
Appeal Decision

Site visit made on 17 January 2017

by L Gibbons BA (Hons) MRTPI

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

Decision date: 14 February 2017

Appeal Ref: APP/Q1445/W/16/3158827

Land to the rear of no. 2-8 Rowan Close, Mile Oak, Portslade BN41 2PT

- 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 Kenneth Elliott (Rowan Close Limited) against the decision of Brighton & Hove City Council.
 - The application Ref BH2016/02573, dated 11 July 2016, was refused by notice dated 2 September 2016.
 - The development proposed is the construction of three 2 bedroom apartments on land off Rowan Close.
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Decision

1. The appeal is dismissed.

Background and Main Issues

2. The appeal site has a planning history which includes previous planning applications and an appeal in 2016 which was dismissed¹. I have considered the previous Inspector's findings and recognise the need for consistency. The main issues in that case related to the living conditions of adjoining and future occupiers and involved the construction of two detached dwellings. I acknowledge that the scheme before me seeks to overcome the concerns of the previous Inspector and the Council. This includes changing the nature of development, reducing the number of windows and providing parking spaces. The Council indicate that the principle of residential development on the site is acceptable.
3. Taking the above background into account, the main issues are:
 - i) The effect of the proposed development on the living conditions of the occupiers of Rowan Close and Hillcourt Mews in respect of outlook, and the living conditions of future occupiers in respect of the quality of accommodation to be provided, and;
 - ii) The effect of the proposed development on the character and appearance of the area.

Reasons

4. The appeal site is located within a residential area. The dwellings surrounding the site include two and three storey terraced houses, detached bungalows, semi-detached properties and apartment blocks. The appeal site was formerly

¹ APP/Q1445/W/16/3153186

car-parking and access for Rowan House which has recently been converted into flats. The proposed apartment building would be located on the western part of the appeal site in between garages and houses on Rowan Close to the south, and Hillcourt Mews to the north.

Living conditions

5. *Adjoining occupiers.* No 8 Rowan Close is to the south of the appeal site. The west boundary of the garden is bounded by a long row of garages. To the north there is a boundary fence and some trees. The garden of No 8 is not very large and is north facing. The position of the building was moved towards the western boundary to overcome previous concerns of the Council. There would be a small part of the southern elevation which would be single storey. Nevertheless, the two storey part of the elevation would be seen against a considerable proportion of the width of the rear boundary of No 8 in close proximity. This is a difference from the previous appeal scheme where development was set back from the garden at No 8. I consider that the position and height of the two storey elevation would result in the garden feeling much darker and more enclosed for the occupiers of No 8 to a harmful degree.
6. The proposed development would be visible from the first and second floor rooms on the south elevation of the properties on Hillcourt Mews to the north of the appeal site. I note that building would be of a lower height than Hillcourt Mews overall and the second floor rooms of the mews development would look over the roof of the apartment block. I accept that the length of the northern elevation of the proposed development at two storey height would be less than the combined length of the two dwellings for the previous appeal scheme. Nevertheless, there is only a narrow access road separating Hillcourt Mews and the appeal site, and the elevation would be very close to the boundary. This would result in close proximity of the elevation to the three most western properties of Hillcourt Mews. The wall would be a highly dominant and intrusive feature for these occupiers, especially from the first floor rooms which include habitable accommodation.
7. There would be some limited inter-visibility between the first floor balcony of apartment 3 and the balconies on the first floor of Rowan House. However, this would be at an angle and the balcony would have a side screen on the south elevation which would prevent some overlooking. In addition, the balcony would be set back slightly with a solid low wall to the front. Furthermore, the balconies at Rowan House can be clearly seen from the garages adjacent to No 8 Rowan Close and from the road. As such I consider the proposal would not give rise to a material increase in overlooking towards Rowan House. Nor would it lead to a significant perception of overlooking for the future occupiers of apartment 3. However, this is not sufficient reason to outweigh the harm I have found.
8. For the reasons given above, I conclude that the proposed development would cause harm to the living conditions of the occupiers of No 8 Rowan Close and Hillcourt Mews in respect of outlook. It would be in conflict with saved Policy QD27 of the Brighton and Hove Local Plan (LP) 2005, which seeks to protect the amenity of adjacent users and future occupiers.
9. *Future occupiers.* Saved Policy HO5 of the LP refers to private useable outdoor amenity space where appropriate to the scale and character of development.

There are no particular size requirements referred to by the Council. The ground floor apartments would have small outdoor patios on the western part of the appeal site. I consider that these areas would provide sufficient space for sitting out, and in terms of size they would be acceptable. Due to the difference in height between the developments some parts of the patio would be visible from the property at the western end of Hillcourt Mews.

10. However, the views would be at a slight angle. There would be the potential for boundary treatment which would provide some screening. The balcony of the first floor apartment would be above the patio areas. The balcony wall would prevent clear views and in any event, this type of relationship is not unusual in flatted developments. I find that the space would be useable in this regard, and would not be out of character with the more recent developments close by. The proposal would not be in conflict with Policy HO5 of the LP.
11. The ground floor apartments would have some windows facing towards the Hillcourt Mews access road, and the communal spaces and parking area. This is a common relationship found in blocks of flats, including Rowan House nearby. There would be some activity from existing and future residents. However, there would be some separation from the parking area by the communal outdoor space. The three apartments would only provide a small number of bedrooms and would not result in a significant number of people coming and going. The part of the access road to Hillcourt Mews only serves one other property and the five mews properties. I am not persuaded that the level of activity would be such that it would be detrimental to the future occupiers of the apartments, and I conclude there would be no conflict with saved Policy QD27 in relation to future occupiers.

Character and appearance

12. The area in which the appeal site is located has a wide mix of styles and designs and is fairly dense in the pattern of development. Garage blocks are also very common in the area. The proposed building would have a design and shape which would reflect that of both the recently converted Rowan House, and Hillcourt Mews. It would be simple in appearance. The north and south elevation would have windows placed at irregular intervals which would be an unusual feature although the majority of the elevation would be blank and visible from a number of properties. However, given the location of the site which is surrounded by buildings, and the variety of appearance of buildings in the area including garage blocks, I consider this would not cause harm to the character and appearance of the area.
13. For the reasons given above, I conclude that the proposed development would not cause harm to the character and appearance of the area. It would not be in conflict with Policy CP12 of the Brighton and Hove City Plan Part 1 2016. This amongst other things seeks new development which will be expected to establish a strong sense of place by respecting the diverse grain and character of the city's identified neighbourhoods.

Other matters

14. Local residents refer to concerns in relation to parking provision within the area. However, the scheme would provide parking spaces and the Council does not object to the proposal. Based on the evidence before me, I see no reason to disagree with the Council on this matter.

15. I accept that the site has had fly tipping in the past and this has been the subject of complaints. However, this is not a sufficient reason to justify the appeal scheme.

Conclusion and balance

16. I have found that the appeal scheme would not cause harm to the character and appearance of the area. The proposal would be acceptable in terms of its relationship with Rowan House and also for the future occupiers in terms of noise and disturbance and the outdoor space to be provided. The proposal would also make a small contribution to the supply and mix of dwellings in the area. However, it would cause harm to the living conditions of the occupiers of No 8 Rowan Close and Hillcourt Mews in respect of outlook, and this is sufficient reason to dismiss the appeal.

L Gibbons

INSPECTOR