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# Appeal Decisions

Site visit made on 17 September 2024

**by L Francis BA (Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 28 November 2024**

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## **Appeal A Ref: APP/Q1445/D/23/3335487**

### **14 Standean Close, Coldean, Brighton BN1 9EU**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 1, Class AA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
  - The appeal is made by Mr John Moxley against the decision of Brighton & Hove City Council.
  - The application Ref is BH2023/02278.
  - The development proposed is the enlargement of a dwellinghouse by construction of an additional storey. Existing loft and roof will be removed. Party wall, and the three other walls will be increased in height, to make room for a new story. A replacement roof and loft will be added, 2.9m higher than the original in order to make room for the new story containing an additional bedroom and bathroom. Roof will maintain its current pitch, and will be rotated 90 degrees in order to further reduce both overall height, and height of neighbouring walls, a parapet wall will be included.
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## **Appeal B Ref: APP/Q1445/D/24/3341786**

### **14 Standean Close, Coldean, Brighton BN1 9EU**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 1, Class AA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
  - The appeal is made by Mr John Moxley against the decision of Brighton & Hove City Council.
  - The application Ref is BH2024/00299.
  - The development proposed is to increase the height of the property by 2.6 metres in total, so that 1 additional story is added for 2 residential bedrooms and 1 bathroom, by removing 1 bedroom on the first floor and converting it into a stairwell leading to the new second floor, resulting in an overall addition of 1 bedroom, 1 bathroom and 1 stairwell to the property. It meets the requirements laid out in Order 2020 Schedule 2 Part 1 Class AA, as presented in this document. To meet the existing architectural style and materials of the existing property and its neighbours. It provides hidden guttering on the roof and drainage to its own soakaway that was removed by the installation of the neighbour's garage extension. As recommended in the CNPF Design Codes.
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## **Decisions**

1. Appeal A is dismissed.
2. Appeal B is dismissed.

## **Background and Preliminary Matters**

3. As set out above there are two appeals each for a single storey roof extension on the appeal site. They differ in their detailed design.

4. Appeal A comprises an additional storey, with a gable end to the front elevation and a pitched roof rising from either side. There would be new windows to the front and rear at second floor level. Materials would match those of the existing dwelling. I have used the description of development contained on the planning application form, removing references to building regulations as this is not a matter for consideration under Schedule 2, Part 1, Class AA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO).
5. Appeal B comprises an additional storey but would maintain the existing roof form and pitch orientation. There would be new windows to the front and rear at second floor level and materials would match those of the existing dwelling. On the banner heading I have used the description of development contained on the appeal form as there was no description given on the original planning application form, again removing references to building regulations.

## **Main Issues**

6. In light of the above, the main issues are:

### Appeal A:

- whether the proposal under Appeal A would comply with AA.2(2)(c) and so would fulfil the conditions necessary for it to be permitted development.

### Appeals A and B:

- the effect of the proposal on the external appearance of the dwellinghouse; and,
- the effect of the proposal on the living conditions of the occupiers of 15 Standean Close with particular regard to privacy and outlook.

## **Reasons**

### Appeal A

#### *Whether permitted development*

7. In order to benefit from the provisions of Schedule 2, Part 1, Class AA of the GPDO the proposed additional storey must comply with paragraph AA.2(2)(c). In this case proposed roof extension would form a gable end to the street elevation. This would mean the orientation of the principal roof slope would be rotated though 90 degrees and the pitched roof would be to the side elevations rather than front to rear as existing.
8. Condition AA.2(2)(c) does not explicitly state that the pitch has to be oriented in the same way as the original. As such, there would not appear to be anything to restrict such an approach. The place to determine the interpretation of such matters is in accompanying guidance or in Judgments made in the courts. There is no such reference to Class AA in the technical guidance and I have not been referred to any relevant Judgments. Based strictly on the wording used in the GPDO therefore, I find that the additional storey would fulfil the requirements of Condition AA.2(2)(c) and would be permitted development.

### Appeals A and B: External Appearance

9. Standean Close is a cul-de-sac comprising terraces of mid-20th Century dwellings. The appeal site is located at the end of a terrace of five houses, each comprising three storeys. The houses within the terrace are of similar design with uniform eaves and ridge heights; they have a slightly staggered plan form. The appeals are accompanied by a Heritage Statement, to which I have had regard. The appeal site is not a building that is defined as a designated or non-designated heritage asset.
10. The area is residential in character, comprising streets of largely terraced and semi-detached postwar dwellings. Whilst I acknowledge that the local area is not within a Conservation Area, it nevertheless has a distinct character defined by the regularity in height and form of the buildings on this part of the estate, along with their largely uniform ridge heights. There are variations in detailed design and architectural style in the area, including some examples of loft conversions and other interventions at roof level such as solar panels and rooflights. Any significant variation in the ridge height of terraces is not a characteristic feature of the streets close to the appeal site. Long views looking west and north-west show the uniformity of the roof lines set against the hills beyond Wolseley Road.
11. My attention has been drawn to Policies CP12 and CP15 of the Brighton and Hove City Plan Part Two (2022). Policy CP12 is a strategic design policy, setting out various criteria against which new development will be assessed, along with identifying areas which have the potential to accommodate taller developments. Coldean is not identified as one of these areas and the policy has little direct relevance to the proposals. Policy CP15 concerns heritage, with a focus on conserving the historic environment. Given the appeal site does not have any specific heritage designation the policy is not determinative.
12. I have been referred to the Updated Design Guide for Extensions and Alterations Supplementary Planning Document 2020 (SPD). The guidance in relation to roof alterations acknowledges that the rhythm and continuity of the rooflines to buildings are often a key visible element within a streetscene. It goes on to advise that extensions involving roof alterations should ensure that they would not result in an imbalance in a small terrace. Roof extensions that alter the basic shape of the roof are likely to have an impact on the streetscene and such alterations should reflect the character of roof forms in the surrounding area.
13. My attention has also been drawn to the design code of the draft Coldean Neighbourhood Plan. Although it has been subject to consultation, it has yet to be formally adopted by the Council. As I have little evidence as to whether there are outstanding objections to the relevant contents, I can attach no more than limited weight to this emerging plan.
14. The proposals in both appeals A and B would make the building higher than those within the terrace and would break the terrace's uniform ridge line. Consequently, each proposal would appear as a dominant and incongruous feature in views from within Standean Close itself and in some longer views from Hawkhurst Road.
15. Appeal A proposes a gable end facing the street. There are other examples of gable end features on other end of terrace or semi-detached dwellings on

