
Appeal Decision

Site visit made on 16 September 2025

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

an Inspector appointed by the Secretary of State

Decision date: 3rd of October 2025

Appeal Ref: APP/Q1445/D/25/3366958

Larch House, Wilbury Villas, Hove BN3 6GS

- 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 Darren Hedley against the decision of Brighton & Hove City Council.
 - The application Ref is BH2025/00174.
 - The development proposed is the construction of two additional storeys.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. As part of their appeal submission, the appellant has provided a garden overshadowing assessment. The submission of the additional information has not changed the scheme that was considered by the Council and upon which they consulted neighbours at application stage. Both the Council and interested parties have had the opportunity to comment on the light assessment as part of this appeal. As such, I am satisfied that no party has been prejudiced by the submission of the additional information.
3. I note there is a prior approval at the appeal site for a single storey roof extension (reference BH2024/02793). I have had regard to this in my consideration of the appeal.

Main Issues

4. The main issues are:
 - 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 37, 38 and 39 Cromwell Road with regard to daylight and outlook.

Reasons

External Appearance

5. The local area is characterised by wide avenues lined with basement plus four storey Victorian flatted mansion blocks. These are punctuated by occasional 20th Century flatted blocks which are of a similar height and mass. This lends a uniformity to the pattern of development in the surrounding streets. The appeal

site is effectively an 'infill' site located between a 20th Century residential block on Wilbury Villas known as Stirling Court and the rear of a Victorian mansion block fronting Cromwell Road. It comprises two storeys, but due to the change in ground levels, the building appears as a single storey in street views. The footprint of the appeal site is smaller and narrower than surrounding buildings. It provides a 'breathing space' on the return between the Cromwell Road mansion block and Stirling Court.

6. The combination of the narrow footprint and proposed height would result in a top-heavy appearance and the proposal would be at odds with the prevailing character and appearance of the area. As it is set closer to the street than Stirling Court, the additional height and bulk proposed would appear unduly dominant in views along Wilbury Villas. As proposed, the house would appear incongruous in the street scene in views from both Wilbury Villas and Cromwell Road.
7. Paragraph 125 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. In this case, I conclude that an additional two storeys would harm the character and appearance of the dwelling and surrounding area.
8. I therefore conclude that the proposal would be contrary to the advice contained in the Framework insofar as it seeks to ensure developments add to the overall quality of the area and are sympathetic to local character, highlight the importance of good design as a key aspect of sustainable development and indicate that development that is not well designed should be refused. As such, the proposals would not comply with the provisions of AA.2(3)(a)(ii).

Living Conditions

9. The appeal site abuts the rear gardens of 37, 38 and 39 Cromwell Road. These mansion blocks contain gardens at basement level. As the land rises to the north, the current two storey dwelling acts as a stepping stone to the greater mass of Stirling Court to the north.
10. The proposal would effectively double the height of the existing building, and it would result in a harmfully overbearing effect on the gardens of 37 to 39 Cromwell Road. Whilst these gardens are already surrounded by taller structures, albeit further away, the effect of the appeal proposal would be to compound the sense of enclosure already present. As a result, there would be unacceptable harm to the outlook from the gardens due to the height and proximity of the proposal.
11. Even through the garden to 39 Cromwell Road is longer than its neighbours, with a large sycamore at the end, the upwards extension proposed would still result in a substantial structure adjacent to the garden which would have an overbearing presence. The tree is a neutral factor in terms of the degree of enclosure already experienced by the gardens along Cromwell Road given it is deciduous and consequently the degree of shade and screening varies throughout the year.
12. I note that Brecon Court to the rear of 42-43 Cromwell Road is of significant scale and is adjacent to the rear gardens of Cromwell Road. However, I see no reason to perpetuate a similar arrangement between the appeal site and the Cromwell Road gardens immediately adjacent. Notwithstanding the relative location of

Brecon Court and Cromwell Road, the scheme before me would result in the loss of outlook from rear gardens at 37-39 Cromwell Road, where there is currently a more open aspect due to the scale and form of the appeal property.

13. Notwithstanding the above, I acknowledge that the orientation of the proposal to the north of the affected gardens would not have a harmful effect upon the amount of light reaching the gardens sufficient for there to be harm to the living conditions of the occupiers though loss of daylight or sunlight to those gardens.
14. Although I have found the scheme acceptable with regards to the amount of light available to the affected gardens, this does not outweigh the harm I have found with regards to loss of outlook.
15. I conclude therefore that there would be a harmful loss of outlook to the rear gardens of 37, 38 and 39 Cromwell Road due to the location and scale of the proposed extension. As a consequence, the proposal would fail to comply with AA.2(3)(a)(i).

Conclusion

16. For the reasons given above the appeal should be dismissed.

L Francis

INSPECTOR