
Appeal Decision

Site visit made on 9 September 2019

by Rajeevan Satheesan BSc PGCert MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3rd October 2019

Appeal Ref: APP/Q1445/W/19/3232509

Land to the side of 44 Stanley Avenue, Portslade BN41 2WJ

- 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 Fowler against the decision of Brighton & Hove City Council.
 - The application Ref BH2018/03460, dated 7 November 2018, was refused by notice dated 3 January 2019.
 - The development proposed is a new one bedroom dwelling at ground floor and basement.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. An additional drawing (No 17656 P 108B) has been submitted with the appeal to provide clarification only. I am therefore satisfied that this drawing does not materially change the proposal and that no party would be prejudiced were I to take them into account. As such, I have determined the appeal on the basis of this additional drawing, in addition to the drawings submitted at the application stage.

Main Issues

3. The main issues are:
 - The effect of the proposal on the character and appearance of the area; and
 - Whether the proposal would provide satisfactory living conditions for the future occupiers of the development with particular regard to light, outlook and private amenity space.

Reasons

Character and appearance

4. The site comprises three garage units and an area of overgrown vegetation fronting Stanley Avenue. The site area also includes the vehicular access to the existing garages to the rear of the site. The area is characterised by predominantly low density detached and semi-detached bungalows set within sizeable plots with front and rear gardens. The bungalows in the area include details such as bay windows with front gables, pitched roofs with chimney

stacks. The combination of all these features provides a rhythm and harmony to the street scene.

5. My attention has been drawn to the previous planning history for this site, which includes a recent dismissed appeal for a similar proposal for a new one bedroom dwelling¹. In that case, the Inspector considered that "... at around 9 dwellings per hectare more than surrounding dwellings, the higher density of the proposal would be noticeably different to the surrounding lower density. Likewise, the plot size would be conspicuously smaller. Furthermore, having the private garden to the front and the dwelling to rear would be inconsistent with surrounding built forms. As a result, the size, occupation and layout of the plot would appear cramped, incongruous and inappropriate in this specific location". The Inspector thus concluded that "the proposal would have a harmful effect on the character and appearance of the area".
6. The current appeal proposal is largely similar in scale and design to the previously dismissed scheme. Indeed, very little has changed since this earlier refusal with the only significant change relating to the removal of the off-street parking space previously proposed. Whilst this change has removed the highway safety objection previously raised, this does not overcome the previous Inspector's concerns regarding to character and appearance and living conditions of future occupiers.
7. The appellant contends that the plot coverage of the site is similar to that of neighbouring properties at Nos 24 and 26 Chisory Road. However, the table submitted in the appellant's appeal statement demonstrates that the proposed plot size and built form (similar to the earlier dismissed scheme), would be significantly smaller than others in the area. Whilst the new development does not necessarily need to replicate its surroundings, the flat roof design of the proposal, together with the scale of the development proposed, on this small sized plot, would appear cramped in this prominent location and would result in an incongruous dwelling. The proposal would contain a sunken front garden with no rear garden, which would not be in keeping with the majority of other properties in the area which are characterised by dwellings on good sized plots with front and rear gardens. Consequently, the proposal would not be in keeping with the existing character and appearance of the area.
8. It is noted that the proposal respects the building lines of neighbouring properties, and that the building respects the scale of the existing garages. However, these positive aspects of the proposal would not outweigh the harm I have identified to street scene as the position of new dwelling would be particularly discordant.
9. Therefore, I conclude that the proposal would have a harmful effect on the character and appearance of the area, contrary to policies CP12 and CP14 of the Brighton & Hove City Plan Part One, 2016 (City Plan). Amongst other things, these seek to raise the standard of architecture and design in the city, establish a strong sense of place, and requires residential development to be of a density that is appropriate to the identified positive character of the neighbourhood.

