



Appeal Decision

Site visit made on 10 January 2019

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

an Inspector appointed by the Secretary of State

Decision date: 01 February 2019

Appeal Ref: APP/Q1445/W/18/3208082

106 Montgomery Street, Hove BN3 5BD

- 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 Ms Gail Hopkins against the decision of Brighton & Hove City Council.
 - The application, Ref. BH2018/00202, dated 9 January 2018, was refused by notice dated 1 June 2018.
 - The development proposed is the demolition of the existing lower ground floor extension and erection of a two-storey rear extension to the ground and lower ground floor flats.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are (i) the effect of the proposed extension on the character and appearance of the host property and the wider terrace, and (ii) the effect on the living conditions for adjoining occupiers at Nos. 104 and 108 as regards outlook and light.

Reasons

3. On the first issue, the Council's concern is that the existing terrace shares a consistent building line above basement floor level and that a flat roofed and full width two storey extension would be out of keeping with host building and the wider terrace. Whilst the extension would be on the rear elevation, it would be visible from the rear gardens and windows of properties in Wordsworth Street.
 4. I saw on my visit that in addition to the basement extension at the appeal property and the adjoining No. 108 there are a number of 'hanging' first floor extensions to the west, as indeed the officer's report acknowledges. There also appear to be some ground floor extensions to both sides, albeit it was impossible on my visit to have a clear and unobstructed view of the whole terrace.
 5. However, given the substantial length of the terrace, about 20 properties, I am satisfied that the extended ones are in the minority, and I consider it safe to conclude that the character and appearance of the area has not changed significantly from being mainly in the form of the buildings as originally constructed. Moreover, there is no evidence that the extensions that have been built have been formally approved through the planning system.
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6. The grounds of appeal refer to, and supply photographs of, two storey extensions in nearby Wordsworth Street and Westbourne Street, but again there is insufficient evidence that these are in numbers that have altered the predominant character and appearance of the area as being defined by the buildings being in, or close to, their original built form.
7. If I were to allow the appeal, it would be difficult for the Council in all fairness to refuse permission for other similar applications, and because of the large number of buildings and terraces in the city there would be a cumulative erosion of character and appearance to the detriment of the city's townscape.
8. On this issue, I therefore conclude that the proposal would have a harmful effect on the character and appearance of the building and the wider terrace. This would conflict with Policy QD14 of the Brighton & Hove Local Plan 2005; the Council's Design Guide for Extensions and Alterations SPD 12 adopted in 2013, and Section 12: 'Achieving Well-Designed Places' of the National Planning Policy Framework 2018 ('the Framework').
9. Turning to the second issue, the effect on adjoining occupiers, the officer's report argues that the proposed extension would project out very close to the lower ground and first floor rear facing windows of No. 104 and the rear first floor windows of No. 108. It is considered that this proximity would restrict the outlook from the rooms concerned and restrict the light to them.
10. However, the grounds of appeal cite the 45 degree rule to show that because the living room window of No. 108 is on the far side of the elevation, the corner of the 3m depth extension would not interrupt the 45 degree line. I accept that the effect on outlook and light in this case would be less and likely to be acceptable.
11. Conversely however, as the living room window at No. 104 is very close to the proposed extension the 45 degree line would be broken, and I do not agree with the appellant that this would be 'only marginal'. Furthermore, I accept the Council's view that the very limited amount of outdoor amenity space at No. 104 would suffer an undue effect of enclosure from the slightly deeper and substantially higher building than is currently at the appeal property.
12. On this issue I conclude that there would be a harmful conflict on the living conditions for the occupiers of No. 104 and the relative absence of harm to No. 108 would not outweigh this conflict with Policies QD14 & QD27 of the 2005 Local Plan, the Council's SPD and paragraph 127f) of the Framework. As regards the SPD this specifically advises that '*Two storey (or more) extensions to terraced properties will generally be unacceptable owing to their close proximity to neighbouring properties and their windows*'.
13. Overall, I am satisfied that the Council's current adopted policies and guidance preclude the proposed addition to the appeal building and the wider terrace, notwithstanding that, as in this case, extensions can improve the space standards and the living conditions for the occupiers. For this reason, as explained in more detail above, the appeal is dismissed.

Martin Andrews

INSPECTOR