



Appeal Decision

Site visit made on 3 July 2018

by **N A Holdsworth MCD MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 23rd July 2018

Appeal Ref: APP/Q1445/W/18/3194601

Berkeley Court, Derby Court and Warwick Court, 47, 49 and 51 Davigdor Road, Hove, BN3 1RA.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
- The appeal is made by Mr David Mills of Brighton and Hove Securities Ltd against Brighton & Hove City Council.
- The application Ref BH2017/01951, is dated 8 June 2017.
- The development proposed is erection of additional storey on each of Berkeley Court, Derby Court and Warwick Court to provide for a total of three additional flats (one above Berkeley Court, one above Derby Court, and one above Warwick Court).

Decision

1. The appeal is dismissed and planning permission for erection of additional storey on each of Berkeley Court, Derby Court and Warwick Court to provide for a total of three additional flats (one above Berkeley Court, one above Derby Court, and one above Warwick Court) is refused.

Main Issues

2. The main issues are
 - The effect of the proposal on the character and appearance of the area;
 - The effect of the proposal on the living conditions of nearby residential properties with particular regard to outlook and privacy; and
 - Whether or not the proposed residential accommodation is of a sufficient size to provide satisfactory living conditions for future occupants.

Reasons

Character and appearance

3. The site is comprised of three apartment blocks. Berkeley Court is 3 storeys in height, whilst Derby Court and Warwick Court rise to 4 storeys. The buildings share a consistent front building line, helping to provide a visual transition between the 2 storey buildings along Davigdor Road, and Richmond Court, which at 6 storeys in height appears as a landmark building on the junction between Davigdor Road and Osmond Road.

4. The proposed development involves the construction of a single storey, flat roofed addition to the top of each apartment building. However, unlike an earlier appeal proposal¹, the parapet wall that would surround the roof extension would be of a very low height. In consequence, there would be no effective screen around each additional storey, and the bulk and mass of each extension would be highly exposed, particularly in views from Davigdor Road.
5. In this regard, the proposed extensions would have a bulky appearance that differs significantly from the recessed sixth floor of Richmond House, which appears to be screened behind a large parapet wall. In consequence, whilst they would be set back from the edge of the roof, due to their height and mass each extension would appear unduly dominant in views from the adjacent road. In each case, the extension would compete with the remainder of the building for visual attention, and a subservient visual relationship would not be achieved.
6. Furthermore, I note that the extension on top of Berkeley Court would be sited forward of the equivalent extensions on Derby Court and Warwick Court. This would diminish the visual consistency currently exhibited by this group of buildings. The relative prominence of this extension would further exacerbate the harm that arises through its bulk, in relation to the remainder of Berkeley Court.
7. These considerations lead me to the view that the proposed extensions would appear unduly dominant in the context of each individual building. Furthermore, the visual prominence of each extension means that the development as a whole would not achieve a successful visual transition between the houses to the west along Davigdor Road, including no.53, and Richmond Court. The proposed development would therefore lead to harm to the character and the appearance of the area.
8. In coming to this view I have taken in to account the findings of the previous planning Inspector. I note that the revised proposal seeks to address the concerns about the siting and bulk of the extensions, and its effect on the living conditions of neighbouring residents. However, the revised design raises a different set of issues, primarily arising from the low height of the parapet wall, as considered above. Whilst in views from the rear the development would have a more symmetrical and aligned appearance, it would result in harm of a different character in views of the site from Davigdor Road.
9. I therefore conclude that the proposed development conflicts with policies CP12 of the *Brighton and Hove City Plan Part One 2016* and saved policy QD14 of the *Brighton and Hove Local Plan 2005* ("Local Plan") which, amongst other things, requires that extensions to existing buildings are well designed, sited and detailed in relation to the property to be extended, adjoining properties and the surrounding area.

Living conditions (existing residents)

10. In the case of the third floor west facing windows in Derby Court within the front flat, the extension on top of Berkeley Court would replace what is currently an open outlook across an area of flat roof with a blank flank wall a few metres away. The affected windows appear to serve habitable rooms. The

¹ APP/Q1445/W/16/3150984

proposal would also diminish the outlook from the west facing bedroom of the rear third floor flat. I note that the extension would be brought closer to Derby Court than the previous proposal. I consider that the loss of outlook and overbearing effect to the rooms identified above would amount to material harm to the living conditions of the respective residential occupants.

