



Appeal Decision

Site visit made on 25 April 2023

by Lynne Evans BA MA MRTPI MRICS

an Inspector appointed by the Secretary of State

Decision date: 11th May 2023

Appeal Ref: APP/Q1445/D/23/3316779

10 Clifton Place, Brighton BN1 3FN

- 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 P Siciliani against the decision of Brighton & Hove City Council.
 - The application Ref: BH2022/02781 dated 1 September 2022, was refused by notice dated 30 November 2022.
 - The development proposed is conversion of flat roof to roof terrace with handrails.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The property has been extended at the rear under planning permission Ref: BH2021/00411. I am advised that this included for French doors and a Juliet balcony from the half landing at second floor level. French doors have been installed but these open outwards. The current proposal therefore seeks to allow for the doors from the landing to open outwards onto a terrace.
3. The proposal has been amended at the application stage so that the proposed terrace would be 1.2m wide and 0.6m deep to allow the doors to continue to be opened outwards.

Main Issues

4. The main issues in this appeal are:
 - a) The effect of the proposal on the character and appearance of the existing building and on the Montpelier and Clifton Hill Conservation Area, and
 - b) The effect of the proposal on the living conditions of neighbouring occupiers, with particular regard to overlooking and noise disturbance.

Reasons

Issue a) Character and Appearance

5. The appeal property is a four storey mid terraced residential property on the west side of Clifton Place in a predominantly residential area. The appeal property is within the Montpelier and Clifton Hill Conservation Area, and its significance relates to its attractive but varied townscape of primarily late Regency to mid Victorian residential terraces interspersed with attractive areas

of open space. The steeply sloping nature of many of the terraces down towards the sea, including Clifton Place, contributes to the significance of this attractive residential area.

6. Section 72 (1) of The Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of such areas.
7. The fronts of the terraces facing the street show a greater consistency of design and palette of materials than the rear of the buildings which are more hidden from general street scene views and reflect a variety of subsequent extensions and alterations. The proposed terrace would have stainless steel corner posts and glass infill panels 1.1 m high. In view of the very small scale of the proposed terrace, as amended, and the lightweight form of the proposed materials in relation to the existing property and the surrounding area, I do not consider that there would be any harm to the character and appearance of the existing building or to the significance of the Conservation Area, particularly taking into account the more varied palette of materials at the rear of the surrounding buildings.
8. I am therefore satisfied that the small scale of the proposal together with the lightweight materials proposed would be appropriate and would respect the character and appearance of the existing building and the significance of the Conservation Area. The character and appearance of the Montpelier and Clifton Hill Conservation Area would be preserved. There would be no conflict with Policies DM18, DM21 & DM26 of City Plan Part Two, Policies CP12 & CP15 of City Plan Part One and SPD09 and 12 Guidance, as well as the National Planning Policy Framework (Framework) and in particular Sections 12 and 16, all of which amongst other matters seek a high quality of design which respects the local context and the significance of heritage assets.

Issue b) Living Conditions

9. There is, as existing, considerable mutual overlooking from and of the appeal property from windows in neighbouring properties, and particularly from No 11 to the north of the appeal property which has windows in its side elevation at a high level facing southwards.
10. Given the small scale of the balcony as now proposed, of only 0.6m deep, I consider that the views from the balcony over most of the neighbouring properties to the south and to the west would not be materially different to those views that can be gained from existing windows at the rear of the existing property. I have also taken into account the previous permission which allowed for a Juliet balcony in front of inward facing terraced doors, and do not consider that the extent of overlooking which would be possible from the revised proposal would be materially different.
11. However, there would be a particularly uncomfortable relationship with the neighbour to the north because of the windows they have in the south facing elevation at both first and second floor level in very close proximity to the appeal property and its flat roofed element at second floor level. I have taken into account the small scale of the proposed terrace, and that No 11 is situated higher up the slope than the appeal property, but there would be direct overlooking of the windows at No 11 because of the close relationship between

the terrace and the neighbouring property. This loss of privacy would materially harm the living conditions of the neighbours.

12. The Appellant has offered the introduction of a privacy screen along the side with No 11, but no specific details have been submitted. I do not consider that it would be appropriate to impose a condition requiring such a screen without further details in order to consider both the impact on the living conditions of the neighbours at No 11 as well as on the character and appearance of the existing building and on the significance of the Conservation Area.
13. In terms of noise and disturbance, given the very limited size of the terrace as now proposed, there is no information before me to substantiate the concerns that the small terrace would lead to levels of noise and disturbance that would materially adversely affect the living conditions of neighbours. Given the proximity of the dwellings to each other some mutual noise and disturbance from the use of gardens and even from open windows is likely and I do not consider that the proposed terrace would materially change this position. In reaching this view I have also taken into account the permitted scheme for French doors with a Juliet balcony. However, this finding does not override the harm I have concluded in terms of harm to the living conditions of the neighbours at No 11, as a result of overlooking and loss of privacy.
14. I therefore conclude that the proposal would lead to material harm to the living conditions of the neighbours at No 11 Clifton Place with particular regard to overlooking and loss of privacy. This would conflict with Policy DM20 of the Brighton and Hove City Plan Part Two and the Framework with particular reference to paragraph 130, all of which amongst other matters seek to respect the living conditions of existing and future occupiers. The Council's reason for refusal also refers to Policy DM26 of the Brighton and Hove City Plan Part Two, but this Policy addresses development within Conservation Areas and is pertinent to my consideration of my first main issue.

Other Considerations

15. The Appellant has drawn my attention to other roof terraces in the immediate area, although the Council has indicated that there is no record of permission for many of these terraces. However, my decision is based on the individual merits of the case before me and the particular relationship of the appeal property with neighbouring properties.
16. I have sympathy with the reasons for installing the doors to open outwards from the landing, but this does not provide a justification for the terrace as proposed, given the harm I have concluded under my second issue.

Conclusion

17. There is no issue with the principle of residents seeking to upgrade and improve their homes, but this has to be considered on the merits of the individual case, in relation to development plan policies and other material considerations.
18. I have found that the proposal would preserve the character and appearance of the Montpelier and Clifton Hill Conservation Area, but this does not override the harm I have concluded to the living conditions of the neighbours at No 11, as a result of overlooking and loss of privacy.

19. For the reasons given above and having regard to all other matters raised, I conclude that the scheme fails to accord with the development plan taken as a whole, and there are no material considerations, including the Framework, that indicate a decision other than in accordance with the development plan. Therefore, this appeal should be dismissed.

L J Evans

INSPECTOR