



Appeal Decision

Site visit made on 23 July 2019

by Christopher Butler BA (Hons) PG Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 September 2019

Appeal Ref: APP/Q1445/W/19/3227641

23 and 25 Stoneleigh Avenue, Brighton BN1 8NP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Ward & Laundon against the decision of Brighton & Hove City Council.
 - The application Ref BH2018/01517, dated 12 May 2018, was refused by notice dated 20 November 2018.
 - The development proposed seeks Outline Planning Permission with all matters reserved for the erection of two single storey dwellings to the rear of 23 and 25 Stoneleigh Avenue.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposal seeks an outline planning permission, with all matters (Access, Appearance, Landscaping, Layout and Scale) reserved for future consideration, for the erection of two single storey dwellings to the rear of 23 and 25 Stoneleigh Avenue. This being the case only the general principles of the development are open to consideration. However, the appellants have submitted drawing number DW 2016098, titled "Project details. Existing Site Plan. Cross Section. Indicative layout of Plot and Dwelling." (I shall refer to this drawing hereafter as the 'illustrative drawing'). The illustrative drawing also contains the words "Indicative layout of 85sqm dwelling, elevation and floorplan".
3. I appreciate the appellants would not be tied to the illustrative drawing in the event of a grant of outline planning permission and that there may be alternative ways of developing the appeal site. However, the illustrative drawing provides a good indication of how two new dwellings could be delivered on the ground and how such a development would relate to the surrounding streetscene and the adjoining properties. As such I attach some weight to the illustrative drawing.
4. The Development Plan consists of the: East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (Adopted 2013); East Sussex, South Downs and Brighton & Hove Waste and Minerals Sites Plan (Adopted 2017); Brighton and Hove City Plan Part 1 (March 2016); and saved policies of the Brighton and Hove Local Plan 2005.

Main Issues

5. The main issues are the effect of the development on:

- The character and appearance of the streetscene; and
- The living conditions of adjoining occupiers, with particular regard to existing and future occupiers of No.25 Stoneleigh Avenue.

Reasons

Character and Appearance

6. The appeal site forms part of the rear gardens of Nos.23 and 25 Stoneleigh Avenue and faces onto Stoneleigh Close on its northern boundary (adjoining the Nos.23 and 25) and western boundary (adjoining the No.23). The land rises from Stoneleigh Avenue, as you move north in Stoneleigh Close. The properties in Stoneleigh Close face south, towards the rear of the properties in Stoneleigh Avenue, and are in an elevated position due to the north-south gradient.
7. The general layout of properties in the area, including their pattern and footprint are distinctive, with the properties in Stoneleigh Avenue being made up of generously sized plots and the plot size of properties in Stoneleigh Close being smaller. The dwellings adjoining the appeal site are principally single storey and this is the predominant character of the area, although there are some two storey dwellinghouses (including No. 23 Stoneleigh Avenue) and some properties of a chalet bungalow design (including No.25 Stoneleigh Avenue). The dwellings in the area are relatively well spaced with gaps between them and boundary treatments are a mix of walls and hedging. The nature of boundary treatments surrounding the appeal site means that it is relatively open and visible from adjoining streets. These features contribute to the area's local character and appearance.
8. I consider that the large relatively open rear gardens of the dwellings that form the appeal site and their relationship to Stoneleigh Close and wider area in general are such that they make a significant contribution to the open and attractive nature of the surrounding streetscene. These large and relatively visible gardens form an intrinsic part of the open and spacious feel of the area and contribute to the diverse nature and character of the wider streetscene, especially when viewed from Stoneleigh Close.
9. The general layout of the area, including the pattern of the surrounding streets; and the footprint of existing buildings contribute to the wider streetscene's sense of space. I consider that the development of the appeal site, even with single storey dwellings, would result in the loss of the open nature and spacious feel of the surrounding area, adversely impacting on the open appearance of Stoneleigh Close and its sense of place within the wider streetscene. As such the resulting development would adversely impact the character and appearance of the streetscene and be contrary to the objectives of policy CP12 of the Brighton and Hove City Plan Part 1 (March 2016).

The living conditions of adjoining occupiers, with particular regard to existing and future occupiers of No.25 Stoneleigh Avenue.

10. The illustrative drawing provides a good indication of how two new dwellings could be delivered on the ground and how such a development would relate to adjoining properties. It illustrates two detached bungalows with shallow north-

south gabled roofs. The side elevations of the proposed bungalows, as detailed on the illustrative drawing, face north and south. The north facing side elevation would face onto Stoneleigh Close, whilst the southern facing elevation would adjoin the rear gardens of Nos.23 and 25 Stoneleigh Avenue. The illustrative drawing also provides sections (Sections A-A and B-B).

