



Appeal Decision

Site visit made on 13 August 2024

by Martin Andrews MA(Planning) BSc(Econ) DipTP & DipTP(Dist) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2nd September 2024

Appeal Ref: APP/Q1445/W/24/3340812

7 Dower Close, Brighton, East Sussex BN2 7BW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Joe Zoutewelle against the decision of Brighton & Hove City Council.
 - The application Ref. is BH2023/03428.
 - The development proposed is a partial upper ground floor extension with associated internal alterations and landscaping.
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Decision

1. The appeal is dismissed.

Main Issues

2. The appeal scheme is a revised proposal following the withdrawal of application ref. BH2023/02567. The main issues are (i) the effect on the living conditions for nearby occupiers as regards outlook and (ii) the effect of the proposal on the character and appearance of the host dwelling and its surroundings.

Reasons

3. On the first issue, the appeal dwelling is located at the end of Dower Close, a short cul-de-sac, and is positioned on the south west side of that road. The dwelling is on a site of modest size and is in a noticeably elevated position in relation to three detached properties in Ainsworth Close to the west.
4. From my visit to the site I was able to observe the relationship between these dwellings and the appeal property. Both the appeal building and this group of dwellings have short distances to the common boundary that separates No. 7 Dower Close from Nos. 4, 6 & 8 Ainsworth Close, albeit that the offset position of No. 4 in relation to the appeal dwelling would reduce any impact on that property.
5. In this regard I note that the Officer's Report quotes from the appraisal of the 2018 permission for the dwelling *'the footprint of the building, its layout and appearance have been designed to respond to the constraints of the site, ie. that neighbouring gardens and dwellings are located in close proximity, and a full height dwelling set atop existing ground levels would have an overbearing impact upon neighbouring properties'*.
6. I acknowledge that the appeal scheme has been the subject of a careful and detailed design and that this has ensured that the proposal would largely avoid

overlooking and a resulting loss of privacy. However, when the limited distance to the affected Ainsworth Road properties is combined with the significant land height differential, it is clear that these neighbours would still be subject to a marked change in their outlook from their rear windows and gardens.

7. Whether a development would be overbearing and oppressive is a subjective assessment that varies from one individual to another. Nonetheless, given the increase in height of the existing building and its elevated siting, I consider the proposed distances of 16-18m between the development and the rear windows of Nos. 4 & 6 Ainsworth Close (and indeed less from their rear gardens) would be such as to have that perceived effect. As mentioned in paragraph 5 above, this was the judgement in respect of the appraisal in 2014 that was accepted by the then applicant and informed the basics of the design of the approved development. Nothing I have seen or read in respect of the current scheme persuades me to conclude that that reasoning was either wrong or no longer applies.
8. At my visit I observed that there is a dense tree / hedgerow growth that to an extent restricts views between the Ainsworth Close dwellings and the appeal site. However, this would have a significantly lesser screening effect in the winter and neither it, nor any supplemental planting, could or should be relied on in the long term to safeguard the outlook from these properties.
9. Accordingly, on this issue I find that the proposal would create 'a harmful sense of overbearing and loss of outlook for neighbours in Ainsworth Close'. This would conflict with Policy DM20 of the Brighton & Hove City Plan Part Two 2022 and paragraph 135f) of the National Planning Policy Framework December 2023.
10. Turning briefly to the second issue, the Council considers that the proposed extension would result in an incongruous and dominant addition harmful to the appearance of the host building and the character of the local area. I agree that the appeal development would make the application more conspicuous from public vantage points and that views of the elevation with no windows (to maintain the privacy of neighbours) would have an adverse effect on the dwelling's appearance.
11. With that said, the house is already of a contemporary design and because of its position would not be easily read in the street scene in conjunction with the more traditionally designed properties. On balance, whilst I agree with the Council that there would be some harmful conflict with Policy DM20 of the City Plan Part Two and design guidance in SPD12, this would not be such as to add significant weight to the reason for refusal in the first issue.
12. I have had regard to all the other matters raised, including the alleged actions of some of the neighbours who opposed the development. However, whilst I have sympathy in this regard, I consider that it would not be appropriate for this to offset the planning and design considerations that led to the refusal.
13. The appeal is therefore dismissed.

Martin Andrews

INSPECTOR