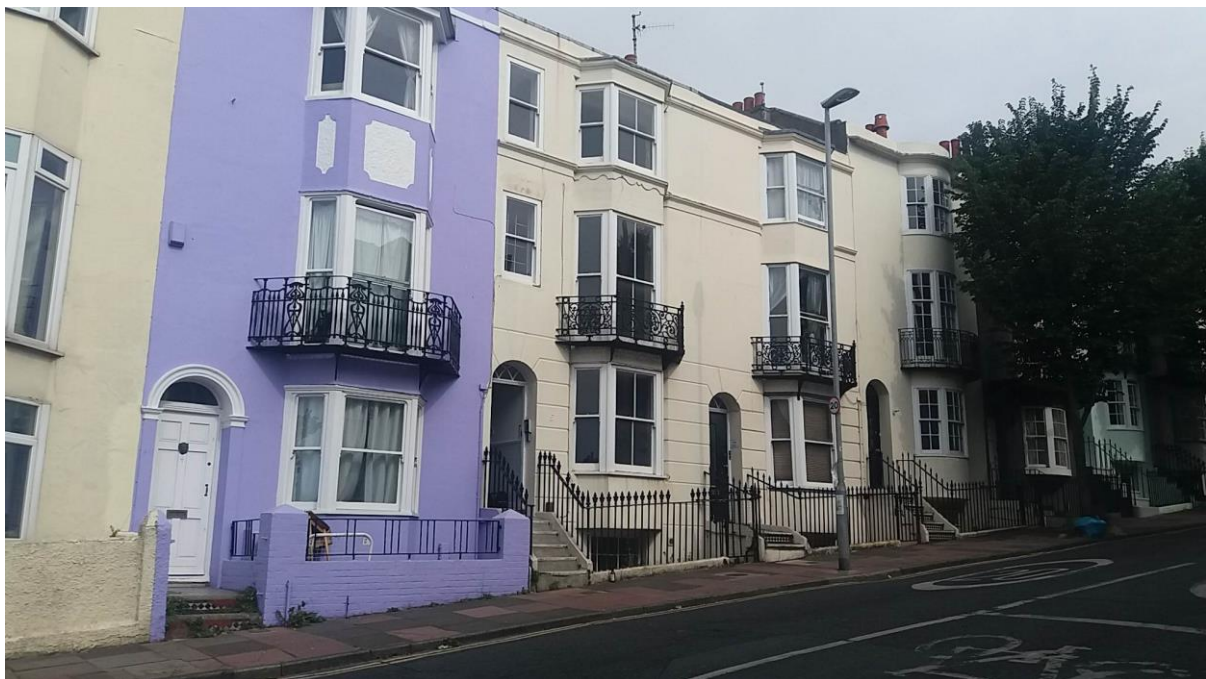


TOWN & COUNTRY PLANNING ACT 1990

5, EGREMONT PLACE, BRIGHTON, BN2 0GA

REAR ROOF TERRACE



PLANNING, DESIGN & ACCESS STATEMENT V.1

25 October 2023

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1. INTRODUCTION

1.1 This application is submitted following the refusal of an application for a seventh bedroom and roof terrace at 5 Egremont Place, Brighton (BH/2023/01895). The application was refused by Brighton & Hove City Council (BHCC) on 5th September 2023. Four reasons for refusal were cited:

1. The use of the property as a large house in multiple occupation (Sui Generis) would fail to support a mixed and balanced community and would result in the area being further imbalanced due to the amount of similar such HMO uses, to the detriment of local amenity. In addition, the proposal would have a detrimental impact on an adjacent non-HMO already 'sandwiched' between two existing HMOs. The proposed use is therefore contrary to policies CP21 of the Brighton & Hove City Plan Part One and DM20 of the City Plan Part Two.
2. The proposed roof terrace and associated screening would form an unduly visually dominant and incongruous addition to the building, out of keeping with the host property, neighbouring buildings, and wider Conservation Area. As such, the proposal would be seen as a discordant addition, detrimental to the visual amenity of the area and is therefore contrary to policies DM21 and DM26 of City Plan Part Two.
3. The accommodation, by virtue of the poor quality of communal space, represents a poor standard for seven individuals sharing the accommodation. Accordingly, the proposal is considered to be contrary to policies DM1 and DM7 of the City Plan Part Two.
4. The proposed roof terrace has the potential to give rise to noise and disturbance, given its location and elevated height and potential use by up to 7 individuals. The development is considered to be unneighbourly and intrusive and would harm the residential amenity of neighbouring occupiers contrary to policy DM20 of City Plan Part Two.

