
Appeal Decision

Site visit made on 2 June 2020

by Rory MacLeod BA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 June 2020

Appeal Ref: APP/Q1445/W/19/3240358

42 Old Shoreham Road, Portslade, East Sussex BN41 1SN

- 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 Mrs Joyce Ball against the decision of Brighton & Hove City Council.
 - The application Ref BH2019/02187, dated 21 July 2019, was refused by notice dated 25 September 2019.
 - The development proposed is erection of 1no two bedroom detached dwelling (C3) incorporating parking and associated works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description is taken from the Council's decision notice as this better encompasses the scope of development than that on the application form.
3. The application is in outline form with access and layout to be determined at this stage and scale, appearance and landscaping reserved for subsequent approval.

Main Issues

4. The main issues are the effect of the development on (a) the character and appearance of the area, (b) the living conditions of the occupiers of proposed and adjacent dwellings, and (c) highway and pedestrian safety.

Reasons

Character and appearance

5. The appeal relates to the curtilage of a semi-detached house paired with 44 Old Shoreham Road; this has a side passageway next to the boundary to no.40, a detached house. The rearmost part of the back garden to no.42 splays behind the back gardens to nos.38 and 40 Old Shoreham Road. A garage in the site's north-eastern rear corner faces the end of a rear access road. This also serves garages to other houses fronting Old Shoreham Road. There are allotments to the north of the site's remaining rear boundary and the rear access road.
 6. The proposed dwelling would be single storey, sited within the splayed section of the back garden to the rear of no.40. The garage would be repositioned deeper within the site to enable provision of a turning area by the dwelling.
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Pedestrian access to the site would be gained via a narrow strip of land between retained front and rear gardens to no.42 and the side boundary with no.40 incorporating the passageway to the side of the house.

7. The character of the area is informed by dwellings fronting Old Shoreham Road and Applesham Way to the west with garages and other outbuildings at the rear of the dwellings. Neighbouring roads are also characterised by frontage development, mainly two storeys in height. Whilst there are garages and allotment sheds nearby, the proposed dwelling would be considerably larger than these structures. The erection of a single storey structure within a back garden for domestic purposes would not be out of keeping with the residential nature of the area, but the siting of an independent dwelling in such a backland location would be out of keeping with the local pattern of development. The proposal would conflict with Policy CP12 to the Brighton & Hove City Plan Part One (2016) which requires development to respect the character and urban grain of neighbourhoods and to be inclusive and accessible.

Living conditions

8. The layout shows that the living room would have a window facing the rear boundary to 40 Old Shoreham Road. Proximity to the boundary fence would restrict outlook from the window as would indicative screening planting to mitigate overlooking. The bedroom to the north-western corner would not have a window; this would be unfortunate as the side wall would abut the main rear garden. The single entrance would be to the dwelling's northern side, close to the rear boundary with the allotments and accessed via a narrow path from the vehicle turning area. This entrance would be remote from the proposed pedestrian access alongside no.42. The width of the passageway alongside no.42 would be adequate for a bicycle or wheelchair but the access's length would be tortuous and unwelcoming in hours of darkness. In these respects, including the awkward pedestrian access, the dwelling would provide relatively poor living conditions for its future occupiers.
9. The dwelling would be sited directly to the rear of 40 Old Shoreham Road at about 16m and would be visible from no.40's rear windows. The appellant contends that levelling of the ground within the site would reduce any sense of enclosure for the occupiers of nos.38 and 40 Old Shoreham Road. Nonetheless the mass of the building and its proximity to the boundaries to the gardens to these neighbouring houses would result in an overbearing effect. It is likely that the dwelling's living room window would overlook the garden to no.40 unless the intervening fence is significantly raised in height which, in turn, would compromise outlook from the living room. There are clear glazed windows in the flank walls to both 40 and 42 Old Shoreham Road. The use of the passageway to the side of no.42 to gain access to the proposed dwelling would be likely to compromise privacy within rooms affected to both adjacent properties.
10. The proposal would be contrary to Saved Policy QD27 of the Brighton and Hove Local Plan (2005) which seeks to protect the amenity of existing, adjacent and proposed occupiers in relation to matters including overlooking, outlook and privacy. Whilst this is an old policy, I consider it compatible with the National Planning Policy Framework (the Framework) which at Paragraph 127(f) requires developments to create places that are safe, inclusive and accessible with a high standard of amenity for existing and future users.

Safety

11. Saved Policy TR7 of the Local Plan relates to safety and is not supportive of developments that would increase the danger to users of adjacent pavements, cycle routes and roads. The rear service road currently providing access to the garage on the site would be adequate for vehicular access to the proposed dwelling including for emergency vehicles. It does not have a separate footpath or street lighting but given its reasonable width, its relatively short length and the low volume of traffic involved, it would not be a particularly unsafe alternative pedestrian access to the site, even in hours of darkness. The main pedestrian access proposed would link to the footway in front of 42 Old Shoreham Road. Its use would result in some inconvenience for future occupiers but would not unduly compromise their safety. Nor would the proposal cause serious safety problems for other highway users. There would not be significant conflict with Policy TR7.

Other matters

12. The Council cannot currently demonstrate a five year supply of housing land. It also has a poor recent track record of delivering new housing. Its Housing Delivery Test (HDT) result in 2019 of only 77% of the City Plan's annualised housing target for the previous three years slipped to 70% of housing required in the HDT result published in early 2020. Consequently, the Council has had to apply a 20% buffer to its target figures. Having regard to the Government's objective to significantly boost the supply of homes set out at Paragraph 59 of the Framework, housing need is a matter that attracts significant weight in favour of the proposal.
13. In these circumstances the presumption in favour of sustainable development set out in Paragraph 11 of the Framework applies, and planning permission should be granted unless any adverse effects of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
14. The site is in a sustainable, urban location reasonably close to services and to public transport options. The proposal would result in the benefit of an additional dwelling in such a location. This would make a small contribution to helping the Council meet the local need for additional housing. However, in my judgement, the harm arising from the proposal in relation to its impact on the character and appearance of the area and on the living conditions of existing and future occupiers would significantly and demonstrably outweigh the benefit arising from this single additional dwelling.

Conclusion

15. For the reasons given and having regard to all other matters raised, the appeal is dismissed.

Rory MacLeod

INSPECTOR