11. In the case of the fourth floor west facing windows in Richmond Court, the extension on top of Warwick Court has now been set back to a point where the closest kitchen window in Richmond Court would retain some outlook towards the south west. However, the outlook towards the north west from this window would still be diminished. Furthermore, its bedroom would still face on to a blank flank wall, albeit set further back from the window in question due to the L shaped design of the extension. I consider that the outlook to the fourth floor west facing rooms in Richmond Court would also be obstructed to an unacceptable degree, under these revised proposals.
12. The previous planning Inspector also noted that as a consequence of the limited distance between the sides of the four blocks of flats (including Richmond Court), many of the existing side facing windows within these blocks of flats experience limited light. However, each side facing parapet wall has now been lowered in height and, in each case, the extension would be now be set back a reasonable distance from the side of the roof. In consequence, with the exception of the windows in Derby Court and Richmond Court discussed above, none of the other windows within this group of four flats would experience a material loss of light or outlook, or any overbearing effect as a consequence of this development.
13. Considering the area to the rear of the site, including the properties along Colbourne Road and Osmond Road and their gardens, in the case of Warwick Court and Derby Court the proposed roof extension has been significantly reduced in size, and would now only occupy the front part of the roof on each respective building. The parapet wall has also been reduced in height. In consequence, the extensions and their rear facing windows would not appear visually intrusive or overbearing from these nearby properties or their gardens, and there would be no material harm through overlooking (perceived or actual), or loss of light. In my view, the re-siting of the extensions means that in this regard the issues identified by the previous planning Inspector have been addressed.
14. To conclude on the matter of living conditions, I consider that the proposal would lead to unacceptable harm to the west facing third floor flats in Derby Court and the west facing fourth floor flat in Richmond Court due to the close proximity of the respective roof extensions, and the loss of outlook and overbearing effect this would create. This would conflict with policies QD14 and QD27 of the Local Plan which requires that, amongst other things, development must not lead to material nuisance and loss of amenity to adjacent residents. In all other regards however the proposed development would not lead to material harm to the living conditions of surrounding residents, including their outlook and privacy.

Living conditions of future occupiers

15. The Council argue that the flat being constructed on top of Warwick Court would measure 43.5 sqm. It maintains that, due to the size of bedroom, the unit would be potentially occupied by two people and therefore fails to achieve

the 50 sqm standard set out in government's *technical housing standard – nationally described space standard* ("NDSS") for a 1 bedroom, 2 person flat.

16. Whilst the unit would not meet the relevant NDSS, it would benefit from a large open plan area facing on to a balcony, which would provide external amenity space. Each room would benefit from a good standard of natural light. I consider that this apartment would provide desirable living accommodation, and its compact size and area of internal corridor is not a significant flaw in its design.
17. The Council also raise concerns about the large amount of corridor and lobby space within the proposed flat above Derby Court. However this would otherwise be a large unit with reasonably sized rooms, and the living conditions within it would be acceptable. Overall I consider the accommodation provided, including the flat above Warwick Court, would provide an acceptable standard of living accommodation for future occupiers and there is no conflict with saved policy QD27 of the Local Plan which, amongst other things, seeks to ensure that new development does not cause a loss of amenity to its proposed residents.

Other Matters

18. The proposal would deliver three additional housing units, helping to increase the supply of housing within the City. Outside amenity space, cycle parking and sustainability features would be provided, in accordance with other development plan policies identified in the appeal statement. The units would provide good quality living conditions and would be located close to the city centre, in a sustainable location close to amenities and public transport links.
19. These considerations weigh in favour of the development. However, they are not, even cumulatively, sufficient to overcome the conflict with development plan policies on two out of the three main issues in this appeal. The Council maintain that it can demonstrate a five year housing land supply and the appellant does not provide evidence to dispute this. The proposal does not accord with the development plan and the presumption in favour of sustainable development, as set out in the National Planning Policy Framework, does not therefore apply.

Conclusion

20. I have found that the proposed residential accommodation is of a sufficient size to provide satisfactory living conditions for future occupants. However, the proposal would lead to harm to the character and appearance of the area, and would also result in harm to the living conditions of existing residents through an unacceptable loss of outlook. For the reasons given above and having had regard to all other matters raised, I conclude that the appeal should be dismissed and planning permission refused.

Neil Holdsworth

INSPECTOR