11. In terms of Nos.23 and 25 Stoneleigh Avenue, the appeal site as detailed by the red line plan (Drawing titled 'Proposed development and its boundaries') shows the development plot taking a large proportion of the rear garden of No.23 and a significantly larger proportion of the rear garden of No.25. The result of the loss of such a large proportion of the rear garden of No.25 means that the development would potentially be located within metres of the rear elevation of that property.
12. I consider that the result of the proposed plot size means that the rear garden of No.25 would be fragmented giving it a disjointed, uncomfortable and cramped feel. This combined with the topography of the site and proximity of built form, as detailed on the section in the illustrative drawing, leads me to conclude that the proposed development would dominate No.25 adversely impacting the outlook from that property and resulting in a development that would be overbearing and unneighbourly.
13. In terms of the impact of the development on the residential properties in Stoneleigh Close, due to the topography of the site and the dwellings in Stoneleigh Close being on higher ground level and facing the appeal site across the public highway I am satisfied that a development laid out and constructed in this, or a broadly similar, manner would not adversely impact the residential amenities of those properties by way of a loss of privacy, overlooking or increased bulk. However, this does not overcome the harm I have found.
14. The proposed development would be detrimental to the living conditions of existing and future occupiers of No.25 Stoneleigh Avenue contrary to saved Policy QD27 of the Brighton and Hove Local Plan 2005, which seeks to protect the amenity of residents, including existing and future occupiers of existing and proposed development.

Other Matters

15. The appellants express concern about how the planning application that led to this appeal was handled and also about inconsistent application of policies by the Council. However, my decision must be made on the planning merits of the case before me.
16. I have also been referred to examples of other sites which have obtained planning permission, either directly from the Council or on appeal. I have considered the evidence submitted with this appeal in relation to those sites, but do not consider them to be directly comparable to the development at the appeal site, especially in terms of the way the appeal site contributes to the existing sense of space within the wider streetscene or the relationship the appeal site has with adjoining residential properties. Therefore, I have attributed limited weight to these examples in my determination of this appeal and I have determined the proposed development before me on its individual merits.

17. My attention has also been drawn to earlier appeal decisions related to development within the curtilage of No.25 Stoneleigh Avenue (Appeal References: APP/Q1445/A/06/2008912; & APP/Q1445/A/13/2194254). The first of these appeals related to a proposal for the erection of a detached dwelling, whilst the latter appeal related to a proposal for the erection of an attached dwelling. However, my decision must be made on the planning merits of the case before me and in terms of the appeals, referred to above, the circumstances and planning considerations related to those appeals differ from the current proposal and are not directly relevant to this appeal.
18. I also note the appellants have referred to the potential for the removal of permitted development rights in regard to future extensions and insertion of 'window skylight dormer', other than those authorised by the Local Planning Authority¹. Furthermore, I note that the appellants have advised that they would accept the planning conditions recommended by the Council's Highways Consultants² and have suggested that the development could be undertaken in a phase manner and in accordance with a detailed construction traffic plan³. However, the imposition of such conditions would not adequately address my concerns regarding the adverse impacts of the proposed development that I have identified above.

Planning Balance and Conclusion

19. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. I have found conflict with policy CP12 of the Brighton and Hove City Plan Part 1 (March 2016) and saved policy QD27 of the Brighton and Hove Local Plan 2005. I therefore consider that the proposal conflicts with the development plan as a whole.
20. Based on the evidence before me, this indicates that the Council cannot demonstrate a five-year supply of deliverable housing sites against their local housing need. Given the position in respect of housing land supply, Paragraph 11. d) ii of the Framework applies; namely that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
21. The proposal would result in the creation of 2 new dwellings in an accessible location, which would make a small contribution to the supply of housing. However, the proposal would result in a development that has a significant and long-lasting harm to the open character and appearance of the area. The proposed development would also fragment the rear garden of No.25 Stoneleigh Avenue adversely impacting on the living conditions of existing and future occupiers of that property due to the impact of the development in regard to outlook and in terms of its dominant, overbearing and unneighbourly impact. Therefore, the adverse impacts of granting permission for the scheme as proposed would significantly and demonstrably outweigh the benefits of the scheme in this case.

¹ Planning Statement (Paragraph 4.5).

² Comments of Robin Longstaff Tyrrell (Planning Agent), dated 20 July 2018, responding to third party representations submitted to Council.

³ As footnote 2 above.

22. Overall, taking account of the Framework and the benefits of the development and all other matters raised, I find that material considerations do not indicate that planning permission should be granted for the development, which is in conflict with the development plan.

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

Christopher Butler

INSPECTOR