
Appeal Decision

Site visit made on 16 October 2017

by Nicola Davies BA DipTP MRTPI

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

Decision date: 2 November 2017

Appeal Ref: APP/Q1445/W/17/3179143

Land rear of 74 and 76 Greenways, Brighton BN2 7BL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Adam Smith of Atticus Developments LTD against the decision of Brighton & Hove City Council.
 - The application Ref BH2017/01199, is dated 5 April 2017.
 - The development proposed is erection of 4no semi-detached dwellings with associated new access driveway and parking.
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Decision

1. The appeal is dismissed and planning permission for the erection of 4no semi-detached dwellings with associated new access driveway and parking is refused.

Main Issues

2. This appeal has been lodged following the Council's failure to determine the application. The Council, in its appeal statement, has put forward reasons for refusal had it been in a position to determine the application. These relate to the size and appearance of the proposed development and the effect the proposed development would have upon the living conditions of occupiers of the adjoining properties.
3. I therefore consider the main issues in this appeal are the effect that the proposed development would have on:
 - (a) The character and appearance of the area;
 - (b) The living conditions of the occupiers of the existing dwellings at 72, 74, 76 and 78 Greenways, with regard to outlook and privacy; and
 - (c) The living conditions of the occupiers of the existing dwellings at 74 and 76 Greenways, with regard to noise and disturbance.

Reasons

Character and appearance

4. The appeal site is within the settlement boundary of Ovingdean. There have been a small number of dwellings erected behind the existing road frontage

development along this part of Greenways and Ainsworth Avenue. However, those developments that have taken place are set mostly within generous plots. The land to the rear of the existing road frontage development retains an open verdant character with space between and around dwellings.

5. The proposed development would be an intensive form of development and occupy almost the full width of the site. Due to the sitting of the proposed dwellings and closeness to the boundaries of the site, the development would appear squeezed into the site. For this reason the development would appear be cramped. The proposal would therefore not reflect the loose pattern of development that characterises the existing development behind road frontages in this area.
6. Further to the above, I acknowledge from the information provided on the plans that the ridge height of the proposed development would not exceed the ridge height of other properties behind the existing road frontages. Nonetheless, the first storeys of both buildings are of considerable width and height and would create a development of significant visual mass.
7. Taking these matters collectively, the proposed development would not integrate well into the loose knit development to the rear of existing road frontage and would not maintain the verdant character of the area. The development would also be prominent in this location due to its elevated land level, height and width at first floor level, despite the development being set to some extent into the slope of the land.
8. The proposed development would therefore be harmful to the character and appearance of the area. This visual harm would not be overcome by the use of traditional architecture or the design of the proposal incorporating contemporary windows and detailing. This harm would not only be visible from the adjoining public highway and residential occupiers close by, but it would also be clearly visible in views from the South Downs National Park (SDNP) to the west of the appeal site that is traversed by Public Rights of Way. The buildings would appear conspicuous due to their size and height even when viewed in the context of other housing located in Ainsworth Avenue positioned further up the slope of the land.
9. Whilst existing boundary planting on neighbouring land would offer some screening, it would not be of sufficient height to screen the proposed development. The appellant has suggested that a planting scheme for the site could be required by planning condition. However, the scope for providing any meaningful mitigation planting that would screen the proposed development would be limited as tall trees or other vegetation would likely cause harm to the living conditions of adjoining occupiers. Having regard to paragraph 206 of the National Planning Policy Framework (the Framework) I do not consider such a condition would be reasonable to impose here.
10. The appellant highlights that there are other Council policies that set standards for density but there are no specific policies relating to garden sizes. Whilst this may be the case the issue, as I see it, is not solely a question of density or garden sizes, but rather how the resulting dwellings manifest themselves in terms of the built form at the appeal site.
11. My attention has been drawn to an extant planning permission for two detached houses at the appeal site (planning ref: BH2013/04327). I accept

the principle of residential development at the site has been established. The appellant asserts that the proposed development would have a similar scale and massing to that of the approved housing scheme and the ridges of adjacent houses. However, the ridge height of that approved scheme would be marginally lower and that scheme did not incorporate the amount of built development at first storey level as is proposed here. Therefore, the visual appearance of that development would be less pronounced.

12. I have also been referred to a scheme for four semi-detached dwellings at the appeal site that has been refused by the Council (Planning ref: BH2016/05006). The proposed development would reduce the scale of the dwellings and parking provision to that of the previous four dwelling scheme. Although this may be the case, the proposed development can and should be considered on its own merit.
13. Although the proposed development would be visible from the adjoining SDNP it would not encroach upon it. As such I consider the proposed development would have a neutral impact upon it. However, this does not obviate the visual harm of the proposed development in views from the SDNP that I have identified.
14. For those reasons set out further above, I consider the proposed development would harm the character and appearance of the area. It would be contrary to Policy CP12 of the Brighton & Hove City Plan Part One which seeks to raise the standard of design and to respect the character and urban grain. It would also conflict with the Framework which seeks to secure high quality design and to take account of the character of different areas.

