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# Appeal Decision

Site visit made on 20 August 2019

by **L McKay MA MRTPI**

Inspector appointed by the Secretary of State

Decision date: 4<sup>th</sup> November 2019.

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**Appeal Ref: APP/Q1445/W/19/3228789**

**2 Osmond Road, Hove, East Sussex BN3 1TE**

- 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 Layth Hamza (LAN Estates Ltd) against the decision of Brighton & Hove City Council.
  - The application Ref BH2018/01653, dated 23 May 2018, was refused by notice dated 26 November 2018.
  - The development proposed is erection of 1no two bedroom dwelling.
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## Decision

1. The appeal is dismissed.

## Main Issues

2. The main issues are:
  - i) the effect of the proposed development on the character and appearance of the area; and
  - ii) whether the proposed development would provide satisfactory living conditions for future occupiers in respect of the outside space and the size of the internal accommodation.

## Reasons

### *Character and appearance*

3. The area around the appeal site consists of mainly residential properties, with a mix of sizeable semi-detached dwellings with balconies and decorative detailing, interspersed with substantial blocks of modern flats at road junctions and occasional terraced properties. Buildings are generally large and sited on wide plots. Where modern developments have taken place, there are gaps between them and adjacent older properties, which provide a degree of visual separation.
4. The appeal site forms a gap between the traditional 2-storey building at 2 Osmond Gardens and the modern 4-storey block at Foster Court. The proposal would effectively form a terrace between these properties, which are of distinctly different scale and appearance. The proposed dwelling would be significantly narrower and lower in height than both neighbouring properties. While it would also be somewhat deeper, that depth would not be readily apparent from public vantage points. Nevertheless, because of its restricted

- width and height, the proposed dwelling would appear cramped in its plot and would not respect the urban grain of the area.
5. While there are some other terraces in the area, all of the dwellings within them are generally of the same form and design, creating a harmonious appearance. The proposed dwelling would be of significantly different design, width and height to its neighbouring properties. As a result, although it would be set back behind the building line of both neighbours, the proposal would not successfully integrate with, or appear subservient to, either property. Consequently, the resulting terrace would appear disjointed and the proposed dwelling would be an incongruous feature in the street scene.
  6. The proposed front elevation would combine several different contemporary design elements, including both horizontal and vertical features. While each of these elements is found on other large blocks of flats in the local area, combining them on the relatively small elevation proposed, would result in a somewhat confused and incoherent appearance. Brick of various colours is common in the area on both traditional and contemporary properties. The traditional English stretcher brick bond proposed, which would match that of No 2, would however contrast with the contemporary design elements, adding to the confusion. As a result, the proposed dwelling would be a discordant addition to the street scene.
  7. Accordingly, the proposal would result in significant harm to the character and appearance of the area. It would conflict with Policy CP12 of the Brighton and Hove City Plan Part 1 2016 (CPP1) which, amongst other things, expects 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.
  8. The proposal would exceed the minimum net density set out in Policy CP14 of the CPP1 but would not achieve a high standard of design and as such would conflict with that policy. Furthermore, the proposal would conflict with paragraph 127 of the National Planning Policy Framework (the Framework) which requires development to achieve good design.

#### *Living conditions*

9. The Council has raised concerns about the effect of the proposed development on the living conditions of future occupiers in relation to the privacy and usability of the outside space, and the size of the proposed dwelling. While this issue does not form part of the Council's reason for refusal it is explored in its officer report and statement and the appellant has provided comments on it. Therefore, the interests of neither party would be prejudiced by my considering this as a main issue.
10. A large number of windows in Foster Court and Worcester Court overlook the proposed outside space. Direct views from the closest windows in Foster Court would be screened by the proposed dwelling and the existing boundary wall. The amount and extent of other windows facing the proposed outside space would however mean that it would be subject to significant and intrusive overlooking. The garages at the rear may generate some noise and disturbance, however there is no compelling evidence before me that this would have significant adverse impacts on the proposed outside space.

Nevertheless, the degree of overlooking would mean that the proposal would not provide future occupiers with adequate private outside space.

11. The proposed dwelling would be long and thin, with a floorspace of around 78sqm. While quite small, the rooms would all be of a usable size and shape and the habitable spaces would benefit from natural light and outlook. As such, I find that the proposed dwelling would provide an adequate standard of internal accommodation for future occupiers. I note the Council's concerns that the proposal would not meet the minimum standards set out in the Government's 'Technical housing standards - nationally described space standards' (NDSS). The National Planning Policy Guidance (PPG) makes it clear however, that such standards can only be applied where there is a relevant local plan policy. Although there is a draft policy in the City Plan Part Two (CPP2), it has not yet been adopted and the NDSS therefore only attracts limited weight.
12. Consequently, while the proposal would provide satisfactory living conditions for future occupiers in respect of the size of the internal accommodation, it would result in significant harm to their living conditions in respect of outside space. As such it would conflict with paragraph 127 of the Framework which requires developments to achieve a high standard of amenity for future users.

### **Planning balance and Conclusion**

13. 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.
14. The proposal would contribute to the Framework objective of boosting the supply of homes and would generate economic benefits through construction and occupation. The contribution of one dwelling would however be small, and consequently carries limited weight.
15. The proposed development would comprise higher density infill development in a built-up area with good access to public transport, services and facilities and would seek to incorporate sustainable design features. It would therefore accord with the objectives set out in the Framework to make efficient use of land, support the development of windfall sites in existing settlements and plan for climate change. The proposed development would however conflict with Framework policies which promote well-designed, attractive places.
16. The impacts of the proposal on the highway and parking demand could be addressed by suitably worded planning conditions. These matters are of neutral consequence in the planning balance however.
17. I have identified significant harm to the character and appearance of the area and to the living conditions of future occupiers. I give substantial weight to this harm and the resulting conflict with the policies of the development plan. Taking into account the scale of the shortfall in the five-year housing land supply, I conclude that the adverse impacts of the proposed development would significantly and demonstrably outweigh the benefits of providing one additional dwelling, when assessed against the policies in the Framework taken as a whole.

18. For the reasons given above, I find that the proposed development would conflict with the development plan when read as a whole. 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, I conclude that the appeal should be dismissed.

*L McKay*

INSPECTOR