



Appeal Decision

Site visit made on 30 June 2022

by D Cramond BSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29th July 2022

Appeal Ref: APP/Q1445/W/22/3290733

Flat 4, 175 Kingsway, Hove, BN3 4GL

- 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 Phil Withers against the decision of Brighton & Hove City Council.
 - The application Ref BH2021/03594, dated 30 September 2021, was refused by notice dated 7 December 2021.
 - The development proposed is alterations to existing rear access to roof area, with new rear roof terrace with balustrade.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposal on a) the character and appearance of the host property and the locality and b) living conditions for neighbours.

Reasons

Character and appearance

3. The appeal property is a top flat in a substantial and imposing period terrace of sea front homes. The locality is of established attractive character and the appearance of the area is very pleasing with the combination of interesting and largely intact original buildings and detailing, fine layout and good quality spaces all combining visually successfully. The proposal is as described above.
 4. The site lies within the Sackville Gardens Conservation Area. There is a duty imposed by Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requiring decision makers to have special regard to the desirability of preserving or enhancing the character or appearance of a Conservation Area. This is reflected within Saved Policy HE6 of the Brighton and Hove Local Plan (LP) which also includes a range of relevant design criteria for proposals within Conservation Areas. Similarly, the thrust of
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S72(1) is, amongst other matters, included Policy CP15 of the City Plan Part One (CP).

5. Most of the upper roof area along this whole terrace is intact or has had little change and balconies at this height are not a feature. The appeal property itself has some disruption to the rear roofscape due to the existing dormer and small open walkway but the planned works would take this a significant further degree. Most of the roof slope would be removed and balustrading added and the likelihood is that paraphernalia would follow. The result would look ungainly and uncharacteristic; the aesthetic qualities of the established roofscape would be changed and diminished. The works would be visible from the nearby road, Westbourne Villas, but in any event it is beholden, most particularly in Conservation Areas, to achieve good quality design and regrettably this scheme would fail that test in this context. In summary, the appeal property would be harmed as would the Conservation Area.
6. Given the nature of the scheme I conclude that the proposal would run contrary to the aims of S72(1) of the Act and with LP Saved Policy HE6 as well as CP Policy CP15. It would also conflict with LP Policy QD14 which, amongst other matters, seeks well designed development that should be suitably detailed and be sympathetic to a host property and wider area.

Living conditions

7. The Council expresses the concern that expanding the existing platform would increase the potential for noise and general disturbance to the rear of the neighbouring flats, particularly given their close proximity.
8. I note that the roof terrace would be modest in size, north facing, lacking in sea views, accessed via a bedroom, subject to some ambient background noise, and somewhat separated and in part screened from immediate neighbours. One can never be sure, however I would not envisage it being used to any appreciable degree for 'gatherings' but rather for one or two people to utilise from time to time. From my perspective I therefore find the Council's noise and general disturbance scenario very unlikely to mirror reality.
9. LP Saved Policy QD27 is relevant. It seeks to protect the amenities of neighbours. Given the foregoing I would conclude that the appeal scheme would not run contrary to this policy.

Other matters

10. I do understand the Appellant's wish improve outside amenity provision and the benefits that this can bring. I can see that thought has been given to the use of materials and the aim of enhancing the existing situation on that front and reducing the degree of projection a little. I would agree that the front of the terrace is the prime elevation but do not see this as a reason to fail to safeguard the rear facing part of the block. I did note some works had been carried out elsewhere along the terrace albeit I did not observe a scale or height of alteration which would match the appeal proposal and, in

any event, I must assess the case before me on its own merits. I have carefully considered all the points raised by the Appellant but these matters do not outweigh the concerns which I have in relation to one of the main issues identified above.

11. I confirm that policies in the National Planning Policy Framework (the Framework) have been considered. Key objectives of the Framework are to protect and enhance the qualities of the built environment as well as to safeguard heritage assets; development plan policies which I cite mirror these. The Framework underlines that great weight should be given to a heritage asset's conservation. The appeal proposal would lead to less than substantial harm to the significance of the designated heritage asset however what public benefits there would be would not outweigh this harm. Furthermore, there are no other benefits, including to the Appellant, which to my mind would be of a scale to outweigh the harm to the Conservation Area which I have identified.

Overall conclusion

12. For the reasons given above I conclude that the appeal proposal would not unduly impinge upon the living conditions of neighbours but it would have unacceptable effects on the character and appearance of the host property and the locality. Accordingly, the appeal is dismissed.

D Cramond
INSPECTOR