



Appeal Decision

Site visit made on 9 May 2024

by Michael Evans BA MA MPhil DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3rd June 2024

Appeal Ref: APP/Q1445/D/24/3341952

5 Champions Row, Wilbury Avenue, Hove BN3 6AZ

- 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 Jack Stoakes, against the decision of Brighton and Hove City Council.
 - The application Ref BH2024/00033, dated 5 January 2024, was refused by notice dated 6 March 2024.
 - The development proposed is a single storey rear extension with internal alterations and associated works.
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Decision

1. The appeal is allowed and planning permission is granted for a single storey rear extension with internal alterations and associated works at 5 Champions Row, Wilbury Avenue, Hove BN3 6AZ, in accordance with the terms of the application, Ref BH2024/00033, dated 5 January 2024, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: S1, S2, S3, S4, S5, S6, S7, S8, S9, S10, S11, P1, P2, P3, P4, P5, P6, P7, P8, P9, P10 and P11 all Rev B.
 - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing dwelling.
 - 4) The roof area of the development hereby permitted shall not be used as a balcony, roof garden or similar amenity area.
 - 5) At least one bee brick shall be incorporated within the external wall of the development hereby approved and shall be retained thereafter.

Main issues

2. The main issues in this appeal are:
 - The effect on the character and appearance of the host dwelling and locality.
 - The effect on the living conditions of the occupiers of the adjacent dwellings at 4 and 6 Champions Row, with particular regard to whether the development would appear overbearing.

Reasons

Character and appearance

3. The appeal concerns a semi-detached dwelling with three floors below the eaves and another in the roofspace. There is a lower ground floor rear extension with a terrace above that is enclosed by privacy screens. These features mirror the back of the attached dwelling at no. 6. The proposed extension would be built above the existing addition resulting in an overall two storey rear projection. It would also span the full width of the rear of the dwelling while extending to the same depth as the existing privacy screens and terrace. There are also no other rear extensions at this height at the other similar properties in Champions Row.
4. However, despite these factors, given the flat roof form and taking into account the parapet walls to the sides, its height would be relatively modest. Its roof would be significantly below the eaves level of the main roof with the distance to the ridge being considerably greater. Moreover, the depth of the addition would be a particularly limited proportion of that of the host dwelling itself. It would also be set against the fairly substantial and imposing backdrop of the host dwelling itself. As a result, the addition would not be excessively bulky or overly dominant.
5. Consequently, the proposed development would appear subordinate to the host property, while being well designed in terms of matters such as its scale and proportions. Therefore, there would be no harm to the character and appearance of the host dwelling and locality.
6. The extension would therefore comply with Policies DM18 and DM21 of City Plan Part Two (CPP2) 2022 and Policy CP12 of the Brighton and Hove City Plan Part One (CPP1) 2016. Among other things and taken together, these intend that development makes a positive contribution to the sense of place and is of a high standard of design while taking account of the existing character of the area.

Living conditions

7. Both of the adjacent dwellings at 4 and 6 Champions Row have similar roof terraces at the same height as that at the host dwelling. The opaque privacy screens to the sides of these properties facing towards the appeal site already provide a degree of enclosure. The extension would abut the boundary with no. 6 but there would be a gap to the terrace and screen at no. 4, reflecting the space between the flank walls of the dwellings. While the extension would be taller than the privacy screens, the extra height would be insufficient to result in an unacceptable reduction in outlook or unduly increased sense of enclosure. Moreover, both adjacent properties would still have a particularly open outlook directly to the rear over a railway line.
8. Due to these circumstances matters such as the proximity, depth and height of the rear extension would not result in an oppressive sense of enclosure. As a result, the development would not appear overbearing at the neighbouring houses. There would also be no undue loss of sunlight or daylight at either property due to similar factors and the fact that the backs of the dwellings are south facing. I also note that the Council has raised no objections in these respects.

9. For the above reasons, it is concluded that the living conditions of the occupiers of the adjacent dwellings would not be harmed. The proposal would accord with the aim of CPP2 Policy DM20 to avoid an unacceptable loss of amenity to adjacent occupiers.

Other matters

10. The Council's Supplementary Planning Document SPD12 design guide for extensions and alterations is an important material consideration. The SPD states that two storey rear extensions should sit within and not replace the boundary wall/fence. The Council's report refers to a planning permission recently granted for an extension at the appeal site. It is pointed out in a re-produced extract of the original report that this would conflict with the SPD as it would be built to the boundary. However, it was considered that this would not justify refusing the application. Attention is drawn to the current proposal differing in being 0.5m deeper than that previously approved.
11. Nevertheless, this similar extension could be built up to the boundary, as now proposed and demonstrates flexibility in the application of the SPD. I am also not persuaded on the evidence before me that there is any significant difference in size that would justify taking a different approach in this instance and consider the additional depth of 0.5m to be fairly limited. In consequence, the guidance in the SPD would not merit rejecting the appeal, especially in relation to a scheme that would comply with the development plan and not have a harmful impact.
12. Because of this permission and the absence of any adverse impact, precedent would not be a sound reason for rejecting the development. In any event, it would be for the Council to consider other proposals on their own merits having regard to their particular circumstances. In the Planning Practice Guidance it is indicated that the protection of purely private interests such as the impact of a development on the value of a neighbouring property could not be a material consideration. Therefore, such concerns would not be a valid reason for rejecting the appeal.

Conditions

13. A condition specifying the approved plans is necessary to provide certainty. The facing materials used should match those of the existing dwelling in order to protect its appearance. A condition preventing the use of the flat roof of the extension as a balcony or similar amenity space would be sufficient and necessary to prevent an undue loss of privacy at adjacent dwellings from overlooking. In order to ensure a biodiversity gain to comply with Policy DM37 of the CPP2 and Policy CP10 of the CPP1 a requirement for a bee brick to be installed and retained is needed.

Conclusion

14. For the above reasons the appeal is allowed. In reaching this decision I have considered the representations made by the occupiers of other dwellings in Champions Row.

M Evans

INSPECTOR