The Planning Inspectorate

# Appeal Decision

Site visit made on 19 December 2016

**by Thomas Bristow BA MSc MRTPI**

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

**Decision date: 23 January 2017**

**Appeal Ref: APP/Q1445/W/16/3157692**
**5 Godwin Road, Hove BN3 7FQ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended against a refusal to grant planning permission.
- The appeal is made by Mr B Zanjani against the decision of Brighton & Hove City Council.
- The application Ref BH2016/01397, dated 21 April 2016, was refused by notice dated 15 July 2016.
- The development proposed is described on the application form as 'construction of 1 no. two storey, two bedroom, detached dwelling to the east of 5 Godwin Road'.

## Decision

1. The appeal is dismissed.

## Main Issue

2. The main issues are:

   1) the effect of the proposal on the character and appearance of the surrounding area, and

   2) whether or not the proposal would result in acceptable living conditions for the occupants of No 5 Godwin Road with particular reference to enclosure, natural light and privacy.

## Procedural Matter

3. Application Ref BH2016/01397 follows unsuccessful application Ref BH2015/04239 which was similarly for the erection of a dwelling, albeit of different design. Although the main parties have commented on the proposal to which this appeal relates with reference to its predecessor, for the avoidance of doubt I have determined this appeal on the basis of the scheme before me.

## Reasons

Character and appearance

4. No 5 is a modest two storey property of understated design set on a cul-de-sac spur of Godwin Road. It typifies the prevailing form and design of nearby properties: uniformly mid-century dwellings regularly arranged along a broadly consistent building line facing carriageways. As the appeal site is within an established residential area, there is nothing before me to indicate that residential development would be unacceptable in this location in principle.

5. Although there is some variety in the spacing between properties and their situation relative to carriageways in the immediate vicinity of the appeal site, the prevailing design and arrangement of dwellings in the wider area is rigidly uniform. Alongside the common origins of properties, this results in an ordered and harmonious character and appearance to the area.

6. Somewhat atypically of the prevailing layout, No 5 falls on a circular close and occupies an irregularly shaped corner plot such that the majority of its garden falls to the side and front of the property rather than to the rear as is more commonplace. The proposal is to erect a dwelling within the side and front garden of No 5, which is in the main hard-surfaced and I understand presently used primarily for parking.

7. Policy CP12 'Urban Design' of the Brighton & Hove City Plan Part One adopted on 24 March 2016 (the 'City Plan'), sets out various requirements as to how new development should integrate appropriately with the character of its surroundings. Considered in this context, the scale and design of the dwelling proposed would not inherently be out of keeping with those nearby.

8. However the dwelling proposed would be significantly set forward of the line of the principal elevation of No 5, which is an incongruous arrangement compared to the prevailing layout of properties nearby. Moreover its principal elevation would be at a right-angle to that of No 5 which is an inter-relationship which atypical of the pattern of properties within the surrounding area.

9. Consequently the proposed siting of the dwelling within its plot relative to No 5 would in my view appear jarring and incongruous. The proposal would furthermore appear out-of-keeping by being set far closer to the common boundaries of neighbouring properties than is the prevailing arrangement of properties of the area, resulting in an uncharacteristic level of density.

10. I acknowledge that there are relatively few properties served by this particular spur of Godwin Road and that a number of evergreen trees are present which impede direct views of the appeal site from certain directions. Nevertheless I observed during my site visit that the dwelling proposed would be clearly visible from various vantage points nearby, including from near the junction of Godwin Road and Bellingham Crescent above the boundary features of properties and their garages here.

11. Therefore whilst I recognise that the proposal has been designed to respond to the confines of the appeal site, I conclude that it would have an adverse effect on the generally consistent character and appearance of the area in conflict with the relevant provisions of policy CP12 of the City Plan.

Living conditions

12. Saved policy QD27 'Protection of amenity' of the Brighton & Hove Local Plan adopted originally in 2005 (the 'Local Plan') prevents development that would result in the loss of amenity to the occupiers of properties. Whilst of some vintage this policy accords with the encouragement given within the National Planning Policy Framework (the 'Framework') to seeking to secure a good standard of amenity for all existing and future occupants of buildings, and can therefore be accorded due weight.[1]

[1] With reference to the approach in paragraph 215 of the Framework.

13. As set out above the proposal would result in a new dwelling set close to No 5 which would represent an uncharacteristic level of density. In my view this, and as the principal elevation of the dwelling proposed would be perpendicular to that of No 5, would result in an undue sense of enclosure and reduction in outlook for the occupants of No 5 particularly with reference to the surrounding inter-relationship of properties.

14. In my view this would be particularly acute from around the front door of No 5, clearly a regularly frequented area of the property. Consequently, and as the dwelling proposed would fall broadly to the east of No 5, there is also some potential for overshadowing of No 5 and the area immediately around it to the detriment of the living conditions of its occupants.

15. Whilst I accept that there is a degree of overlooking of the front gardens of properties in the area, I have set out above how the perpendicular arrangement of the dwelling would be incongruous. Windows at ground and first and floor level of the proposed dwelling would therefore face at an oblique angle and at close proximity windows thus located within No 5. In my view this would lead to a reciprocal reduction in privacy to the detriment of the occupants of both properties to a degree which is unacceptable.

16. For the above reasons I therefore conclude that the proposal would result in unacceptable living conditions for the occupants of No 5 Godwin Road with particular reference to enclosure, natural light and privacy. Accordingly the proposal does not accord with the relevant provisions of policy QD27 of the Local Plan or relevant elements of the Framework.

**Other Matters**

17. I acknowledge that the proposal would have some benefits in resulting in an additional dwelling in an established residential area, and indeed in entailing some social and economic benefits in supporting employment during construction and as future occupants would make use of nearby services and facilities. However such benefits would be modest in respect of one dwelling.

18. Whilst it may be possible to mitigate certain effects of the proposal via condition, for example securing additional boundary screening, such mitigation would only partially reduce the effect of the proposal and not in my view to an extent that would render the proposal acceptable (particularly given that this would have the potential to exacerbate a sense of enclosure).

19. The appellant explains that the appeal site is at present 'underused and of little benefit to the existing host property'. Whilst I accept this may be the case, this does not serve to justify unacceptable development or indicates that the side and front garden of the property would similarly be of limited value to any future occupant of No 5.

20. I also acknowledge that it may be possible to erect a side extension in this location, potentially without the need for specific planning consent. However there is no definitive information before me as to the scale that such an extension could be, and moreover were such an extension to be created the extension would be associated with No 5 and thus the adverse impacts in respect of privacy identified above would not arise.

21. I also acknowledge that the Council do not object to the proposal in respect of highways effects or energy efficiency. However that no adverse effects would

result in these respects does not weigh positively in favour of the proposal. Consequently neither these matters, nor any other, are sufficient to outweigh my findings on the main issues in this case.

**Conclusion**

22. I therefore conclude that the proposal conflicts with the development plan taken as a whole and with the approach in the Framework, and that no material considerations outweigh the harm arising from this conflict. Accordingly, and having taken into account all other matters raised, I dismiss the appeal.

*Thomas Bristow*

INSPECTOR