
Appeal Decision

Site visit made on 20 August 2019

by **L McKay MA MRTPI**

Inspector appointed by the Secretary of State

Decision date: 17th October 2019.

Appeal Ref: APP/Q1445/W/19/3229276

Land adjacent 79 Rushlake Road, Brighton BN1 9AG

- 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 Adam Blackburn against the decision of Brighton & Hove City Council.
 - The application Ref BH2018/01555, dated 15 May 2018, was refused by notice dated 22 November 2018.
 - The development proposed is the erection of a two storey 3 bedroom dwelling and associated landscaping.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The submitted drawing Ref. P4 incorrectly labels the elevations of the proposed dwelling. Both the Council and appellant refer to the balcony as being on the front (north) elevation rather than the rear (south) elevation as shown on that drawing. This is confirmed by the other information before me and I have therefore dealt with the appeal on that basis.

Main Issues

3. The main issues are therefore the effect of the proposed development on:
 - i) the character and appearance of the area; and
 - ii) the living conditions of the occupiers of 79 Rushlake Road in respect of light, outlook and outside space.

Reasons

Character and appearance

4. Twyford Road and Rushlake Road are part of an established residential area known as Coldean. The dwellings in both streets are principally two-storey terraced and semi-detached properties, with a mixture of brick and rendered walls. Despite some differences, they are in general harmony with each other in terms of their character and appearance, with small, regularly spaced windows and flat, plain frontages interrupted only by porches. Most front gardens have retained a strong front boundary, even when accommodating parking areas, and this creates a clear sense of enclosure along both roads. At road junctions, front and side gardens, together with gaps between properties,

- create a more open character and are important in defining the character and appearance of the area. The appeal site reflects the characteristic openness of such plots and contributes positively to the character and appearance of the area.
5. The appellant states that the Council's Urban Characterisation Study identifies that the Coldean area has a gross density of approximately 24 dwellings per hectare (dph). The proposed development would have a net density of between 18 and 19 dph and as such would be comparable to the surrounding area. As an infill plot the proposal would raise the density of the immediate vicinity, making effective use of land as supported by policies CP12 and CP14 of the Brighton and Hove City Plan Part 1 2016 (CPP1). Nevertheless, the appeal site would be significantly smaller than neighbouring plots and the modest rear garden for the proposed dwelling would be substantially smaller than is characteristic of the area. Therefore, the proposal would not respect the urban grain of the area.
 6. The proposed dwelling would be of similar scale and depth to neighbouring properties and follow a similar building line. However, due to the size of the plot and the proximity of the proposed dwelling to the rear boundary and 79 Rushlake Road, the proposed development would appear cramped within the plot. It would interrupt the gap between properties and reduce the spacious character of the junction, harming the character and appearance of the area.
 7. Due to its size and scale, the proposed balcony would be prominent in the street scene. It would appear as an alien feature in an area characterised by simple, flat frontages. The large ground floor windows and first floor doors would be significantly different to the fenestration of other buildings in Twyford Road and the nearest part of Rushlake Road and as such, would appear incongruous in this street scene.
 8. Although there are dwellings with larger windows in Rushlake Road, these are some distance from the appeal site and are not seen in context with it. Windows that break through the eaves are found close to the appeal site but are significantly smaller than the doors proposed. These types of window are therefore not seen in the same form or context as the proposed development and do not form part of the prevailing character of the area. Their existence would not therefore make the appeal proposal appear any less incongruous.
 9. Consequently, the overall form and appearance of the proposed dwelling would draw the eye and be out of character with the simple form of dwellings in the surrounding area. The loss of enclosure of the front garden to create the proposed access and parking would further expose the proposed dwelling to view and exacerbate the harmful impact on the character and appearance of the area.
 10. Accordingly, I conclude that the proposed development would significantly harm the character and appearance of the area. It would therefore conflict with the requirements in Policy CP12 of the CPP1 for development to raise the standard of architecture and design in the city and respect the diverse character and urban grain of the city's identified neighbourhoods. Furthermore, it would conflict with paragraph 127 of the National Planning Policy Framework (the Framework) which seeks to ensure high quality design. While the Framework seeks to encourage innovative design, the proposal would not fit in with the overall form of its surroundings as required by paragraph 131.

