



Appeal Decision

Site visit made on 31 July 2024

by V Goldberg BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 September 2024

Appeal Ref: APP/Q1445/D/23/3329808

168 Cuckmere Way, Brighton and Hove BN1 8GH

- 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 Hossain Pavel against the decision of Brighton & Hove City Council.
- The application Ref is BH2023/00426.
- The development proposed is described in the application form as 'Proposed Single Storey Rear Extension to Existing Single Unit Detached Residential Dwelling, extending 5.5m to the rear, 3m(h), including dropped kerb for vehicular access/ parking to front forecourt & associated internal alterations'.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposed site block plan (BTN.22.121.002) and proposed ground floor plan (BTN.22.121.100) are inconsistent. This is because the position of the outbuilding at 154 Carden Hill on the drawings differ, and the outbuilding is labelled as being at No 150. This has not affected my ability to determine the appeal.
3. The parties refer to an approved two storey extension at the site ref BH2022/0847 (extant permission). This was not provided when the appeal was submitted, and therefore a copy of the planning permission was requested.

Main Issue

4. The main issue is the effect of the proposed development on the living conditions of the occupiers of 154 Carden Hill, with reference to outlook.

Reasons

5. The appeal site shares its side boundary with 154 Carden Hill. A fence delineates the boundary, with 154 Carden Hill being at a significantly lower level than the appeal site. The level of the rear garden of the appeal property is highest behind the dwelling and it significantly slopes down towards the fence line. The patio and useable garden area of 154 Carden Hill runs adjacent to the fence line, extending beyond the current rear elevation of the appeal dwelling.
6. The proposed extension would run parallel to the fence extending along the length of the shared boundary. Despite being 3m in height, given the difference

in land levels and proximity to the boundary, the proposed extension will be highly visible above the fence level, and dominate the current adjacent open section of boundary that serves the patio area at 154 Carden Hill. The proposal will therefore appear as an overbearing addition and result in an unacceptable sense of enclosure to 154 Carden Hill.

7. Whilst the scheme was designed to comply with Permitted Development (PD) for larger rear extensions, this would have been subject to consultation with neighbours and an assessment of the impact on neighbouring properties. There is no indication in the evidence, that this route has been pursued.
8. Furthermore, whilst it may be possible to erect a 4m deep rear extension within PD tolerances not requiring consultation, such a scheme would be materially different to the proposed extension. This would be due to its reduced depth. In any event, I have decided the appeal scheme on the basis that planning permission has been sought; and in doing so I have considered the evidence and site-specific circumstances relevant to the case before me.
9. Reference is made to the fallback position of the extant permission. There is a real prospect that this development will be implemented and as such it is a material consideration in my assessment. This scheme is set back from the boundary with 154 Carden Hill and is not as deep as the proposed extension. Given the separation distance between the flank wall of the extant permission and the boundary with 154 Carden Hill, this extension would be less imposing compared to the proposed scheme. As such it would be less harmful than the appeal scheme and, in this case, the fallback position does not weigh in favour of allowing the appeal.
10. For the reasons identified above, I conclude that the proposed development would have an unacceptable effect on the living conditions of 154 Carden Hill, in respect of outlook. The proposed development would therefore be contrary to Policy DM20 of the Brighton and Hove City Plan Part Two 2022 and the National Planning Policy Framework, which aims to protect neighbouring amenity and ensure that the proximity and size of development does not have an overbearing effect that is detrimental to the enjoyment of adjoining residential occupiers.

Other Matters

11. The proposed extension would provide additional living space to improve the internal arrangements of the dwelling. Bearing in mind that there is an extant scheme which would also increase living space, a similar benefit could be achieved in a less harmful way. Therefore, the benefits to the appellant of creating additional living space carry little weight in favour of the appeal scheme.

Conclusion

12. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it.

V Goldberg

INSPECTOR