1.2 A separate application solely for the seventh bedroom has been submitted to the Council and registered under BH2023/02675. This application relates to the roof terrace part of the earlier application. It addresses the 2nd and 4th reasons for refusal on BH/2023/01895, and explains why the application should be approved.

2. THE APPLICATION SITE

- 2.1 5, Egremont Place is a four storey, mid-terraced Georgian property on the west side of Egremont Place. The established use of the property is a 6-person HMO.
- 2.2 In 2022 the property was purchased by the applicant, who has since completed a £100,000 comprehensive refurbishment of this building, which had fallen into significant disrepair due to a lack of investment over the years. The refurbishment included re-plastering the whole interior, chasing in numerous pipes and wires, new, flooring, doors, and radiators, woodwork replaced, new kitchen, three new bathrooms. The renovation has transformed the building from a low-grade 6-bed HMO to high quality residential accommodation with new appliances throughout and tasteful contemporary decor.
- 2.3 The accommodation is arranged over four floors and comprises HMO bedrooms, a lounge, three shared bathrooms with separate WC on lower ground floor, kitchen with dining facilities, and a study on the 2nd floor.
- 2.4 At the rear, lower ground floor level there is a 9.1sqm courtyard, accessed through a door next to the bathroom. At ground floor level is a second 11sqm courtyard, with direct access off the kitchen/ dining room.
- 2.5 The site for the proposed roof terrace comprises the flat roof of the kitchen. It measures 2.9m wide and 5.4m deep, covering an area of 15.9sqm.

3. PROPOSED DEVELOPMENT

- 3.1 The application proposes the creation of a roof terrace on the flat roof of the kitchen. Access to the roof terrace will be gained by installing a door at first floor level from the laundry room out onto the terrace. The terrace will have 1.7 metre high solid walls to the south and east, and a 1.7 metre high obscured glass screen on the north side, to prevent overlooking of adjoining properties.
- 3.2 The roof terrace will provide 15.9sqm of secluded and private outdoor amenity space for the residents.
- 3.3 The roof terrace will increase the outdoor amenity space available to the residents from 21.1sqm on the upper and lower courtyards, to 37sqm.

4. PLANNING POLICY CONTEXT

4.1 The local development plan for the area comprises the Brighton & Hove City Plan Part 1 (CPP1) the Brighton & Hove City Plan Part 2 (CPP2).

4.2 The property is within the built up area boundary (CPP1) and the Queens Park Conservation Area (CA).

4.3 Relevant policies:

CPP1:

SS1 Presumption in Favour of Sustainable Development

SA6 Sustainable Neighbourhoods

CPP2:

DM1 Housing Quality, Choice and Mix

DM20 Protection of amenity

DM21 Extensions and Alterations

DM26 Conservation Areas

4.4 *DM26* states that in conservation areas, development shall preserve and enhance the distinctive character and appearance of that conservation area, taking full account of the appraisal set out in the relevant character statement. This includes, *inter alia*, typical building forms and building lines of the area, and publicly visible elevations.

4.5 *DM20* protects the amenity of existing, adjacent or nearby users.

4.6 *DM21* states that extensions and alterations should be:

a) well designed, and scaled, sited and detailed in relation to the property to be extended, adjoining properties and to the surrounding area;

b) take account the existing character of the area; and

c) use materials that complement the parent building.

