



Appeal Decision

Site visit made on 21 July 2020

by N Holdsworth MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 August 2020

Appeal Ref: APP/Q1445/W/20/3247243

23 Landsdowne Road, Hove, BN3 1FE

- 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 Faryar Faramarzi of Reyna Properties Limited against the decision of Brighton & Hove City Council.
 - The application Ref BH2019/03162, dated 24 October 2019, was refused by notice dated 19 December 2019.
 - The development proposed was originally described as reconfiguration and extension of existing house to provide for a pair of dwellings (a net increase of one unit), together with landscaping works and cycle parking.
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Decision

1. The appeal is dismissed.

Main Issues

2. The effect of the proposal on:
 - i) The character and appearance of the area; and
 - ii) The living conditions of existing residents, with particular regard to overlooking, overshadowing and whether or not the proposal would create an unacceptable overbearing effect; and
 - iii) The living conditions of future residents, with particular regard to the quality of internal accommodation being provided and the level of external amenity space.

Reasons

Character and Appearance

3. The site comprises a small car park to the side of an existing house, next to a block of flats. This is set on a busy road in Hove, largely comprised of attractive residential properties of various sizes and ages, but with limited regularity in appearance. The existing house would be reconstructed and extended into the existing car park, to create a pair of dwellings.
4. The extended part of the building would broadly replicate the design of the existing house when viewed from the road, although its roof line and eaves would be noticeably lower. Together they would read as individual detached properties that face the street, with their own separate frontages.

5. In this context the glazed section that links the two properties would be an unexpected feature that appears muddled and contrived, particularly given the change of levels between the two properties. It would draw attention to the fact that the two dwellings appear unusually close together, with the central side facing eaves of each property almost overlapping each other. In consequence, the development as a whole would appear cramped and incongruous. It would detract from its surroundings.
6. In other respects, the proposed works would otherwise respect the existing front building line. A reasonably sized gap to each site boundary above ground floor level would be provided, so there would be an appropriate degree of visual space around the development. The small patio gardens, outrigger and rooflights above the main building would not be prominent in any important public views. These features would not significantly detract from the prevailing built environment. However, this does not outweigh the more significant harm to the character and appearance of the area, due to the poor design of the development when it is viewed from the road.
7. The proposal is unacceptable in this respect. It conflicts with policies CP12 and CP14 of the Brighton and Hove City Plan Part One (2016) ("City Plan") which, amongst other things, require that new development raises the standard of architecture and design within the City. That would not be achieved here.

Living conditions (existing residents)

8. The rear of the site faces on to the garden of a residential property, No.83 Holland Road. This building and associated garden is already overlooked by other residential windows, including those within the existing property on the appeal site. However, there would be a new first floor window associated with a bedroom in the extended part of the building, a short distance from the common boundary. This would closely overlook the area to the immediate rear of the ground floor extension to No.83, from a point where there are no windows at present. As a result, there would be a significant loss of privacy, for the occupants of this neighbouring residential property.
9. The Council also raise wider concerns about overlooking of other residential gardens, further to the north of the site. However, the total number of openable windows overlooking this area from the upper floors of the proposed development could be limited to 2. Given the separation distances involved, this would not represent significant additional overlooking over the existing situation, in relation to properties other than No.83.
10. The block of flats to the immediate west, No.81 Holland Road, has windows serving habitable rooms that face directly on to the appeal site. Under the proposals, these windows would largely overlook the private garden of the new dwelling. Appropriate boundary treatments could be agreed in response to planning conditions. The scheme would therefore represent a significant improvement over the existing situation, where these windows face directly on to a private commercial car park with the associated ongoing potential for intrusive overlooking, noise and disturbance.
11. Consequently, the residential environment surrounding No.81 would be improved. This outweighs any perceived harm through loss of light or outlook, additional overshadowing, or any overbearing effect that may occur due to the

proximity of the extended building. This would be limited in any case as, for the most part, its bulk would be set away from these windows.

