



Appeal Decision

Site visit made on 13 March 2024

by Lynne Evans BA MA MRTPI MRICS

an Inspector appointed by the Secretary of State

Decision date: 09 April 2024

Appeal Ref: APP/Q1445/D/24/3337467

30 Highfield Crescent, Brighton BN1 8JD

- 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 Mohamed Hussein against the decision of Brighton & Hove City Council.
 - The application Ref: BH2023/01198 dated 14 April 2023, was refused by notice dated 29 December 2023.
 - The development is described as retrospective planning permission to amend the existing planning permission reference BH2022/02115 to create a raised deck area facilitating access to the garden as well as revised fenestration, following the part demolition and part extension of the shed at the rear of the property.
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Decision

1. The appeal is allowed and planning permission is granted for a raised deck area facilitating access to the garden as well as revised fenestration, following the part demolition and part extension of the shed at the rear of the property at 30 Highfield Crescent Brighton BN1 8JD in accordance with the terms of the application: BH2023/01198 dated 14 April 2023, subject to the conditions set out in the schedule at the end of this decision letter.

Preliminary Matters

2. Planning permission was granted by the Council under its reference BH2022/02115 for part demolition and part extension of existing shed at rear of property to create raised patio area with access to garden and revised fenestration. The development as undertaken on site does not follow the approved plans under that permission and permission is now sought to retain the works as constructed. There is an existing privacy screen erected alongside the boundary with the attached property at No 32. However, this does not benefit from planning permission. The scheme proposals as amended during the application process, included for a different privacy screen to the one that has been erected.
3. It is therefore my understanding that the scheme before me seeks to retain the works as built together with the revised privacy screen proposal.

Main Issues

4. The main issues in this appeal are:

- a) The effect of the development, as built and as proposed, on the character and appearance of the existing property and on the locality; and
- b) The effect of the development, as built and as proposed, on the amenities of the neighbouring occupants.

Reasons

Issue a) Character and Appearance

- 5. The appeal property is a semi-detached residential dwelling on the north side of Highfield Crescent and within a predominantly residential area. The land slopes very steeply down from the front to the back of the site. As a result, at the rear, the ground floor accommodation is at a considerably higher level than the main garden area, with no accommodation accessed from the property, at rear garden level. Although this appears to be the pattern of development for a number of the dwellings on this side of Highfield Crescent, the adjoining property at No 32 appears to have constructed habitable accommodation at ground floor (garden) level at the rear under a sloping pitched roof with bedrooms at the upper level, adjoining the rear of the sitting room of the appeal property.
- 6. The terrace outside the sitting room, and arrangement of steps down to the rest of the garden area are appropriate in scale and proportions to the scale of the property and the proportions of the garden and relate to the steeply sloping change in levels between the house and the garden. Although larger than the previously permitted terrace outside the rear windows and the steps are set out in a different arrangement to the previously permitted scheme, I consider that this arrangement relates well to the changing levels and to the character and appearance of the property and the site. They do not affect the wider street scene.
- 7. The proposed privacy screen would be 4 m in length from the back wall of the property. It would be 1.8m in height along the terrace and then reduce to 1.7m alongside the steps leading from the terrace down towards the garden. In the context of the length of the garden I do not consider that the length of the privacy screen would appear over dominant, particularly as it would begin to step down to follow the line of the steps leading down to the main garden area. It would also not appear overly high against the rear wall of the property. It would be a solid screen to serve its purpose as a privacy screen, but the precise details of the proposed screen are not shown, and I consider that the approval of further details would be required prior to its erection.
- 8. I am therefore satisfied that, subject to a condition to require details of the proposed privacy screen to be approved, the scheme as built and as proposed does and would respect the character and appearance of the locality. There is no conflict and would be no conflict with Policy DM21 of the Brighton and Hove City Plan Part Two (City Plan Part Two) and the National Planning Policy Framework (Framework) and in particular Section 12 both of which, amongst other matters, seek a high quality of development which respects the local context.

Issue b) Neighbouring Living Conditions

- 9. The adjoining property at No 32 appears to have a different layout to the appeal property and has built habitable accommodation at the lower level, so

that a bedroom adjoins the living room at the appeal property. There is a further window in the neighbouring property at the same level further away from the appeal property.

10. Without a privacy screen there would be the opportunity for overlooking from the terrace at the appeal property into the bedroom window closest to the common boundary and potentially towards the other room. This would result in an unacceptable harm to the living conditions of the neighbours. I do not consider that this concern is materially different as a result of the depth of the terrace as originally permitted and as now proposed. A privacy screen is therefore necessary, and I understand that one was required by a condition imposed on the previous permission.
11. The privacy screen as now proposed would extend some 4 m from the rear wall of the appeal property alongside the terrace and along the steps down from the terrace. This length of privacy screen would ensure that there would be no overlooking and loss of privacy for the neighbours in terms of the rear facing rooms at the upper level of the adjoining property.
12. In terms of outlook, and although extending to 4m from the rear wall of the property and would be seen from the upper floor windows, there would remain extensive views from the rear windows in the neighbouring property particularly in a northerly and westerly direction. I do not therefore consider that the length of the screen would be overbearing and would not lead to a material loss of outlook for the neighbours from the upper windows, and in particular the room closest to the appeal property.
13. I am therefore satisfied that the neighbours' living conditions would not be materially harmed as a result of the development as built together with the proposed privacy screen. There would be no conflict with Policies DM20 and DM21 of the City Plan Part Two as well as paragraph 135f) of the Framework, which seeks to ensure the amenities of the existing and future occupants are protected.

Other Considerations

14. There are references in the appeal documentation to the Council seeking to move the privacy screen some 0.5 metres away from the boundary. However, I do not consider that this would materially alter the outlook for the neighbours from their rear facing windows at the upper level.
15. The neighbours have raised concerns about noise and disturbance from the neighbours, but I do not consider that these matters are directly related to the development before me, particularly taking into account the permission previously granted. The alleged effect on property values is not a planning matter which I am able to take into account.

Conditions

16. In terms of conditions, further and more precise details of the privacy screen are required to be approved. Condition 2 is imposed to ensure that the required details are submitted, approved and implemented so as to make the development acceptable in planning terms. There is a strict timetable for compliance because permission is being granted retrospectively, and it is not possible to use a negatively worded condition to secure the approval and implementation of the privacy screen before the development takes place. The

condition will ensure that the development can be enforced against if the requirements are not met.

17. Except in relation to the privacy screen where further details are required, I have listed the approved plans. The standard condition relating to a timescale for implementation is not required as much of the development is in place.

Conclusion

18. For the reasons given above and having regard to all other matters raised, including in representations, I conclude that this appeal should be allowed.

L J Evans

INSPECTOR

Schedule of Conditions

- 1) Except in relation to the privacy screen, the approved plans are: 102B; 104B and 106B.
- 2) Unless within 2 months of the date of this decision full details of the privacy screen, including materials, have been submitted to the Local Planning Authority for written approval, and unless the approved scheme is implemented within 3 months of the Local Planning Authority's written approval, the development works hereby permitted and as shown on the approved plans shall be removed and all equipment and materials brought onto the land for the purposes of such development shall be removed until such time as a scheme is approved and implemented.