Outlook and privacy

15. The proposed dwellings, although recessed into the slope of the land, would be at a higher land level to that of No's 72, 74, 76 and 78 Greenways. The size and scale of the proposed dwellings would be readily visible in outlook to the occupiers of these adjoining properties and from their rear gardens. The buildings would be unduly obtrusive and dominant in their outlook. I consider the proposal would have a harmfully oppressive effect on the occupiers of these existing adjoining dwellings.
16. In addition the scheme proposes living rooms at first floor with outlook from each these living rooms provided by large windows. The relationship of No's 72, 74, 76 and 78 Greenways would result in overlooking and loss of privacy both to their rear habitable rooms and gardens.
17. I note that the previous two dwelling scheme has been considered acceptable to the Council in terms of outlook and privacy. Whilst the proposed scheme would have a similar relationship to adjoining existing properties, the amount of built development at first storey would be greater than that of the two dwelling scheme and would increase overlooking from habitable living space at an elevated level. This intensification of elevated built development and overlooking at the appeal site would, in my opinion, cause significant more harm than that of two dwellings.
18. For the above reasons, I consider that the proposed development would harm the living conditions of the occupiers of the existing dwellings at 72, 74, 76 and 78 Greenways with regard to outlook and privacy. The development would be

contrary to Policies SU10 and QD27 of the Brighton & Hove Local Plan which aim to resist proposals that would cause loss of amenity to adjacent occupiers and the Framework which seeks a good standard of amenity for all existing and future occupants of land and buildings.

Noise and disturbance

19. Both adjoining dwellings at No's 74 and 76 Greenways are positioned close to the side boundaries of their plots and therefore in close proximity to the proposed access. Both properties have windows in their side elevations that serve internal living spaces.
20. I consider the proposed development would result in the increased vehicular and pedestrian movements by occupiers of four new households and service providers between the existing properties in close proximity to their windows, as well as to the back gardens of these neighbouring properties. The access would, therefore, be used more intensively throughout the day and into the evening than that of residential garden land or the occupiers of two dwellings at the appeal site even if the same number of parking spaces were to be provided. Vehicle noise, even at slow speed, and associated disturbance would impinge to an unacceptable degree on the tranquillity currently enjoyed by adjacent occupiers.
21. Although there is ambient background noise in the area generated by traffic using Marine Drive (A259) I have no substantive evidence before me that might persuade me that the noise from that traffic would mitigate or justify the harm to the adjoining occupiers that I have identified above.
22. For the above reasons, I consider that the proposed development would harm the living conditions of the occupiers of the existing dwellings at 74 and 76 Greenways with regard to noise and disturbance. The development would be contrary to Policies SU10 and QD27 of the Brighton & Hove Local Plan which aim to resist proposals that would cause loss of amenity to adjacent occupiers and the Framework which seeks a good standard of amenity for all existing and future occupants of land and buildings.

Other Matters

23. I have been referred to the sustainable dimensions of the Framework.
24. The proposal would make more efficient use of this small windfall site and provide four needed high quality family homes. The development is in a location that is accessible to bus services, the coastal cycle route and footpath links to Brighton, Rotting dean and the local countryside. In addition, the dwellings would accord with national technical housing standards and cycle parking and waste storage would be provided for future occupiers. All units would have access to a private outdoor space and the units would maximise levels of natural light. The scheme would incorporate sustainable construction features and accord with Building Regulations and other standards ensuring accessibility for disabled residents. I accept that the appeal site is not listed, locally listed or located either within Ovingdean Conservation Area or the SDNP and that there are no Tree Preservation Orders pertaining to the site. I accept these would be benefits of the proposed scheme. However, given that the proposal is only for four dwellings, I attach moderate weight to these benefits.

25. Notwithstanding the above, the proposed development would cause substantial harm to the character and appearance of the area and to the living conditions of the adjoining occupiers, placing it in conflict with the environmental dimension of sustainability, as set out in paragraph 7 of the Framework. This weighs heavily against the scheme. When the Framework is considered as a whole, I find the scheme does not constitute sustainable development. This is because the positive housing supply and other benefits set out above are significantly and demonstrably outweighed by the identified environmental harm. Furthermore, I conclude that the scheme conflicts with the development plan as a whole.
26. A number of local residents raise a series of other concerns about the proposal but in view of my conclusions on the main issues there is no need for me to address these in the current decision.

Conclusions

27. For the reasons given above, I conclude that the appeal should be dismissed.

Nicola Davies

INSPECTOR