



## Appeal Decision

Site visit made on 13 July 2017

by **D Cramond** BSc MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 31 July 2017

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### Appeal Ref: APP/Q1445/D/17/3175717

#### 94 Rugby Road, Brighton, BN1 6ED

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Steven Mason against the decision of Brighton & Hove City Council.
  - The application Ref BH2017/00075, dated 10 January 2017, was refused by notice dated 7 March 2017.
  - The development proposed is a first floor rear extension.
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### Decision

1. The appeal is allowed and planning permission is granted for a first floor rear extension at 94 Rugby Road, Brighton, BN1 6ED in accordance with the terms of the application, Ref BH2017/00075, dated 10 January 2017, subject to the following conditions:
  1. The development hereby permitted shall begin not later than three years from the date of this decision.
  2. The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.
  3. The development hereby permitted shall be carried out in accordance with the following approved plans: MASONLP x 4 – Location Plan; Block Plan; Existing floor plans & elevations; and Proposed floor plans, elevations / section.

### Main Issues

2. The main issues are the effect of the proposal on i) the character and appearance of the host property and the locality and ii) living conditions for neighbours.

### Reasons

#### *Character and appearance*

3. The appeal property is an end of terrace dwelling with a flat roofed rear outrigger. It is in an established residential locality which is characterised by broadly similar properties, albeit with a range of rear elevational treatments, and the dwellings with their tightly knit frontages and traditional narrow rear gardens come together to create an area of pleasing appearance and aesthetic quality.
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4. The site lies within the Preston Park Conservation Area. There is a duty imposed by Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requiring decision makers to have special regard to the desirability of preserving or enhancing the character or appearance of a Conservation Area. This is reflected within Saved Policy HE6 of the Brighton and Hove Local Plan (LP) which also includes a range of relevant design criteria for proposals within Conservation Areas.
5. The proposal is as described above and would primarily create a new first floor bedroom in a flat roofed form which would extend about 2.3 metres rearwards beyond the existing first floor outrigger element and this would come about 0.8 m short of the existing ground floor flat roofed element. The Council is concerned that by virtue of its depth at first floor level the extension would give the property an overextended appearance and compound the tiered formation of the rear elevation as well as appearing incongruous when viewed in the context of the rear elevations of neighbouring properties.
6. However a local characteristic of the local terraced properties is that the rear two storey outriggers are relatively large compared to the frontage part of the dwellings. The proposed projection, width and height of the composite whole of the two storey element including the appeal scheme would not be at all out of sync with the bulk, massing and relative siting of others adjacent and nearby. Furthermore whilst some six properties' outriggers to the west do have semi-detached pitched roofs, which in turn add to their bulk, there are multiple others found locally which are of flat roofed form. I understand that it might often be considered an anathema to permit flat roofs at first floor level but the fact remains that it is traditional on some older properties and it certainly is a phenomenon found locally. In this context, and particularly given that there will be stepping in the from the rear elevation to add some subtlety and to balance with the projections to the west, I would not class this scheme as harmful to the original dwelling or the visual qualities of its surrounds.
7. The LP includes saved Policy QD14 which, amongst other matters, seeks well designed extensions and alterations that should protect local distinctiveness, complement the host property and its locality, have regard to spacing and siting, and not detract from the local character. This is reflected in the advice and objectives of the Council's SPD12 Design Guide for Extensions and Alterations publication albeit that document cannot be expected to cover every eventuality. Given the nature of the scheme I conclude that the proposal would not conflict with this relevant development plan policy or the pertinent aims of the SPD. It would also not run contrary to the aims of S72(1) of the Act or with LP Saved Policy HE6.

#### *Living conditions*

8. The Council expresses the concern that the proposed extension projecting to the rear at first floor level close to neighbouring windows would result in an increased sense of enclosure and overshadowing to the ground floor windows of 92 and 96 Rugby Road to the detriment of residential amenity.
9. However the rear of these properties face south which is a positive attribute. Acknowledging that the Appellant's dwelling does sit slightly higher, the ground floor arrangement within the 'set-in' element of No 92 is very similar to many found locally including the appeal property, which is in turn is alongside a two storey outrigger. This relationship and proximity of set-in ground floor

windows relatively close to neighbouring two storey elements is a characteristic and the local test of amenity is reasonably made on that basis. To my mind, whilst there would be some modest increased sense of enclosure and loss of some sunlight at certain times of the year for the first part of the day, the relationship to No 92 of the new upper level built element would not be unduly harmful or unreasonable given local circumstances.

10. In terms of No 96 the window in question is a south facing sizeable patio door with a short but tall walling 'blinker' presently alongside. The proposed works would be a suitable distance away from this glazing, the '45 degree' test often applied is not breached, and privacy to the applicable patio would be enhanced. Any overshadowing would be minimal and only towards the latter part of the day at certain times of the year and outlook to the south across the main garden area would continue to prevail for the occupiers of this ground floor flat.
11. LP Saved Policy QD27 specifically seeks to protect the amenities of neighbours and this is also an element of previously cited Saved Policy QD14. Given the foregoing I would conclude that the appeal scheme would not run contrary to these policies.

*Conditions*

12. The Council suggests the standard commencement condition along with the requirement for materials to match the existing building. I agree this latter condition would be appropriate in the interests of visual amenity. I also agree that there should be a condition that works are to be carried out in accordance with listed, approved, plans; to provide certainty.

*Overall conclusion*

13. For the reasons given above I conclude that the appeal proposal would not have unacceptable adverse effects on the character and appearance of the host property and the locality or on living conditions for neighbours. Accordingly the appeal is allowed.

*D Cramond*

INSPECTOR