4.7 The following chapter explains how the proposal complies with these policies.

5. CONSIDERATION OF PLANNING POLICIES

5.1 Visual Impact and the Queens Park Conservation Area

5.1.1 The second reason for refusal on BH2023/01895 related to the visual aspects of the proposed roof terrace. The Council considered it be incongruous and out of keeping with the building, neighbouring buildings and the wider Queens Park Conservation Area (CA), and therefore detrimental to the visual amenity of the area.

5.1.2 The Planning Officer expanded on this in her delegated report. She described the roof terrace as “a contrived and cluttered addition to the building”. Although acknowledging that the roof terrace would not be readily viewed from the public realm, she still concluded that a terrace on the rear outrigger (the kitchen) would “stand out as a contrived and alien feature, which would result in harm to the building and row of terraces”, which would be “an unduly visually dominant and incongruous addition”, and “discordant” when viewed from neighbouring buildings.

5.1.3 This is a surprisingly harsh critique for what in practice would comprise the minor extension of the existing white painted rendered walls of the house, and an obscured glass screen. Moreover, roof terraces are not alien features on Egremont Place. This consultant has counted twelve existing roof terraces on Egremont Place. Those are on house numbers 8, 9, 12a, 15, 26, 30, 31, 37, 38, 45, 48 and 49. Google Earth screen shots are provided in Figures 1 to 4 below.



Figure 1: Terrace on east side of Egremont Place. Five roof terraces visible.



Figure 2: Terrace of west side of Egremont, northern end. Roof terraces at 26, 30 and 31



Figure 3: West side of Egremont Place, southern end. The application site is shown in the red square. Three further roof terraces, at 8, 9 and 12a Egremont Place, are visible.



Figure 4: The rooftop terraces at 12a and 15 Egremont Place



Figure 5: Looking north standing in the rear courtyard of the application site. The roof terraces at 8 & 9 Egremont Place are clearly visible on the roof line.

5.1.4 The roof terraces at 37 (BH2014/02622), 38 (BH2007/04265) and 49 (BH2010/03626) benefitted from planning permission. In addition, permission was granted at Flat 2, 28 Egremont Place for 'balcony conversion to rear on rooftop of ground floor flat' in 2004 (BH2004/03450/FP) but this appears to have not been implemented. All of these roof terraces are in the Queens Park CA.

- 5.1.5 Further examples of roof terraces can be found throughout Kemptown, many with benefit of planning permission
- 5.1.6 Roof terraces are clearly a characteristic of the local area, and not alien to the roofscape. Indeed two are visible from the application site (Figure 5).
- 5.1.7 The most recent permission for a roof terrace on Egremont Place was at no. 37 – BH2014/02622. This roof terrace was similar to the current proposal in that it has an obscure glass screen, replacement of existing timber windows with timber French doors, however it is at second, not first, floor level, which means it is visible over a wider area – and therefore more visible within the Queens Park CA - and from a greater number of neighbouring properties than the proposed roof terrace at no. 5.
- 5.1.8 All of the dwellings in the terrace that contains no. 5 have rear outriggers, and most properties also have sections with flat roofs. Flat roofs, often properly detailed with a parapet surround, are an established feature of Egremont Place and the CA. We therefore disagree with the Council's assertion that a roof terrace is incongruous, out of keeping, discordant or detrimental to the visual amenity of the area; which is how the proposed roof terrace was described on refusal notice BH2023/01895. With so many other roof terraces of similar proportions and appearance to the proposal, it cannot be considered discordant with the surrounding area.
- 5.1.9 The Queens Park CA Character Appraisal focuses on the public street views of Egremont Place, which contribute to the character and appearance of the CA. The Officer confirmed in the earlier delegated report that the roof terrace would not be publicly visible. Although views that are only possible from the private realm are still valuable to conservation areas, they do not carry the same weight in terms of significance as those visible from publicly accessible viewpoints.
- 5.1.10 This was confirmed by an appeal Inspector in a pertinent and recent 2022 appeal case for a roof terrace at 28 Park Street, 170 metres as the crow flies from 5, Egremont Place - Appendix A. ¹ This site, in the Queens Park CA, also proposed a rear roof terrace at first floor level, on the flat roof of the rear outrigger. In that appeal decision, the Inspector made a distinction between, on the one hand, the area around Queens Park itself and the