streets including Hawkhurst Road and Wolseley Road. In these cases, the gable end feature is no higher than the remainder of the terrace and the uniform ridge heights are maintained. Although the gable end roof form proposed would set the appeal site apart from the remainder of the terrace, acting as a bookend, it is precisely the uniformity of the rooflines and cohesiveness of design that defines the character and appearance of Standean Close.

16. Appeal B would make the building a full storey higher than the others within the terrace, although the roof orientation would remain as existing. The uniform ridge line of the terrace would be broken. The proposed extension due to its height and bulk, along with its effect on the uniformity of the terrace roofline, would appear as a dominant and incongruous feature in views from within Standean Close itself and in some longer views from Hawkhurst Road. As such the proposed roof extension would be harmful to the existing dwellinghouse and wider streetscene.
17. I acknowledge the use of materials in each appeal would be in line with the character and appearance of the other dwellings on the street. The fenestration, whilst not exactly matching the form of the windows at ground and first floors, would nevertheless be similar in size and style to the existing windows and would be acceptable in each appeal. Nevertheless, this would not alleviate the harm to the appearance of the building and wider streetscene arising from each of the proposed roof extensions.
18. AA.3. – Procedure for applications for prior approval, paragraph (12)(b) requires the local planning authority to have regard to the National Planning Policy Framework (the Framework) so far as relevant to the subject matter of the prior approval, as if the application were a planning application. Paragraph 124(e) of the Framework states planning decisions should support opportunities to use the airspace above existing residential and commercial premises for new homes. In particular, they should allow upward extensions where the development would be consistent with the prevailing height and form of neighbouring properties and the overall street scene. As set out above, neither of the proposals within appeal A or B would be consistent with the prevailing height and form of neighbouring properties. They would each therefore conflict with the Framework in this respect.
19. Insofar as the development plan policies and guidance described above relate to Appeal A, the proposal would not comply with the SPD in that it would alter the form of the roof by introducing a front facing gable and extending the ridge height. Similarly, in Appeal B, the increase in ridge height would not be in line with the aims of the SPD. The guidance contained in the SPD does not therefore alter my assessment that the height of the extension in both appeals would be harmful to the character and appearance of the street.
20. I conclude therefore that Appeals A and B would be harmful to the external appearance of the building and to the character and appearance of the surrounding area, contrary to paragraphs 124, 131, 135 and 139 of the Framework. Amongst other things, these paragraphs seek to ensure developments add to the overall quality of the area and are sympathetic to local character, are consistent with the prevailing height and form of neighbouring properties. As such, the proposals would not comply with the provisions of AA.2(3)(a)(ii).

### Appeals A and B: Living Conditions

21. In both appeals A and B, the additional storey would have new windows facing the front and rear. Whilst views into the rear garden of No. 15 Standean Close would be possible, the position of the dwelling at No. 14 relative to the garden and rear elevation of No. 15 is offset and not directly facing. Given there are already windows at first floor level, and the proposed windows would not be any closer to No. 15, there would not be an unacceptable effect on privacy over and above the existing relationship.
22. In appeal A, No. 15 would retain a relatively open aspect to the rear and south side. Given the location of the appeal site relative to the garden and rear elevation of No. 15 and the separation between the houses, the additional storey would not result in an unacceptable loss of outlook to No. 15.
23. In appeal B, the proposed gable end wall would rise sheer from the side wall. There would be a significant extent of blank wall facing the rear of No. 15. However, given the slightly offset angle of the appeal property relative to No. 15, along with the reasonably open aspect to the sides of the rear garden and the distance of the proposal from the rear windows, the consequent effect would not be harmful to the outlook from the rear windows or garden of No. 15.
24. I therefore conclude that both appeals A and B would comply with AA.2(3)(a)(ii) in that the impact on the amenity of any adjoining premises including overlooking, privacy and loss of light would be acceptable.

### **Other Matters**

25. I note the concerns from interested parties about matters including the use of the premises, disturbance during construction and other non-planning matters. As I am dismissing the appeals for other reasons, I shall not pursue these matters further.
26. Paragraph 124 of the Framework allows upward extensions where they would be consistent with the prevailing height and form of neighbouring properties and the overall street scene. The requirement for prior approval demonstrates that while upward extension is a permitted development right, it is not necessarily appropriate in all situations. As I have found that both appeals A and B would not be consistent with the prevailing height and form of neighbouring properties or the overall street scene, I do not consider that the application of the Framework unreasonably frustrates the grant of permitted development rights through the GPDO in these appeals.
27. I note the concerns of the appellant regarding the decision-making process. This is a matter between the main parties and has no bearing on my consideration of the appeals.

### **Conclusion**

28. For the reasons given above Appeal A and Appeal B should both be dismissed.

*L Francis*

INSPECTOR