The Planning Inspectorate

Appeal Decision

Site visit made on 17 September 2019

by Matthew Jones BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 December 2019

Appeal Ref: APP/Q1445/W/19/3228949
106, 108 and 110 Downs Valley Road, Brighton BN2 6RF

- 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 and Mrs Marie and Tony Smith against the decision of Brighton & Hove City Council.
- The application Ref BH2018/02558, dated 13 August 2018, was refused by notice dated 13 March 2019.
- The development proposed is construction of four detached family houses (C3) together with associated parking, cycle parking and landscaping.

Decision

1. The appeal is dismissed.

Procedural Matter

2. The side kitchen window within No 108 Downs Valley Road has been recently blocked up. Whilst it is also suggested that the corresponding kitchen window within No 110 Downs Valley Road will soon follow suit, this had not happened at the time of my visit, and I therefore determined the appeal on that basis.

Main Issues

3. The main issues are the effect of the proposed development on:
   - the living conditions of the occupants of Nos 108 and 110 Downs Valley Road with reference to noise and disturbance;
   - the living conditions of the occupants of Nos 106, 108 and 110 Downs Valley Road with reference to privacy; and,
   - the character and appearance of the area.

Reasons

Living conditions – noise and disturbance

4. Nos 106, 108 and 110 are semi-detached bungalows, and their associated grounds, located on the west side of Downs Valley Road, within the Brighton suburb of Woodingdean. The garden space provided for the bungalows is vast, extending approximately 50m to the rear boundary. A row of garages to the rear of Batemans Road is to the west, with neighbouring properties to the north and south. Access is from the east via driveways off Downs Valley Road.

5. The proposal seeks to create an access road over the existing driveways between Nos 108 and 110, to serve four detached, three-bedroom, two storey dwellings and their associated turning, parking, and garden areas, which would be positioned in the space behind the three existing properties.

6. Amongst other things, Paragraph 127 of the National Planning Policy Framework (the Framework) requires decisions to create places which promote health and well-being, with a high standard of amenity for existing users. This is reflected in Policies SU10 and QD27 of the Brighton and Hove Local Plan (adopted 2005) (BHLP).

7. The access arrangement would directly pass Nos 108 and 110, with the carriageway almost entirely filling the narrow 5.1m wide space between their flank walls. Whilst the existing layout provides some intimacy between the residents, this is a typical neighbour relationship. It does not therefore compare to the use of this space as the only access for residents, visitors and service providers to four additional dwellings which, to my mind, would provide a substantial increase in vehicular and pedestrian movements.

8. Given the narrow, hard and enclosed nature of the access, which would be compounded by the erection of acoustic walling along the side boundaries, it seems to me that the noise generated by the proposal would be significant. This would take place directly adjacent to existing windows, which would provide limited attenuation of the noise which would enter the bungalows. The windows also have fanlights which occupants are entitled to use.

9. Given such, the timing of movements, and the use of the directly affected rooms, would do little to diminish what I find would be a significant and demonstrable erosion of tranquillity inside these neighbouring properties, to the detriment of the living conditions of their occupants. Although I note that a speed table would be provided, it is not clear that this would reduce noise by any notable degree. Limited planting within the very small area between the walls and the carriageway would have an inconsequential effect in these terms.

10. I acknowledge that there are comparably intense examples of driveways passing housing elsewhere in Woodingdean[1] as noted by the Inspector at a recent appeal in Crescent Drive North[2]. However, the existence of these other sites would not alter the practical effects of this proposal on the occupants of the bungalows, based on the individual circumstances of this case. Whilst I have noted the support of the current residents of Nos 108 and 110, their representations do not address noise or disturbance in any detail, and therefore carry limited weight in this matter.

11. I therefore find on this issue that the proposal would have an unacceptable effect on the living conditions of the occupants of Nos 108 and 110 Downs Valley Road with reference to noise and disturbance. It would conflict with Policies SU10 and QD27 of the BHLP and the Framework insofar as they seek for the amenity of neighbouring occupants to be protected from unacceptable noise and disturbance.

Living conditions - privacy

12. I note that the distance between the facing elevations of the proposed houses and the bungalows would be at least 29m. With regard to the gardens of the bungalows, the design of the housing incorporates 'missing brick' walling and is stepped in such a manner as to significantly lessen the extent of overlooking from first floor level.

