



Appeal Decision

Site visit made on 15 February 2024

by Lynne Evans BA MA MRTPI MRICS

an Inspector appointed by the Secretary of State

Decision date: 23 February 2024

Appeal Ref: APP/Q1445/D/23/3336075

The Nutshell, 1 Romney Road, Rottingdean, Brighton BN2 7GG

- 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 & Mrs Richard Terry against the decision of Brighton & Hove City Council.
 - The application Ref: BH2023/02551 dated 15 September 2023, was refused by notice dated 24 November 2023.
 - The development proposed is pitched roof rear extension to existing garage and conversion to form an annex, single storey pitched roof side extension and front roof terraces.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The National Planning Policy Framework (Framework) was revised in December 2023 and after the Council determined the application. Although some of the paragraph numbering has changed, I do not consider that there are any material changes in the Framework, pertinent to this appeal proposal. It is not therefore necessary to seek the views of the Appellants or the Council on the revised Framework, particularly as the Appellants have referred to the updated Framework in their appeal statement, which was submitted shortly after its publication.

Main Issue

3. The main issue in this appeal is the effect of the proposed development on the living conditions of the neighbours at No 4 Chailey Avenue, with particular regard to outlook.

Reasons

4. The appeal property is a detached property on the north side of Romney Road and within a predominantly residential area. It has a detached garage on the western side, with a pitched roof. The land generally slopes down from east to west. The adjoining single storey property to the immediate west, No 4 Chailey Avenue has a very shallow rear garden adjoining the appeal property, with a number of windows facing towards the rear.
5. The proposal would convert and extend the existing garage to the rear to create an annexe with accommodation at ground and first floor level, together

- with other alterations to the main dwelling. The proposal would continue the form and massing of the existing garage, including its roof form, and would extend along much of the boundary with No 4 Chailey Avenue, with the eaves height of the proposal extending above the existing boundary fence.
6. Given the shallowness of the rear garden to the neighbouring property and the height and the length of the proposed extension, I consider that the scale and massing of the proposal would be very oppressive and over dominant for the neighbours in terms of their outlook from their rear facing windows as well as from within their rear garden area. It would also have an unacceptably enclosing effect on their outlook. This would materially harm their living conditions.
 7. The principal windows to the annexe would face to the rear and to the front with rooflights to the side facing towards the neighbouring property. Were no other matters of concern and planning permission were to be granted, conditions could be imposed to control the height and form of these rooflights to ensure no overlooking or loss of privacy for the neighbours in Chailey Avenue. However, my finding in this regard does not outweigh the harm to the neighbours' living conditions through loss of outlook.
 8. I therefore conclude that the proposal would materially harm the living conditions of the neighbours at No 4 Chailey Avenue with particular regard to loss of outlook. This would conflict with Policies DM20 and DM21 of the Council's City Plan Part Two as well as the Framework and in particular paragraph 135f) all of which amongst other matters seek to protect the amenities of existing and future occupiers. The Appellants have contended that Policy DM21 of the Council's City Plan Part Two has been referenced in error by the Council, but it is my finding that the proposal would not comply with this policy, and in particular criterion a.

Other Considerations

9. I have sympathy with the family related reasons for seeking the extension for use as an annexe to the main property, and the policy support for accommodation for the elderly, but these considerations would not outweigh the harm I have concluded to the living conditions of the neighbours.
10. Had there been no other matters of concern and planning permission were to be granted I agree that conditions could have been imposed to regulate the annexe use of the proposal and in respect of the nature of the glazing to the additional dormer window at first floor level in the main property to ensure no overlooking and loss of privacy for the neighbours in Chailey Avenue.
11. I have taken into account that no objections were raised by the neighbours at No 4 Chailey Avenue, but if granted the permission and its impact would endure for future neighbours. I have also had regard to the fact that part of the neighbours' garden was sold to the Appellants but that does not provide weight in support of this specific proposal.

Conclusion

12. For the reasons given above and having regard to all other matters raised, I conclude that this appeal should be dismissed.

L J Evans

INSPECTOR