¹ Appeal Ref: APP/Q1445/D/22/3291939 28 Park Street, Brighton, East Sussex BN2 0BS

residential streets overlooking it, and on the other the three streets of terraced properties to the south, comprising Park Street, Tilstone Street and Egremont Place. These three streets have a different quality, being “more urban in appearance” and,

“The terraced properties on all 3 roads appear to have small rear outside spaces with Park Street having the smallest. These rear areas are not overly visible except for the most northerly and southerly few of each terrace, due to the slope of the land. Therefore, the frontages of these properties, including the appeal property, are more apparent in their contribution to the significance of the CA in terms of character and appearance. ”²

5.1.11 The Inspector continued,

“Rear projections, or ‘outriggers’ to the rear of the terraced properties are a feature of the area and have been variously altered, including with the addition of some roof terraces. The proposal would be screened by the presence of two-storey outriggers on the dwellings either side. This would prevent any public views of it and its location would not alter the significance of the terrace frontage as part of the CA. ”³

5.1.12 Exactly the same can be said regarding the proposal at 5, Egremont Place. Rear outriggers are a feature of Egremont Place, and have been variously altered, including with the addition of some roof terraces (see Figures 1 – 5 above), and would be screened by the outriggers either side.

5.1.13 The Inspector went on to consider views from the private realm, including rear windows of adjacent properties, however in so doing he observed that “the proposal (for a roof terrace) would constitute a small component of the highly varied built form at the back and along the length of the Park Street terrace”. He concluded that the roof terrace would not harm the character and appearance of the dwelling and would preserve the CA.

5.1.14 Similarly, at 5 Egremont Place, the degree of visual change on the rear elevation resulting from the proposed roof terrace would be minimal. It would be a small component within

² Ibid, para. 4

³ Ibid para. 5

buildings that make up the varied urban streetscape between Egremont Place and Mount Pleasant.

- 5.1.15 In light of the above, including the 28 Park Street appeal Inspector's conclusions, we disagree with the Planning Officer's contention that the proposed roof terrace for 5 Egremont Place would be unusually dominant, incongruous, contrived, alien, cluttered, and harmful to the CA. (Interestingly, in the 28 Park Street case, identical reasons were given by the Council for refusing the roof terrace as at 5, Egremont Place; that would form an unduly visually dominant and incongruous addition to the building, out of keeping with the host property, neighbouring buildings, and wider Queen's Park Conservation Area; reasons that were subsequently overturned on appeal)
- 5.1.16 It is concluded that the proposed roof terrace would accord with policy DM21 and DM26 of the CCP2, being well designed and detailed in relation to the host property, and would not harm the character of the Queens Park CA.

5.2 Amenity of Nearby Occupants

- 5.2.1 The fourth reason for refusal on BH2023/01895 stated that the roof terrace had potential to give rise to noise and disturbance, and that this would be unneighbourly and intrusive and would harm the residential amenity of neighbouring occupiers.
- 5.2.2 The Planning Officer agreed that the roof terrace would not cause overlooking of adjoining properties due to the 1.7 metre high wall and obscured glass panels.
- 5.2.3 The issue in terms of noise, she opined, was due to the elevated height of the terrace, and that it could be used by up to seven people (the dwelling currently has permission for six residents).
- 5.2.4 Firstly, six (or even seven) occupants is not overly large for a household, up to six people being the definition of a household in Use Class C3, so the number of occupants in the property should not be a factor in the acceptability of the roof terrace.
- 5.2.5 Secondly, the roof terrace would be 2.7 metres above the existing ground floor rear patio. This is not a significantly elevated height, and there is no evidence to suggest that noise emanating from the terrace would travel any further than that emanating from the

ground level patio. The Inspector in the 28 Park Street appeal, where the Council raised the same issue, put it thus,

“The proximity and density of dwellings within Park Street would mean there is an existing and expected level of travel in residential noise and neighbourly disturbance. The proposed roof terrace would service a single modest dwelling. It would provide a secondary outdoor space to the existing ground floor space accessible from the main living area. Therefore, the potential noise and neighbourly disturbance that the proposed roof terrace could create would be no more than that which could be created during the use of the existing outdoor space.”⁴