[1] 80 & 80A Crescent Drive South (Ref BH2016/05020), Broad Green Mews (Ref BH2002/00933), Land to the rear of 49/49a Downs Valley Road (Ref BH2012/00887), 35 Crescent Drive North: (Ref BH2015/03612).
[2] Ref APP/Q1445/W/18/3203034

13. Given this design, in combination with the distances involved, intervening boundary treatments and the 3.6m high shed, overlooking from the houses towards neighbouring buildings and private gardens would be acceptable.

14. I therefore conclude on this issue that the proposal would have an acceptable effect on the living conditions of the occupants of Nos 106, 108 and 110 Downs Valley Road with reference to privacy. It would accord with Policy QD27 of the BHLP and the Framework insofar as they require development to adequately protect the privacy of neighbouring residents.

Character and appearance

15. Downs Valley Road is characterised by a suburban pattern of bungalows, interspersed with the occasional house, set in rows close to the highway, with those on the west side enjoying particularly long rear gardens. Hipped roofs predominate, but gable ends are present.

16. It is clear from the numerous sites put to me that Woodingdean has experienced a significant degree of backfill development over a number of years, and I note that the Council has accepted that backfill development in this location is acceptable in principle.

17. Considering such, it seems to me that the backfilling of the long rear gardens which characterise Downs Valley Road will inevitably result in a development of higher density. Furthermore, while the overall plots sizes of the dwellings, including the small gardens, would break from the prevailing size of plots within the street, this would not be perceptible within the public realm. The Council has also accepted that the shortened rear gardens of the existing bungalows would be acceptable.

18. Given the varietal appearance of housing across Downs Valley Road, and the discreet location of the proposed dwellings behind its main frontage, I do not consider that the width or appearance of the dwellings would be incongruous. Although the houses would be closely sited, I found the dwellings across the street scene to be also set in a somewhat tight formation. Although the access would have an immediacy with Nos 108 and 110, this has not been raised by any party in aesthetic terms.

19. I therefore conclude on this issue that the proposed development would have an acceptable effect on the character and appearance of the area. It would accord with the design aims of Policy CP12 of the Brighton and Hove City Plan Part One (adopted 2016) and the Framework.

Other Matters

20. The rear gardens in this area are generously large, and the appellant and interested parties consider that the proposal would be a more effective use of this underutilised land, which is an aim of both local and national planning policy. However, as I have found that the scheme would unacceptably harm the living conditions of neighbouring occupants, it would not represent an effective development.

21. Whilst It is also suggested that the scheme would help to reduce housing pressure outside of settlements, as the development plan sets a minimum housing target, it seems unlikely that this would have any significant, practical effect in this regard.

22. Given that the matters raised in this appeal are site specific, and I have assessed this scheme on its own individual merits, the appeal in Ovingdean carries little weight in my reasoning[3].

Planning Balance

23. It is undisputed that the Council cannot currently demonstrate a five-year supply of deliverable housing sites, and that Paragraph 11 d) of the Framework, and the presumption in favour of sustainable development, is engaged.

24. The government is seeking to significantly boost the supply of housing and the scheme would provide four family sized dwellings in a location with good access to services, thereby contributing to meeting the shortfall in housing supply. Occupants of the proposal would likely add to the vitality of the area, which I gather has a particular need for family accommodation. Given the scale of the scheme, I consider that these benefits weigh moderately in its favour. That the houses would be well-designed, large enough for habitation, and have an acceptable effect on the character and appearance of the area, are neutral factors in my assessment.

25. However, I have found that the proposal would harm the living conditions of neighbouring occupants within Nos 108 and 110 Downs Valley Road with reference to noise and disturbance. Given the likely scale of this effect, this would be an adverse impact which significantly and demonstrably outweighs the scheme's benefits, when assessed against the policies in the Framework taken as a whole.

Conclusion

26. I therefore find that the proposal would conflict with the development plan when read as a whole and that there are no other considerations, including the Framework, which outweigh this conflict.

27. Taking all matters raised into account, including the support for the scheme expressed by interested parties, I conclude that the appeal should be dismissed.

Matthew Jones

INSPECTOR

[3] Ref APP/Q1445/W/17/3179143