



Appeal Decision

Site visit made on 3 July 2019

by N Holdsworth MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 July 2019

Appeal Ref: APP/Q1445/W/18/3219111

Adjacent 2, Addison Road, Hove, BN3 1TN

- 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 J Sinclair of Kalmax International Ltd against Brighton & Hove City Council.
 - The application Ref BH2018/02475, is dated 2 August 2018
 - The development proposed is Demolition of car mechanics (B2) and car rental centre (Sui Generis) and erection of three-storey mixed use building (B1 and A1 / D2) fronting Addison Road and 2no houses and 2no flats (C3) fronting Melville Road.
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Decision

1. The appeal is dismissed and planning permission for demolition of car mechanics (B2) and car rental centre (Sui Generis) and erection of three-storey mixed use building (B1 and A1 / D2) fronting Addison Road and 2no houses and 2no flats (C3) fronting Melville Road is refused.

Procedural Matters

2. The appeal is against the failure to give notice of a decision. The Council advise that, had it made a decision on the application, it would have been refused. The putative reason for refusal is provided with its statement of case. I have dealt with the appeal accordingly.
3. Amended plans were submitted in the course of the appeal. These principally enlarge the opening between the front parking area and the garden of unit 4. These are de-minimis changes which can be considered without prejudicing the interests of any parties.

Application for costs

4. An application for costs was made by Kalmax International Ltd against Brighton & Hove City Council. This application is the subject of a separate Decision.

Main Issues

5. The effect of the proposal on
 - i) the character and appearance of the area;
 - ii) the living conditions of future residents, with particular regard to whether a satisfactory external layout would be provided; and

- iii) the living conditions of existing residents, with particular regard to whether or not the proposal would result in the creation of an overbearing effect.

Reasons

Character and Appearance

- 6. The site comprises an irregularly shaped plot of land with frontages to both Melville Road and Addison Road. It sits to the rear of a mixed-use terrace facing Dyke Road. The site currently comprises a single storey commercial building, orientated towards Addison Road.
- 7. Considering the Melville Road Frontage, the site forms a gap at the end of a terrace of dwellings on the northern side of the road. These dwellings exhibit a similar appearance with a distinctive triangular dormer in the centre of each property. These dormers appear to sit equidistant between parapet walls that separate out each residential dwelling, within the terrace.
- 8. The proposed residential building broadly seeks to replicate the appearance of the adjacent terrace. However, the triangular dormer would sit in an off-centre position, on the western portion of the roof. Whilst it would rise above the bay associated with the central property, there are no parapet walls to break up the roof, as found on the other buildings along Melville Road. The off-centre position of the dormer means that the roof of this building would have an asymmetric appearance, contrasting with other properties along this road.
- 9. Furthermore, the eastern elevation of the structure would have a staggered form, with a recess to the front and rear elevation rising through the building, cutting in to its hipped roof but only on one side of the building. This would add to the asymmetric appearance of the building at roof level. Overall, the roof would appear as a lopsided and incomplete composition, detracting from the character and appearance of the area.
- 10. In other respects, the development would be set away from No.1 Melville Street and the properties on Dyke Road, beyond a reasonably sized gap in each case. As such, the proposed building would not appear cramped. The additional front door serving unit 4 would not appear conspicuous or unduly out of place, and the approach to waste storage reflects that taken on nearby buildings. However, these findings do not overcome the harm to the character and appearance of the area, as a consequence of the roof design. The proposal conflicts with policy CP12 of the Brighton and Hove City Plan Part One (March 2016) ("City Plan"), which requires that new development raises the standard of design in the City. That would not occur here.

Living conditions – future residents

- 11. The garden to unit 4 is accessed via a gate to the side of the proposed building. However, there is no dedicated pedestrian route to it, as it would be obstructed by a parking space to the side of the development. The parking space in question is not unusually large, and there is no method before me of ensuring it is assigned to unit 4 for the lifetime of the development. This has the potential to make it difficult for future occupants of unit 4 to access its assigned rear garden, as the route could be blocked by a car.