11. Policy CP12 of the CPP1 refers to an Urban Design Framework that is apparently yet to be produced. Nevertheless, the lack of supporting design guidance does not prevent the policy from being applied or understood. The wording of the policy clearly sets out what is expected of new development and I have found that the appeal proposal would not meet its requirements.
12. Although the Council has directed me to SPD12: Design Guide for Extensions and Alterations 2013, that document does not relate to the erection of new dwellings. As such it has not been determinative in my consideration of this main issue.

Living conditions of occupiers of 79 Rushlake Road

13. It was apparent from my site inspection that the ground floor rear windows of 79 Rushlake Road serve two bedrooms and a kitchen. The bedroom windows currently have a pleasant, open outlook to the garden, which is not significantly affected by the low retaining wall. The outlook from the kitchen is also towards the garden, albeit that it is partly restricted by the substantial hedge on the boundary with 77 Rushlake Road and the existing garden shed.
14. The height, depth and proximity of the proposed dwelling would make it a dominant and intrusive feature when viewed from these windows. The impact would be exacerbated by the boundary fence proposed in between. The proposal would substantially restrict the outlook from these windows, resulting in significant harm to the living conditions of the occupiers. Because limited space would be retained in front of the windows, landscaping in this area would not materially reduce these impacts.
15. Due to the orientation of No 79, its ground floor rear windows are currently shaded by the existing building in the morning. I saw at my site inspection that shade from the existing hedge also affects the kitchen window towards the middle of the day. The submitted drawings show that the proposed dwelling would be directly west of the parts of No 79 which contain the bedroom windows. The evidence before me indicates that in summer the proposed dwelling would be between the existing dwelling and the sun for only a few hours in the late afternoon and evening. This is however the period during which these windows currently benefit from sunlight. As a result, shading of these windows would be significantly increased compared to the existing situation, resulting in further harm to the living conditions of the occupiers of No 79.
16. The area of outside space retained for No 79 would be a relatively narrow strip wrapping around the front and side of the existing building. The existing hedges would make it a private area and it would be physically capable of allowing the drying of clothes, storing bins and sitting out. Nevertheless, with the entrance path running through it and disturbance from traffic on the road, the outside space would be less attractive as an area to relax than the existing rear garden. It would not therefore provide a high standard of outdoor space for occupiers of No 79.
17. The appellant refers to the use of No 79 as a House in Multiple Occupation and that a smaller garden would be easier for occupiers to maintain. I have no conclusive evidence of whether the property is still in use as such, but in any event, all occupiers should have access to satisfactory external amenity space.

18. The proposed development would therefore result in significant harm to the living conditions of the occupiers of 79 Rushlake Road in respect of light, outlook and outdoor space. As such, there is conflict with saved Policy QD27 of the Brighton & Hove Local Plan 2005 (LP) which seeks to resist development that would result in loss of amenity to adjacent occupiers. The appeal proposal would also conflict with paragraph 127 of the Framework which seeks to ensure a high standard of amenity for existing users.

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. For the reasons given above, I find that the proposed development would conflict with the development plan when read as a whole.
20. The evidence before me is that the Council can only demonstrate a 4.5 year supply of deliverable housing sites, when taking into account housing delivery over the last three years. Therefore the provisions of Paragraph 11(d)(ii) of the Framework are engaged.
21. The proposal would contribute to the Framework objective of boosting the supply of homes. The construction and occupation of the proposed dwelling and the New Homes Bonus provided to the Council would also provide economic benefits. The contribution of one dwelling would however be small, and consequently carries limited weight.
22. The proposed development would increase density in the local area and provide a family sized dwelling in a built-up area with access to facilities and services. It would accord with the objectives set out in the Framework to make efficient use of land and support the development of windfall sites in existing settlements. It would however conflict with Framework policies which promote good design and high standards of amenity.
23. I have identified significant harm to the character and appearance of the area and the living conditions of existing occupiers and I give substantial weight to the resulting conflict with the policies of the development plan. As a result, taking into account the scale of the shortfall in the five-year housing land supply, I conclude that these adverse impacts would significantly and demonstrably outweigh the benefits of providing one additional dwelling, when assessed against the policies in the Framework taken as a whole.
24. Overall, taking account of the Framework and the above considerations, including the benefits of the development, I conclude that there are no material considerations that would indicate that the decision should be taken otherwise than in accordance with the development plan. Consequently, for the reasons given above I conclude that the appeal should be dismissed.

L McKay

INSPECTOR