



Appeal Decision

Site visit made on 18 June 2019

by S Edwards MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 July 2019

Appeal Ref: APP/Q1445/W/18/3214431

39 Dyke Road Avenue, Hove BN3 6QA

- 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 Weissbraun of Carewise Homes Ltd against the decision of Brighton & Hove City Council.
 - The application Ref BH2017/03152, dated 19 September 2017, was refused by notice dated 2 August 2018.
 - The development proposed is single and two storey rear extension.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The National Planning Policy Framework (the Framework), which was revised in July 2018, was subsequently updated on 19 February 2019. References to the Framework within this decision relate to the latest version published in 2019.

Main Issues

3. The main issues are:
 - Whether the proposal would preserve or enhance the character or appearance of the Tongdean Conservation Area; and
 - The effect of the proposal on protected trees.

Reasons

Conservation Area

4. Located within the Tongdean Conservation Area (CA), the appeal site comprises a substantial Edwardian property, which is currently in use as a care home for the elderly, as well as a number of ancillary outbuildings. The Tongdean CA Character Statement advises that the special interest of the CA derives from the grouping of individually-designed large houses dating mainly from early 20th century on generous plots, with mature street trees and dense garden and boundary planting. The Character Statement refers to the appeal building, noting that it was erected in a competent Old English vernacular style influenced by Norman Shaw. Despite some unfortunate additions, there is no doubt that this property makes a positive contribution to the character and appearance of the Tongdean CA.
5. The proposed extension would include alterations to the existing building and the demolition of an outbuilding situated within the rear garden. Whilst the

proposal would be set down from the ridge of the original building, it would lack subservience in respect of the additional footprint and overall massing. The proposal would be viewed as an unduly dominant and bulky addition, which would detract from the character and appearance of the host property. The plot ratio as a result of the proposed development would not appear inconsistent with other properties situated within the immediate surroundings.

Nevertheless, I note that the footprint of the existing building would more than double, as it would increase from 408sqm to 837sqm.

6. In the context of a conservation area which is notably characterised by generous plots, it is considered that the appeal scheme would result in a form of overdevelopment which would significantly erode the spaciousness of the appeal site and the contribution it makes to the character and appearance of the Tongdean CA, but also to its significance as a heritage asset. It is therefore all the more essential to preserve the contribution made by the appeal site, by reason of the subsequent construction of modern developments on adjacent plots along Tongdean Place and Chalfont Drive, which lies outside the conservation area.
7. Whilst the proposal would not be widely perceived within the street scene, as Tongdean Place is a gated development, it would nevertheless be visible from neighbouring properties. As part of my site visit observations, it was also evident that the proposal would be visible from Dyke Road Avenue, particularly when trees are not in leaf. Glimpses of the extension could also be obtained between properties fronting Chalfont Drive. I note that the appellant would be willing to accept a condition requiring materials to be agreed with the Local Planning Authority, however this would not overcome the harm which I have identified.
8. The harm caused by the proposal to the Tongdean CA would be less than substantial, but still significant, by reason of the contribution of the appeal site to this designated heritage asset. In accordance with paragraph 196 of the Framework, where a development would lead to less than substantial harm, it needs to be weighed against the public benefits of the proposal.
9. The appeal scheme would contribute to the provision of additional specialist accommodation for which there is an identified need, as demonstrated by the Care Needs Assessment prepared by Healthcare Property Consultants¹. This document shows that there is and will be a continuing demand, particularly at local level, for elderly care. Notwithstanding this, whilst detailed information has been provided regarding the rising number of closures within the area administered by the Council, it is unclear whether facilities providing accommodation for the elderly have opened.
10. The need for additional elderly care provision, including specialist accommodation for residents with dementia, is not disputed by the Council. However, plan-making would provide the opportunity to address this more widely and strategically. The Planning Practice Guidance² (PPG) clearly states that for plan-making purposes, strategic policy-making authorities will need to determine the needs of people who will be approaching or reaching retirement over the plan period, as well as the existing population of older people.

¹ Dated 13 July 2017.

² Housing for older and disabled people (ID: 63-003-20190626).

11. The proposal could provide accommodation for individuals who would otherwise be in hospital, thus helping to address delayed transfers of care (commonly referred to as 'bed blocking'). Whilst additional accommodation for elderly residents would constitute a public benefit, including for primary care services, it can only be afforded limited weight as, on the basis of the evidence before me, the appeal premises do not appear more suitable than any other less sensitive site. The appeal scheme would also generate additional employment opportunities locally. However, these public benefits would be clearly outweighed by the harm which the proposal would cause to the Tongdean Conservation Area.
12. In reaching this view, I have had regard to the comments made in respect of the need to increase the capacity of the care home to secure its optimum viable use. However, no substantive evidence has been submitted to show that the care home is no longer viable in its present form. Additionally, whilst there may be scope to extend the existing building, it has not been demonstrated that the appeal proposal constitutes the only way to provide additional accommodation for the care home.
13. For the foregoing reasons, I conclude that the development would fail to preserve or enhance the character or appearance of the Tongdean Conservation Area. It would therefore conflict with Policies QD14 and HE6 of the Brighton & Hove Local Plan 2005 (LP) which, amongst other things, require development proposals to be well designed, sited and detailed in relation to the property to be extended, and reflecting the scale and character or appearance of the conservation area. The proposal would also not accord with Policy CP12 of the Brighton & Hove City Plan Part 1 – March 2016 (CP), which notably expects all new development to raise the standard of architecture and design in the city, and conserve or enhance the city's built and archaeological heritage and its settings.

Protected Trees

14. There are a number of trees within the appeal site and the immediate vicinity, which make an important positive contribution to the leafy character of the area. The Council is concerned that the proposed extension would cause harm to two horse chestnut trees located on the adjacent site to the North West of the care home. As well as the protection afforded by their position within the CA, one of the trees is also protected by a Tree Preservation Order³.
15. The proposed extension would be constructed within the Root Protection Area (RPA) of these two trees. These affected trees are referred to as G5 within the Arboricultural Implications Assessment (AIA), Arboricultural Method Statement⁴ (AMS) and Method Statement Plan⁵, which have been prepared by Mulberry. The AIA states that a pile and beam foundation would be utilised for the construction of the extension. The AMS adds that the crowns of both trees would be lifted to give a ground clearance of the primary branches to 4m and secondary branches to 6m. Protective fencing and ground protection would be employed to minimise building activity within the RPAs of the protected trees, notably through compaction of the ground and roots.

³ TPO 1993 Number 4.

⁴ Ref: TRE/ODRAB/Rev C, dated 12 June 2018.

⁵ Drawing No:ODRA/MS01 Rev. C, dated 12 June 2018.

16. Following completion of the development, the affected area would receive compaction treatment and additional feeding to stimulate root growth. These measures would help to ensure that the proposal does not cause irreversible harm to the long term longevity and wellbeing of these protected trees. Had the development been considered acceptable in all other respects, it would have been necessary to impose suitably worded conditions to ensure that the foundation method and protection measures, as detailed within the AIA and AMS, are implemented.
17. On the basis of the submitted evidence, I am satisfied that the proposal would not cause significant harm to the protected trees and subsequently find no conflict with LP Policies QD16 and HE6 which, amongst other things, require development proposals to retain and protect trees which contribute to the character or appearance of the area.

Other Matters

18. Concerns have been raised by interested parties, notably in respect of the effect of the proposal on the living conditions of neighbouring residents, which I have noted. However, as this appeal is being dismissed on other grounds, it is not necessary for me to consider these matters further.

Conclusion

19. For the reasons detailed above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

S Edwards

INSPECTOR