¹ Appeal Ref: APP/Q1445/W/18/3212912 dismissed on 14th February 2019

Living conditions for future occupiers

10. In the recent appeal decision for this site the previous Inspector also raised concerns that "... the basement would receive limited levels of natural light owing to the single outlook to the east onto the partly covered outdoor space, set at an angle and below ground level. To my mind, this would be an oppressive and gloomy outlook to the detriment of its future occupiers". The Inspector further stated that "the basement level would be below the neighbouring ground level and thus receive lower levels of natural light, despite its orientation. Moreover, owing to the low height boundary treatment proposed and the location of the space being adjacent to the footpath, views from pedestrians into the private garden area would be readily achievable. The outdoor amenity space would therefore lack sufficient privacy for it to be used as a private space, and thus its usability would be compromised".
11. The design of the scheme remains largely unchanged since this earlier refusal. In support of the scheme the appellant refers to the amount and position of the glazing proposed for the bedroom at basement level together with the size of the lightwell and contends that this would provide sufficient living conditions for future occupiers. However, the proposed bedroom windows, below ground floor level, and partially covered by the proposed walkway, would have all its glazing in close proximity to the front boundary wall / fence. In this respect the development would result in poor outlook for future occupiers of the dwelling, which would result in a sense of enclosure that would feel oppressive and claustrophobic for future occupiers of the dwelling.
12. The appellant has also referred to The BRE guidance 'Site Layout Planning for Daylight & Sunlight, A Guide to Good Practice' which provides an initial 25 degrees angle test to assess whether a residential development would receive sufficient natural daylight. However, the additional drawing no 17656 P108 Rev. B submitted by the appellant demonstrates that the proposed windows for the bedroom would not pass this test for daylight, since only a 20 degrees angle would be achieved. In the absence of any further investigation (i.e. Average Daylight Factor Test, Vertical Sky Component or Daylight Distribution Test), I consider that the development would result in insufficient natural daylight for future occupiers. In addition, the siting of the amenity space to the front of the dwelling, together with lack of sufficient screening would fail to provide adequate privacy for future occupiers of the development.
13. I note that the appellant refers to the inclusion of rooflights/windows to the stairwell and has proposed a number of measures to enhance the daylight and outlook, which includes altering the internal layouts of the of the dwelling to provide more open plan living and painting the walls white to improve their reflectance values. However, I do not consider that these measures would overcome the harm I have identified due to the scale of the development proposed on this constrained site.
14. Consequently, the proposal would fail to provide acceptable living conditions for future occupiers with regard to light, outlook and private amenity space. The proposal would therefore be contrary to Policies QD27 and HO5 of the Brighton & Hove Local Plan (2005), which amongst other things state that planning permission will not be granted where it would cause material nuisance and loss of amenity to the proposed occupiers, and that the planning authority will require the provision of private useable amenity space in new residential

development where appropriate to the scale and character of the development. The proposal would also conflict with policy CP1 of the City Plan, which requires new housing development to contribute to the creation of sustainable communities.

Other matters

15. In support of the appeal, my attention has also been drawn to other appeal decisions. However, I do not know the full circumstances of those cases and therefore cannot be sure that they represent a direct comparison to the appeal proposal. As such, I have dealt with the proposal before me on its merits, with regard to the previous appeal decision and in accordance with its site specific circumstances, and relevant national and local policy.

Planning Balance

16. There is no dispute that the Council cannot demonstrate a 5 years housing land supply (HLS) and the Council advise that there is a shortfall of 576 net dwellings (4.5 years HLS). Irrespective of the extent of the shortfall, the proposed development would provide a net gain of only one additional dwelling. As such, its contribution to the HLS would be modest and therefore I consider that it would only be of small benefit in this regard. The proposal would result in a more efficient use of a brownfield site. I also note that the site is in an existing residential location with access to local shops, services, and public transport.
17. The proposal would create economic benefits in the some short-term through construction related employment, and investment in the local economy following its occupation. The proposal would also be subject to the new homes bonus which would provide revenue for the Council.
18. However, the adverse impacts of the proposed development in terms of the harm to the character and appearance of the area and the living conditions of future occupiers would significantly and demonstrably outweigh the limited benefits associated with one additional house.

Conclusion

19. Overall, I find that the proposed development would be contrary to the development plan and the adverse impacts of the proposed development would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework when taken as a whole. For the reasons given above and having regard to all other matters raised I conclude that the appeal should be dismissed.

R Satheesan

INSPECTOR