- 5.2.6 The existence of the roof terrace will not increase the number of occupants, so it follows that the noise level from the property would not be affected. Moreover, the proposed 1.7 metre high walls and glass screen will provide noise attenuation, acting as solid buffers to prevent noise travelling beyond the terrace.
- 5.2.7 There is already a not insignificant amount of background noise in the locality, being an urban location on the confluence of two bus routes and a stone’s throw from Edward Street, the main through-route in East Brighton. A certain level of noise is therefore to be expected, and the addition of a single roof terrace would not have any discernible on the existing situation.
- 5.2.8 It is concluded that the proposed roof terrace would not lead to increased noise and disturbance affecting the living conditions of nearby occupants. Policy DM20 would be complied with.

⁴ Ibid para. 11

6. CONCLUSIONS

- 6.1 On 5th September 2023, the Council refused permission for a seventh bedroom and roof terrace at 5, Egremont Place, Brighton – BH2023/01895. Two reasons for refusal were given in respect of the roof terrace. The application solely for the roof terrace is re-submitted, addressing the two reasons for refusal.
- 6.2 The visual effect of the roof terrace on the dwelling, terrace and wider conservation area has been assessed. It is concluded that there would be no harm to the character and appearance of the CA, being located at the rear of the terrace not visible from the public realm. Views would be possible from the windows of adjacent properties, but the degree of change to the built form would not be so great as to cause adverse impacts. The roof terrace is similar to many others on Egremont Place, and the existence of roof terraces has been a feature of the locality.
- 6.3 Forming the roof terrace would only require the extension of the existing white painted, rendered walls of the building, and a small section of obscured glass panelling.
- 6.4 The site and surrounding area is characterised by an existing level of background noise, to be expected in a densely packed urban area. It would provide an additional outdoor space for the existing residents, creating no more noise than that created by the existing outdoor patio at the rear of the building.
- 6.5 The proposal would comply with policies DM20, DM21 and DM26 of the City Plan Part 2.
- 6.6 For these reasons, it is respectfully requested that the application is approved.

5, Egremont Place, Brighton, BN2 0GA

Rear Roof Terrace



Appendix

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Appeal Decision

Site visit made on 25 April 2022

by **R J Redford MTCP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 19 MAY 2022

Appeal Ref: APP/Q1445/D/22/3291939

28 Park Street, Brighton, East Sussex BN2 0BS

- 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 Ramm against the decision of Brighton & Hove City Council.
 - The application Ref BH2021/03818, dated 26 October 2021, was refused by notice dated 15 December 2021.
 - The development proposed is described as "altering pitch of existing rear single story extension roof to create roof terrace with 1st floor access. Reconfiguring and replacing ground floor rear doors and windows."
-

Decision

1. The appeal is allowed, and planning permission is granted for altering pitch of existing rear single story extension roof to create roof terrace with 1st floor access. Reconfiguring and replacing ground floor rear doors and windows at 28 Park Street, Brighton, BN2 0BS in accordance with the terms of the application, Ref BH2021/03818, dated 26 October 2021, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - Location Plan - dated 27 June 2021
 - Block Plan - dated 27 June 2021
 - Proposed Elevations - Sheet 1 of 1 Rev A
 - 3) The external surfaces of the development hereby permitted shall be constructed in materials to match those used in the existing building.

Main Issues

2. The main issues in this appeal are the effect of the proposed development on:
 - the character and appearance of the host property, and whether it would preserve or enhance the character and appearance of the Queens Park Conservation Area; and
 - the living conditions of the occupants of adjacent properties in relation to privacy, noise, and disturbance.

