

Appeal Decision

Site visit made on 1 November 2021

by D Cramond BSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 November 2021.

Appeal Ref: APP/Q1445/D/21/3277305
Studio, 49 Elm Drive, Hove, BN3 7JA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3 and Schedule 2, Part 1, Class AA, Paragraph AA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr Paul Heath against the decision of the Brighton & Hove City Council.
 - The application Ref BH2021/00573, dated 17 February 2021, was refused by notice dated 15 April 2021.
 - The development proposed is prior approval for the erection of an additional storey to form a first floor extension.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The local planning authority is required to assess the proposed development on the basis of, amongst other things, impact on the amenity of any adjoining premises and on external appearance, taking into account any representations received. My determination of this appeal has been made on the same basis.

Main Issues

3. The main issues are the effects of the proposed development on the living conditions of neighbours and on external appearance.

Reasons

4. The appeal site is a single storey building to the rear of broadly homogenous frontage dwelling houses on Elm Drive which are within an area of established residential character and form a pleasing streetscene. From its positioning, large shed-like form, and external finishes it appears as an incidental or ancillary building to the frontage dwelling house. The unit, which has a driveway access, is now however recognised as an independent dwelling house and this is not in dispute. To the rear of the building lies a more recent residential estate, Wayfield Avenue, and the appeal premises immediately abut the end of a garage court serving this housing area, with dwellings in close proximity.

Amenity of Adjoining Premises

5. The Appellant makes the point that the submitted scheme includes bathroom windows to be fully obscure glazed and bedroom windows to be obscured glazed and non-opening other than their top quarter lights at 1700mm above finished floor level. The Council recognises this but the concern is that the additional storey would nevertheless include windows that it feels would be highly visible from nearby private gardens and rear windows of properties including No. 44 Wayfield Avenue and Nos. 49 and 51 Elm Drive. The Council's case, supported by numbers of residents, is that these windows would lead to significant perceived loss of privacy for occupants of these premises.
6. I do not lightly dismiss the notion of perceived overlooking and the uncomfortable feeling, and hence loss of amenity it can generate. However, in this particular instance I must take into account orientation, face to face distances, presence of some intervening structures, and the fact the rooms served by the windows would be bedrooms and bathroom facilities.
7. Given the foregoing my conclusion on the first main issue is that the Council has leaned too far to the concept of perceived overlooking and that in actuality the planned window arrangement would not be unduly detrimental to the residential amenity of neighbours.

External Appearance

8. As I touch on above in paragraph 4 the building has the appearance of incidental premises; whilst not markedly attractive it is low key in all senses and has an elevation on view to Elm Drive, and one above a fence to Wayfield Avenue. These elevations are visually unremarkable and subtle; at ease with the very tight nature of the curtilage, and with the wider scene. Similarly, the side elevations are appropriate and sit comfortably. The plans to raise this building by a floor, via a scheme which to my mind would appear top heavy and ungainly, almost arbitrarily fenestrated, and of a shoe-horned nature particularly relative to boundaries and abutting features, would be harmful to the visual characteristics and intrinsic design of the host building. The external appearance of the building would be seriously and unacceptably harmed in its own right.
9. There would very clearly be an obvious unsatisfactory relationship with nearby properties if this scheme were to go ahead. The awkward and anomalous external appearance of the structure would represent undesirable poor design. It would be jarring on the eye in the streetscene and from neighbouring properties and would be out of character and visually detrimental.
10. In all the circumstances I conclude on the second main issue that the appeal proposal would have an unduly harmful impact on external appearance.

Other matters

11. The Council makes reference to, and raises concern over, the precise nature of the proposed external materials. On this point I would agree with the Appellant; a suitable planning condition could have been applied had I been minded to allow the appeal.

Conclusion

12. For the reasons given above I conclude that the appeal proposal would not unduly impact upon living conditions for neighbours but it would have unacceptable effects on external appearance. Accordingly, the appeal is dismissed.

D Cramond

INSPECTOR