
Appeal Decision

Site visit made on 12 December 2016

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

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

Decision date: 3rd January 2017

Appeal Ref: APP/Q1445/D/16/3159736

11 Hangleton Gardens, Hove, East Sussex BN3 8AB

- 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 Mrs Azaria Muro against the decision of Brighton & Hove City Council.
 - The application, Ref. BH2016/02795, dated 22 July 2016, was refused by notice dated 15 September 2016.
 - The development proposed is a rear extension with terrace.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposed terrace on the living conditions for adjoining occupiers as regards privacy and noise and disturbance.

Reasons

3. The appeal dwelling forms one half of a semi-detached pair with No. 10 Hangleton Gardens. I saw on my visit that a conservatory on the western side of the rear elevation has already been demolished.
 4. Because of the steep fall in the land level to the rear of the house, the Council's concern is that the proposed terrace in place of the former conservatory would result in undue overlooking of No. 10's rear garden.
 5. As the Delegated Report points out, the fall in levels to the north causes mutual overlooking between Nos. 10 and 11, as a conservatory at No. 10 already allows views into the garden of the appeal property and this would no doubt have been reciprocated in the outlook from the now demolished conservatory at No. 11.
 6. The salient point therefore is whether the use of this part of the appeal site as an open-air terrace would exacerbate the effect to an unacceptable extent. Having considered both the Delegated Report and the grounds of appeal, in my assessment the views into the rear garden of No. 10 from the terrace would be greater than previously, especially when seated, and the perception of a loss of privacy also considerably increased. I note that is also the opinion of the occupiers of No. 10 in their representations on the application.
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7. Furthermore, because the terrace would be uncovered, the transmission of sound to No. 10's rear garden and conservatory is a significant issue. Whilst much depends on who occupies No. 11 and their life style, there would clearly be a greater likelihood of noise and disturbance for the inhabitants of No. 10, especially during warm weather in the summer months. In my view the existing conservatory at No. 10 would not sufficiently mitigate the adverse effect from the proposed terrace at No. 11 in terms of either the loss of privacy or the potential for noise.
8. I have considered the points in the grounds of appeal that the scheme already approved under reference BH2015/02416 would be similar, because it would have bi-folding doors on the two nearest elevations and would include a metre width of open terrace adjoining the boundary with No. 10. However, in my judgement neither this design of the addition nor the smaller terrace is sufficiently similar to the refused proposal to have a comparable impact.
9. I have also considered whether an increase in the height of the fence on the shared boundary would resolve the issue. However, because of the substantial fall in land level I do not take the view that this would make enough difference to overcome the reason for refusal.
10. Overall, I conclude that the proposed terrace would have an unacceptable effect on the living conditions for adjoining occupiers as regards privacy and noise and disturbance. This would be in harmful conflict with Policies QD14 & QD27 of the Brighton & Hove Local Plan (Retained Policies March 2016); the Council's Design Guide for Extensions and Alterations 2013, and the core planning principles of the National Planning Policy Framework 2012.
11. The appeal is therefore dismissed.

Martin Andrews

INSPECTOR