



Appeal Decision

Site visit made on 29 March 2022

by Robert Parker BSc (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 April 2022

Appeal Ref: APP/Q1445/W/21/3281555

44B Church Road, Hove BN3 2FN

- 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 Justin Rushmore against the decision of Brighton & Hove City Council.
 - The application Ref BH2021/01526, dated 26 April 2021, was refused by notice dated 15 July 2021.
 - The development proposed is the addition of a two storey rear extension providing an office on the second floor and a living space on the third floor with two options for an emergency exit route in the form of a ladder.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - a) whether the proposal would preserve or enhance the character or appearance of The Avenues Conservation Area; and
 - b) the effect of the proposal on the living conditions of the occupiers of Nos 42 and 44A Church Road, with reference to daylight, sunlight and outlook.

Reasons

Conservation area

3. No 44B is a maisonette within a terrace of buildings fronting Church Road, a commercial street within The Avenues Conservation Area. The property sits above retail premises and another maisonette. It is spread across two floors, the uppermost one being contained within the roof, and has an entrance onto Church Road Lane. The back of the terrace is less prominent than the principal façade onto Church Road, and in architectural terms it is very much secondary. However, the rear elevation is clearly visible from Second Avenue and Grand Avenue. It is also experienced by the residents of other dwellings within the terrace, for whom the service lane is the main approach to their property.
4. The rear of the terrace has already been the subject of various extensions and alterations, including a number of fire escapes and extraction flues. Whilst there is no homogeneity to the design of the extensions, there is a clear sense of hierarchy with the depth of projection reducing as the height increases to create a stepped appearance. Despite some taller additions at Nos 32 and 46, none of the extensions have breached the eaves of the main roof.

5. The existing arrangement at No 44 is fairly typical, with an outrigger at first floor and a shallower projection at second floor. The proposal is to extend the first floor element upwards to eaves level. This would create a single large block with no articulation of scale or mass. The extension would appear excessively bulky at high level and discordant with the predominant pattern of additions at the rear of the terrace. Although the proposal would facilitate the removal of a spiral staircase (or its replacement with something more discreet), this would not provide sufficient visual benefit to justify the poor design.
6. An existing extension at 46 Church Road has been cited in support of the appellant's case. This is a large and somewhat bulky addition, without the characteristic 'stepped' appearance described above. It is also surrounded by fire escape staircases. I do not know the history to this development, or whether it predates the conservation area designation, but its existence does not persuade me that the proposal is acceptable.
7. The appellant contends that the proposal would have a neutral impact on The Avenues Conservation Area. I disagree. In my judgement, the scheme would fail to preserve or enhance the character or appearance of this heritage asset. There would be conflict with Policies CP12 and CP15 of the Brighton & Hove City Plan Part One (2016) and Policies QD14 and HE6 of the Brighton and Hove Local Plan (2005) (LP). These policies are consistent with the National Planning Policy Framework (the Framework) in seeking to promote good design and new development which is sympathetic to local character and history, including the surrounding built environment.

Living conditions

8. No 44A Church Road lies immediately below No 44B. This maisonette has a pair of rear facing windows, one at first floor and the other at second floor. The plans state that the property has not been surveyed, but it is evident from neighbour representations that the second floor window serves a bedroom. Immediately outside of the first floor window is a small roof terrace.
9. The occupiers of No 44A will already be affected by the existing outriggers. However, the proposal would significantly increase the height and depth of these structures. The appellant provides information, taken from a website, regarding the path of the sun, but this does not constitute a formal daylight and sunlight assessment. It is highly probable that the scheme would lead to a noticeable reduction in natural light entering No 44A and overshadowing of its roof terrace. Furthermore, there would be a heightened sense of enclosure, which would diminish the neighbours' enjoyment of their outdoor amenity space.
10. The appellant has offered to provide a green wall on the west facing wall of the third floor extension and to fund its maintenance for a period of 5 years. There can be no guarantee that a green wall would establish effectively, but in any event it would not address the adverse impacts on the residents of No 44A. The proposed green wall would be adjacent to a kitchen window belonging to the appeal property; the Council does not refer to this window in its decision.
11. I note the offer of a S106 planning obligation to secure a certified sprinkler system within No 44B that would enable the spiral staircase to be removed. There is no S106 before me, but in any case the removal of the staircase would not improve the outlook for the occupiers of No 44A sufficiently to offset the harm arising from the additional mass of extension.

12. The Council has raised additional concerns over the impact of the proposal on 42 Church Road. This property has windows at second and third floors close to the boundary with No 44B. Judging by the position of the front door, the second floor window serves a circulation space. There is no substantive evidence to support the appellant's assertion that the third floor window serves a stairwell, so I cannot rule out the possibility that it serves a habitable room. There would be a loss of outlook from this window and this weighs against the scheme.
13. I conclude that the proposal would have an unacceptable adverse impact on the living conditions of the occupiers of Nos 42 and 44A Church Road. There would be conflict with LP Policies QD14 and QD27 insofar as they seek to protect the amenity of adjacent residents.

Planning Balance and Conclusion

14. The proposal would fail to preserve or enhance the character or appearance of The Avenues Conservation Area. Paragraph 202 of the Framework states that where, as in this case, a development proposal would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.
15. The main benefits of the scheme would be private ones, in that it would improve the accommodation within No 44B and enable the occupants to work from home. Even if I shared the appellant's view that there were public benefits arising from reducing the number of journeys (and therefore CO₂ emissions) and gains to the economy from supporting an existing business¹, these benefits would not be sufficient to outweigh the adverse impacts on the Conservation Area. Overall, factoring in the harms to the living conditions of neighbours, there would be no material considerations to outweigh the conflict with the development plan taken as a whole.
16. For the reasons given above and having regard to all other matters raised, including the proposal to incorporate bee bricks into the scheme, I conclude that the appeal should be dismissed.

Robert Parker

INSPECTOR

¹ The appellant's wife operates her own business and would like to reduce office overheads by working from home.