

Appeal Decision

Site visit made on 5 May 2021

by H Miles BA(hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 MAY 2021

Appeal Ref: APP/Q1445/W/20/3253220

22 Hanover Terrace, Brighton BN2 9SN

- 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 S M Shah against the decision of Brighton & Hove City Council.
 - The application Ref BH2019/03120, dated 18 October 2019, was refused by notice dated 31 December 2019.
 - The development proposed is single storey ground floor kitchen extension. New 1 bedroom (1 person) apartment within new lower ground floor with associated works. Removal of chimneys.
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Decision

1. This appeal is dismissed.

Main Issues

2. The main issues are
 - Whether the proposed development would preserve or enhance the character or appearance of the Valley Gardens Conservation Area (the CA)
 - The effect of the proposed development on the living conditions of adjacent occupiers, with particular regard to 23 Hanover Terrace
 - The quality of living conditions for future occupiers.

Reasons

Character and Appearance

3. The CA derives its significance as a whole from its central linear open space which extends to the sea. Along with the historic pattern of development of the buildings which surround it, including the notable structures of the Palace Pier and Royal Pavilion. The Hanover area is characterised by the grand villa housing on Hanover Crescent and the more modest housing behind, including Hanover Terrace. This has historic significance due to its development as artisan housing at the same time as the Crescent. The housing is small scale, terraced housing on a uniform building line set back behind small front gardens or light wells with can't bays and a simplicity of detail. It generally reflects a traditional hierarchy of floors with existing basements appearing secondary to the main ground floor elevation. These characteristics reflect the houses modest, secondary character relative to Hanover Crescent, and are indicative of this historic association. These elements therefore make a positive contribution to the significance of the CA.

4. There are a number of existing basements on Hanover Terrace. Those on the north westerly side of the road are original and generally consist of a window flush with the main elevation of the house with a modest front lightwell. Basements are less common on the south easterly side of the road, and those that are visible vary in their design and appearance. The most successful are those that follow the traditional pattern of development on the north west, such as that at no. 24. Of the others drawn to my attention (18 and 19), include different window styles and glazed patio doors. Such details are not so common as to form a key part of the character of the area. Consequently, I am not persuaded that canted basement bays are part of the character and appearance of this area.
5. 22 Hanover Terrace includes canted bays, a small front garden, and modest space around the property including a small rear garden. In these respects, the building makes a positive contribution to the character and appearance of the CA.
6. The introduction of a canted bay at basement level would be an incongruous feature in this location. It would also be harmful to the simple detailing and traditional prominence of the ground floor elevation. Furthermore, the works proposed would result in a four storey property, including an extension which would occupy a significant amount of the garden to the rear. This combined scale and form would harmfully erode the small scale nature of the dwelling.
7. Development proposals should not harm the character or appearance of the CA whether or not the proposal is prominent or in public view. In any case, although below pavement level, the proposed basement would be at the front of the property and readily visible in public views along Hanover Terrace. The rear extension would also be visible in private views from nearby properties. As such the harm identified above would be experienced.
8. It is put to me that the omission of the canted bay could be a condition. However, I am not provided with any detail as to how this would be secured, or the suitability of any alternatives. Consequently, I am not satisfied that such a condition would make this development acceptable and therefore it would not be reasonable in this case.
9. As such, the proposed development would not preserve or enhance the character or appearance of the CA. Taking all these factors into consideration, the proposed development would be contrary to Policies CP12 and CP15 of the Brighton & Hove City Plan Part One March 2016 (the City Plan) and QD14 and HE6 of the Brighton and Hove Local Plan 2005 (the Local Plan). Together these require proposed development to preserve or enhance the character and appearance of a conservation area and set out detail as to how this can be achieved, and seek a high standard of design with particular regard to extensions and alterations to existing buildings.
10. In terms of the National Planning Policy Framework (February 2019) (the Framework) the harm to the CA would be less than substantial. However, the Framework advises that Heritage assets are irreplaceable and should be conserved in a manner appropriate to their significance. It goes on to require that any harm should be weighed against the public benefits of the scheme.
11. There would be social and economic benefits associated with the provision of one new home, however given the size of the development proposed these

benefits are limited in their scale. On the other hand, having regard to my statutory duty I am required to attribute considerable weight and importance to the harm I have found to the CA.

12. Accordingly, taking all the above into account, the limited public benefits would not outweigh the harm to the CA.

Living conditions of adjacent occupiers

13. The main outlook from the windows to the back of 23 Hanover Terrace is to the rear and this would not change as a result of the proposed development. The proposed rear extension would be apparent in peripheral views, similar to the situation with the existing boundary wall, albeit higher. As such there would not be a harmful effect on the outlook from no. 23.
14. There is an existing rear extension at no. 24 and therefore the consequence of the proposed development would be extensions along both boundaries. However, taking into account the proposed height on the boundary, depth and the circumstances described above I am not persuaded that a harmful tunnelling effect would occur.
15. Consequently, the proposed development would not have an unacceptably harmful effect on the living conditions of the adjacent occupiers, with particular regard to 23 Hanover Terrace. As such, in this respect, the proposed development would not be contrary to Policy QD27 of the Local Plan which requires that development will not cause material loss of amenity to adjacent occupiers.

Future living conditions

16. The basement flat would be served by one lightwell to the front and one to the rear which are limited in depth. Given the height and position of the windows relative to these lightwells the proposed unit would have very limited outlook and natural light. Furthermore, the private outdoor space would be a small, enclosed sunken terrace which I am not persuaded would be adequate for the occupier of this unit.
17. The proposed development would also result in a small area of garden space for the 5 person HMO on the upper floors. The resultant outdoor area would be a very limited size for 5 adults to use and consequently I am not satisfied that it would be adequate for these occupiers.
18. It is not in dispute that the proposed internal area would be an acceptable size for a one person unit. I am not persuaded that the property should be laid out as a studio to be suitable as a one person unit, and consequently I do not find harm with regard to the internal floorspace proposed.
19. Nevertheless, the inadequate outlook, light and external amenity space would not result in high standards of living conditions for future users. Consequently, in this respect, the proposed development would be contrary to Policies QD27 and HO5 of the Local Plan which together require the protection of amenity of future occupiers and provision of private amenity space appropriate to the scale and character of the development.

20. Policy CP12 of the City Plan relates mainly to considerations of character and appearance and therefore the policies listed above are more relevant to this main issue.

Planning Balance

21. The Council cannot demonstrate a 5 year housing land supply. Therefore paragraph 11(d) of the Framework is engaged. However, as set out above, the application of policies relating to designated heritage assets (in this case, the CA) provides a clear reason for refusing the development proposed. Consequently, the presumption in favour of sustainable development does not apply in this case.

Conclusion

22. The proposal would not accord with the development plan and there are no other considerations, including the provisions of the Framework, to indicate that the appeal should be determined otherwise. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

H Miles

INSPECTOR