



Appeal Decision

Site visit made on 4 September 2024

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

an Inspector appointed by the Secretary of State

Decision date: 2 October 2024

Appeal Ref: APP/T1410/W/24/3341364
20a Granville Road, Eastbourne BN20 7HA

- 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 Leo Jabbari against the decision of Eastbourne Borough Council.
 - The application Ref. is 220515.
 - The development proposed is the upward extension of the existing building to form a 5-storey house accommodating a large extended family with four floors of residential space and basement level parking.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposed development on the living conditions for neighbouring occupiers as regards outlook and light.

Reasons

3. The appeal scheme seeks to extend the existing building at No. 20 Granville Road at its existing ridge height and in the same style. The width of the main extension would be the equivalent of slightly more than half that of the existing building and for the most part a replica of it, thereby enabling the extended building to maintain the symmetry of No. 20 when seen from the front in Granville Road. I consider that the scale of the extended building would be such that even in an area characterised by large buildings, Nos. 20 & 20a together would draw the eye in the street scene as being particularly big. With that said, the development would have architectural merit as a sympathetically extended period building and on balance therefore acceptable in terms of its effect on the character and appearance of the area.
4. Turning to the specifics of the reason for refusal, the extension would add to the width of the building at its north eastern end but including a drop down to a ground floor and lower ground floor height relative to the existing building and with a first floor-level hipped roof. This step-down in height is intended firstly to prevent the extension as a whole dominating the host building of No. 20 and secondly [as the Pre-Application ('Pre-App') report explains] to achieve a *'softening (of) the visual impact of the extension when viewed from the lower lying land to the north'*. It is this impact that together with the effect on light for neighbours that forms the basis of the Council's objection.

5. In this regard, given the perpendicular relationship between existing and proposed buildings at No. 20a and the mews properties of Fitzgerald Close, I do not consider the 45-degree test to be particularly relevant. However, the Council is correct to refer to the proposed development intersecting the notional 25-degree line when drawn from the ground floor windows of the dwellings. This relationship has clear implications for new buildings affecting both the outlook and light currently enjoyed at an existing residential property.
6. As a result of the higher level of No. 20 compared with the mews terrace building in Fitzgerald Close, the existing building already dominates the outlook from the rear windows and gardens of the terrace dwellings because of the latter's offset position in relation to both No. 20 and 20a. This is evident on the site but is additionally shown in the photographs submitted in the objection from the occupiers of No. 6 Fitzgerald Close.
7. The appeal scheme would extend the new building to the boundary with No. 4 and although the closest element of the building would be set down, the first and second floor extension would combine with this, the existing No. 20 and the significant change in land levels to have a cumulative overbearing effect. This impact, although seen from an oblique aspect, would apply mainly to Nos. 5 to 8 Fitzgerald Close inclusive, particularly given their small rear gardens.
8. As regards No. 4, although it would be directly adjacent to the set-down part of the extension, the property has a larger garden and from much of the outside space the significant bulk of the existing and proposed first and second floors of the development would not be visible. Nonetheless, the north side elevation's combination of the concrete retaining wall, lower ground, and ground floor flank walls with the hipped roof, first floor side wall and second floor roof slope on this elevated site would have an overbearing impact on the outlook from this property.
9. Turning to light, the extension and in particular the first and second floor elements, would reduce the duration of morning sunlight to the rear windows and gardens of the dwellings in Fitzgerald Close. I note from the representations on the appeal that an occupier of one of the flats in Compton Grange, Silverdale Road is also concerned as to this impact, and because of its location due west of the appeal site I have no reason to disregard this opinion.
10. I acknowledge the appellant's argument that the loss of light would be more one of the result of a 'travelling shadow' as the sun rises from the east to its southerly highpoint and as such would be a temporary effect with no shadowing for the affected properties in the afternoon and evenings. Be that as it may, morning sunlight is important to many people and in the absence of a full BRE report prepared by the appellant to disprove the Council's assertion or demonstrate only a minimal impact, I must give the effect of the appeal scheme on sunlight for the neighbours significant weight in my decision.
11. However, it is more an issue of the combination of a loss of outlook and loss of sunlight that is material in weighing the planning balance towards a refusal of permission. And in this regard, I find that the proposed development would unacceptably harm the living conditions for the occupiers of neighbouring properties as regard outlook and light. This would be in harmful conflict with Policy HO20 a) & c) of the Eastbourne Borough Plan 2003 and with paragraph 135f) of Government policy in the National Planning Policy Framework December 2023 ('the Framework').

Other Matters

12. In reaching my decision I have taken into account the requirements of, and the benefits to, the appellant's extended family in respect of housing. I have also had regard to the Council's shortfall of deliverable housing supply for the 5-year requisite period for Eastbourne as set out in paragraph 11(d) of the Framework. However, in this case I consider that the adverse effects of the development significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework taken as a whole.
13. The grounds of appeal refer to the appeal proposal having been worked up from favourable Council advice in the Pre-App, only for this to be contradicted by officers in their appraisal of the submitted application and its subsequent refusal. However, whilst I sympathise with this point, it is by no means an unusual occurrence in the planning process that as a scheme progresses through the system it is subject to further scrutiny and is the subject of differing professional assessments.
14. Furthermore, having read the Pre-App advice carefully, it is clear that on most aspects the Council has been consistent and the relatively narrow area of difference that forms the main issue in this appeal was not fully explored at the outset. It is for the appellant to prepare a full BRE Report if necessary as part of the evidence, but in any event the weight ascribed to the effects of a proposed development on outlook and light in any particular case is in the final analysis a matter of professional judgement.
15. Finally, the appellant refers to further inconsistency in the form of the Council's absence of considerations given to daylight and sunlight issues when granting permission for a five-storey block of flats on a former Council car park in Southfields Road, despite numerous residents' objections. It is not within my remit in this appeal to investigate this assertion and although I consider that a full assessment of sunlight using the BRE guidance would have been helpful in this case I have made my decision on the facts available and on the related appraisal of the effect on outlook for neighbours.

Conclusion

16. For the reasons explained and having had regard to all other matters raised the appeal fails.

Martin Andrews

INSPECTOR