearing nature of the present first floor vertical wall.
5. The proposal would not change the building's height, but the pitched roof would move the apex further from the boundary. The appearance would change from grey painted weatherboarding to man-made slates. But the sloping roof would still appear very steep compared with most conventional pitched roofs and would remain an intrusive feature when viewed from No.3. The width and height of the steeply sloping roof and its proximity to the boundary would still result in a significant overbearing impact resulting in material harm. It would not be possible to mitigate this impact by a landscape planning condition requiring planting on land controlled by the appellant.

---

<sup>1</sup> BH2019/00840 and APP/Q1445/D/19/3239095

6. The proposal would thereby be contrary to Policy QD27 of the Brighton and Hove Local Plan (2005) which states that permission will not be granted for development causing material nuisance or loss of amenity to adjacent occupiers. There would also be conflict with Paragraph 127(f) of the National Planning Policy Framework which requires developments to have a high standard of amenity for existing and future users.
7. I acknowledge the appellant's desire to retain a usable space at first floor level for storage and as a home office and that the proposal would be an improvement on the scheme dismissed on appeal. But the reconfigured space would still have a material detrimental effect through an overbearing impact on adjoining occupiers. It would also be in conflict with the development plan.

### **Other Matters**

8. I have no reason to disagree with the findings of the previous Inspector, or of the Council, that that proposal would not lead to harm to the character and appearance of the Tongdean Conservation Area.
9. I have noted other matters raised in representations. These include the assertion that the top level of the first floor roof is higher than that of the original garage roof; but there is no evidence before me to indicate that the submitted pre-existing elevations are incorrect in this respect.

### **Conclusion**

10. For the reasons given above I conclude that the appeal should be dismissed.

*Rory MacLeod*

INSPECTOR