12. Consequently, there would be no unacceptable overbearing effect or overshadowing, in the circumstances of this case. However, there would be unacceptable overlooking experienced by the residential occupants of No.83 Holland Road, and for this reason the overall effect on the living conditions of existing residential occupants would be unacceptable. The proposal conflicts with policy QD27 of the Brighton and Hove Local Plan 2005 ("Local Plan") which seeks, amongst other things, to ensure that development does not cause loss of amenity to existing residents.
13. The Council also raise concerns about noise, but these were not reflected in the reasons for refusal. However, any noise generated by the additional residential property would be consistent with the prevailing residential character of this area. It would be likely to be less than that generated by the comings and goings associated with the car park currently on the site. There would be no harm to the living conditions of existing residents, in this respect.

Living conditions (future residents)

14. The existing dwelling on the site has a small patio garden. It is north facing and heavily enclosed by buildings and boundary features. However, it provides functional amenity space for most activities typically carried out in such areas, for instance sitting or eating out, hanging out washing or landscaping. Considering that the site falls within an urban area, where there are multiple opportunities for recreation and leisure in close proximity to the site, it meets the basic expectation of external space associated with a residential property. The proposal would provide similarly sized areas for both the existing and the newly created dwelling on the site. It is satisfactory in this respect, even taking in-to account that the dwellings would be slightly larger than the existing property on the site and may be occupied by families.
15. The proposal would create two 3 bedroomed properties. In each case the third bedroom would comprise a relatively small area of habitable space due to limited headroom. They would also be of an irregular shape, due in part to sloping walls. The outlook from the third bedroom of the existing property would also be limited due to the reliance on rooflights. However, both rooms would be useable for the purpose of sleeping. In each case the remainder of the accommodation within the dwelling would provide appropriate living conditions. The other bedrooms are of a good size, the main living areas are large and, as noted above, there is reasonably sized private external amenity space to the rear of each property. In this context the size and shape of the third bedrooms are not significant issues that would justify withholding planning permission.
16. I therefore conclude that, when considered as a whole, the living conditions for future residents of both properties would be satisfactory in respect of both external amenity space and the internal living environment being provided. There is no conflict with either policy QD27 or HO5 of the Local Plan which, amongst other things, seek to ensure that development provides private useable amenity space and does not result in material nuisance to proposed residents.

Other Matters and Planning Balance

17. It is argued that the Council have granted planning permission for other developments with a similar visual relationship with surrounding properties, particularly in relation to overlooking. However, these are not convincing justifications to set aside planning policies that seek to achieve good design where new development is proposed.
18. It is common ground that the Council are unable to demonstrate a 5-year housing land supply. The targets set out in policies within the City Plan are not being met and there would appear to be an ongoing under delivery of housing within the City. The National Planning Policy Framework ("The Framework") states that, in these circumstances the policies which are the most important for determining the application are out-of-date. The presumption in favour of sustainable development, as set out in paragraph 11 d) of the Framework, is engaged.
19. The proposal would provide an additional dwelling with satisfactory living conditions for future occupants, with landscaping and cycle parking, in a context where there is an undersupply of housing. It would also replace a car park which does not contribute positively to the environmental quality of the area. In this respect, it would help to boost the supply of housing which is a key objective of the Framework. It would also provide support for the construction industry, and future council tax receipts once complete. Cumulatively, I attach a moderate amount of weight to these economic, social and environmental benefits of the proposal.
20. However, the external appearance of the proposal would not be satisfactory, and it would detract from the living conditions of neighbouring residential occupants through unacceptable overlooking. In this respect, the proposal would fail to achieve a well-designed place which provides a high standard of amenity for existing users. These objectives are also reflected in the Framework, and I attach substantial weight to the harm that would arise through the failure to meet them.
21. As such, even taking account of the shortfall in the five-year housing land supply cited by the appellant, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits. The presumption in favour of sustainable development does not therefore apply. The development as currently proposed is unacceptable in principle and the harm cannot be addressed through the use of planning conditions.

Conclusion

22. Whilst the proposal would provide satisfactory living conditions for future residents, there would be unacceptable harm to the character and appearance of the area and to the living conditions of existing residents. The proposal therefore conflicts with the development plan, when it is considered as a whole, and there are no other considerations, including national planning policy, that outweigh this finding. The appeal should be dismissed.

Neil Holdsworth

INSPECTOR