12. The original plans also showed a very narrow pinch point beyond the rear access gate for unit 4. The side of the building would be very close to the eastern boundary of the site making access to the garden difficult. However, this has been addressed in the revised plans, which make provision for larger gap. This would be an acceptable width and addresses this issue.
13. However, the poor parking arrangement discussed above means that a satisfactory external layout would not be achieved. In this respect there would be harm to the living conditions of future residents. The development fails to achieve a good standard of design and conflicts with policy CP12 of the City Plan which requires that, amongst other things, development is accessible.

Living conditions – existing residents

14. The putative reason for refusal refers to concern about an overbearing impact on numbers 147/149 Dyke Road. Specific concern is raised about the enclosure of the external amenity area to the rear of these properties. However, these yard areas are already heavily enclosed by buildings and boundary walls. In consequence, the addition of a 2-storey building with a pitched roof set back from the common boundary would not significantly increase the sense of enclosure experienced within these existing external areas.
15. The proposal would be visible from windows and associated balcony areas in the rear elevation of the properties along Dyke Road. However, it would be set a sufficient distance away from the windows in question to avoid any overbearing effect or material loss of light.
16. I conclude that there would be no overbearing effect and therefore no harm to the living conditions of neighbouring residents, as a consequence of this development. There is no conflict with saved policy QD27 of the Brighton and Hove Local Plan 2005 which seeks to ensure new development does not lead to a loss of amenity for existing residents.

Other Matters and Planning Balance

17. The Council do not raise concerns in its putative reason for refusal about the proposed building facing Addison Road. I agree that this building would have an acceptable appearance in relation to its surroundings.
18. Both parties refer to other development plan policies in their representations. I have taken account of these policies, but refer in this decision to the most relevant planning policies to the contested matters in this appeal.
19. The appellant argues that the Council cannot demonstrate a 5-year housing land supply, maintaining that only 4.5 years can currently be demonstrated. The Council accept this. In consequence, having regard to the National Planning Policy Framework ("the Framework") the policies most important for determining the application are out of date.
20. In this context, the 4 new residential units would help address an identified shortfall. As a relatively small scheme, it could be delivered quickly. With the exception of unit 4, the housing would provide good quality living conditions. An unused building would be redeveloped, helping to regenerate this part of the City. The uses proposed for the site would broadly compliment their surroundings.

21. New high-quality B1 office space would be provided, in addition to A1 or D2 space, both of which are likely to meet local demand, resulting in new jobs being created and an increase in employment over the existing position. The proposal represents an efficient use of a brownfield site in a sustainable, urban location, with cycle parking provided and in close proximity to public transport links. Furthermore, the cessation of the existing use would also lead to a reduction in vehicular trips to this area.
22. All of these benefits weigh in favour of the development. The Framework provides support for the principle of this development, stating that substantial weight should be placed on the value of using suitable brownfield sites within settlements for homes and other identified needs, which is what would occur here. However, the Framework also places a great emphasis on achieving well-designed places. In this case, the overall roof design of the proposed building facing Melville Road would be poor, and elements of the external areas of the development would also be poorly designed, with a car parking space obstructing the pedestrian route to the rear garden of unit 4. The development would fail to take the opportunities available for improving the character and quality of an area and the way it functions. Substantial weight should also be given to the harm that would arise, in this regard.
23. Overall, even taking account of the shortfall in housing land supply, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits. Consequently, the presumption in favour of sustainable development does not apply.

Conclusion

24. Whilst the effect of the development in relation to the living conditions of existing occupants would be acceptable, the proposal would lead to unacceptable harm to the character and appearance of the area and the living conditions of future residents. It conflicts with the development plan when considered as a whole and there are no other considerations that outweigh this finding. The appeal should be dismissed.

Neil Holdsworth

INSPECTOR