Reasons

Character and Appearance

3. The appeal property is within the Queens Park Conservation Area (CA). Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended, requires that special attention is paid to the desirability of preserving or enhancing the character or appearance of conservation areas. Paragraph 189 of the National Planning Policy Framework (the Framework) requires that heritage assets, as irreplaceable resources, 'should be conserved in a manner appropriate to their significance' and paragraph 199 confirms 'great weight' should be given to their conservation.
4. The CA is a relatively tightly defined area focused on Queens Park itself and the residential streets overlooking it. This area is characterised by large semi-detached and detached residential properties with mature front gardens creating verdant drives framing the park. However, the southern section of the CA is more urban in appearance, constituting 3 residential, terraced roads, including Park Street. These are situated on relatively steeply sloping land leading away from the park. The terraced properties on all 3 roads appear to have small rear outside spaces with Park Street having the smallest. These rear areas are not overly visible except for the most northerly and southerly few of each terrace, due to the slope of the land. Therefore, the frontages of these properties, including the appeal property, are more apparent in their contribution to the significance of the CA in terms of character and appearance.
5. Rear projections, or 'outriggers' to the rear of the terraced properties are a feature of the area and have been variously altered, including with the addition of some roof terraces. The proposal would be screened by the presence of two-storey outriggers on the dwellings either side. This would prevent any public views of it and its location would not alter the significance of the terrace frontage as part of the CA.
6. However, the impact on the character and appearance of a CA is not limited to public views. There would be views of the proposal from the rear windows of the adjacent properties in the Park Street terrace as well as from the rear of the Tillstone Street terrace which backs onto it. Nevertheless, the proposal would only constitute a small component of the highly varied built form at the back and along the length of the Park Street terrace.
7. The proposed development would therefore not harm the character and appearance of the host dwelling and would preserve that of the CA. This would comply with the Brighton and Hove Local Plan 2005 (Local Plan) Policy HE6, which sets out the Council's strategic position in relation to heritage assets, and Policy QD14, which sets out the design criteria for acceptable extensions and alterations.

Living Conditions

8. The appeal property is located between 27 and 29 Park Street. The terrace they are situated in comprises narrow 3 storey properties with a high level of mutual overlooking between upper floor windows and the various outside spaces. The existing level of overlooking is further intensified by the rear elevations of the Tillstone Street terrace behind, which is not only at a higher

- ground level but also many of the properties have metal stairways with half landings accessing each floor.
9. The two-storey outrigger on No 29 creates a blank wall between it and the appeal site. This would block any views of No 29's rear outdoor space or first floor rear windows from the proposed roof terrace.
 10. The proposed roof terrace would be adjacent to the shared boundary with No 27. I noted during my site visit that the first floor windows in the outrigger of No 27 were obscure glazed and therefore the privacy of those rooms would be maintained. The proposal would overlook the outdoor space of No 27 and potentially provide views back towards its first floor windows. These areas are, however, not overly private due to the existing overlooking from adjacent properties and the rear of the Tillstone Street terrace. Therefore, the proposed roof terrace would not harm the privacy of the occupants of No 27, as the view from it would be of parts of that property already overlooked.
 11. The proximity and density of dwellings within Park Street would mean there is an existing and expected level of travel in residential noise and neighbourly disturbance. The proposed roof terrace would service a single modest dwelling. It would provide a secondary outdoor space to the existing ground floor space accessible from the main living area. Therefore, the potential noise and neighbourly disturbance that the proposed roof terrace could create would be no more than that which could be created during the use of the existing outdoor space.
 12. For the reasons given above the proposed development would not harm the living conditions of the occupants of adjacent properties in relation to privacy, noise, and disturbance, and would comply with Local Plan Policy QD27, insofar as it relates to residential living conditions. Although not forming part of the reason for refusal, Local Plan Policy QD14 also relates to the living conditions of occupants of neighbouring properties and the proposed development would also comply with this policy.

Conditions

13. In addition to securing commencement within the relevant statutory timeframe, I have also imposed conditions requiring adherence to the approved plans and that matching materials should be used to ensure the proposal integrates acceptably within the character and appearance of the area.

Conclusion

14. For the reasons given above, having considered the development plan as a whole along with all other relevant material considerations, including the approach in the Framework, I conclude that the appeal should be allowed.

RJ Redford

INSPECTOR