
Appeal Decision

Site visit made on 21 July 2020

by N Holdsworth MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 September 2020

Appeal Ref: APP/Q1445/W/20/3247106

Henge Way, Portslade, Brighton, East Sussex

- 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 Mrs Yasemin Genc against the decision of Brighton & Hove City Council.
 - The application Ref BH2019/01409, dated 13 May 2019, was refused by notice dated 28 November 2019.
 - The development proposed is new house with crossover and parking.
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Decision

1. The appeal is allowed and planning permission is granted for new house with crossover and parking at Henge Way, Portslade, Brighton, East Sussex in accordance with application Ref BH2019/01409, dated 13 May 2019 and the plans submitted with it, but subject to the attached schedule of conditions.

Procedural Matters

2. I undertook an unaccompanied site visit. In doing so I was able to fully assess the proposed development and its potential impact on the surrounding area.
3. I have used the description of development from the planning application form in both the header and the formal decision. This accurately describes the development. The date of application is taken from the Council's decision notice as it is illegible on the planning application form.
4. There was a previous planning appeal decision for a similar scheme on the site, in early 2019¹. This is a material planning consideration, and I will refer to it in my reasoning.

Main Issue

5. The effect of the proposal on the character and appearance of the area.

Reasons

6. The site comprises a triangular piece of undeveloped land, sited between Henge Way, a footpath and open land. The adjacent stretch of road beyond the junction with Brackenbury Close slopes downhill for a few metres, then ends abruptly. Both the site and adjacent stretch of road appear redundant; detracting from the otherwise well-planned layout of the surrounding housing estate. At present, this area appears incomplete and visually awkward.

¹ APP/Q1445/W/18/3207925

7. In this context, the proposed building would provide a functional purpose for this part of the road, as it would be the point from which the new building is accessed. The plot associated with the new dwelling would be of a broadly comparable size and triangular shape to that associated with the existing building at 2 Brackenbury Close, which would be its closest neighbour.
8. The new building would read as the continuation of the row of buildings facing Brackenbury Close, as it turns the corner in to Henge Way. It would appear as a small chalet bungalow; a common house type that would not detract from this suburban environment. The dormer windows would be proportionate to the size of the building and the remainder of its roof. The limited overall size of the building and its set back from the road mean that it would not be an unduly dominant structure in relation to any existing development.
9. The materials used, to the extent that they are identified at this stage, would broadly complement those found on surrounding properties. They would not detract from any local distinctiveness evident on the surrounding housing estate. The front door, together with the windows on ground and first floor level on its street facing frontage would give the building a degree of symmetry. They would project its status as an individual residential dwelling when viewed from the road; whilst appearing proportionate in relation to other features of the building such as its dormer windows. In this respect, the front of the building would have sufficient primacy and an appropriate design.
10. The unusual shape of the rear elevation would not be particularly apparent in views from the road. It would be visible from the adjacent footpath, however a degree of individuality in the appearance of the rear elevations of residential buildings is to be expected. Whilst the garden is narrow and of an irregular shape, it would be of a size that provides functional amenity space. Overall, the proposed building would have a coherent appearance and the elevations would complement each other. The building would blend in with its immediate and wider surroundings. The effect on the character and appearance of the area would be positive.
11. This finding is consistent with that expressed by the previous planning Inspector who found that, for the most part, the previous scheme successfully adapted to the constraints of the site's size, shape and isolated position at the end of the cul-de-sac. By designing the scheme to have a more coherent frontage to Henge Way, the proposal before me addresses the in-principle concern expressed in the previous appeal decision regarding the street facing elevation of the previously proposed building.
12. As such, there is no conflict with policy CP12 of the Brighton and Hove City Plan Part One (2016) which seeks to achieve good design and is therefore relevant to the proposed development. Nor does the proposal conflict with the National Planning Policy Framework, which seeks to achieve well designed places.

Other Matters

13. I have had regard to all the objection letters from interested parties, which raise other issues to those discussed above. There is a desire expressed by local residents that the land is used for other purposes, such as open space or a nature reserve. However, on the evidence before me the planning policy position is supportive in principle of residential development on this site. This would also make effective use of this private land.

14. The building would be set a reasonable distance in from the boundary of the plot on each side. It would not result in any unacceptable overbearing effect, overshadowing, loss of light or overlooking. The separation distances to neighbouring properties are sufficient to avoid any significant loss of outlook. As a residential building, it would complement the prevailing character and land use of the surrounding housing estate. In this context there would be no unacceptable noise and disturbance, including from traffic associated with the new building. The effect on the living conditions of existing residents would be acceptable in all respects.
15. A landscape plan would be provided in response to a planning condition which could ensure appropriate provision is made for the improvement of the ecological condition of the site, over the existing situation. As the site falls within an existing built up area, there is adequate infrastructure, including drainage, to serve the development proposed. There would be some additional artificial light associated with the proposal, particularly from its rear glazed elevation. However, this would not be of a scale that amounts to light pollution given the location of the site within a built-up area. The plans and levels provided depict the development in enough detail to determine the appeal.
16. I note the highway authority seek various improvements to the pedestrian environment around the site and in the wider area, and recommend conditions requiring such improvements occur. However, the evidence before me does not demonstrate that such works would be fairly and reasonably linked to the impact of a single house.
17. The proposed vehicular access would serve a very limited number of traffic movements. Various parties raise concerns that the future occupants exiting the approved dwelling may not have visibility of the adjacent footpath; at present the area is overgrown. However, I consider that it is possible to resolve this through a planning condition requiring the subsequent approval of access plans demonstrating future occupants have appropriate visibility towards this footpath when entering and leaving the site.
18. Finally, as there is a good amount of on street parking around the site, it is not necessary to require that the proposed parking space is retained for its intended purpose, for the lifetime of the development. Overall, the proposal is acceptable in highways and transportation terms. None of the concerns raised by consultees and interested parties raise issues that would justify refusing planning permission.

Presumption in favour of sustainable development

19. It is common ground that the Council are unable to demonstrate a 5-year housing land supply. The Framework states that, in these circumstances the policies which are the most important for determining the application are out-of-date. As such, the presumption in favour of sustainable development, as set out in paragraph 11 d) of the Framework, is engaged.
20. On this occasion there are no adverse impacts of granting planning permission that would significantly and demonstrably outweigh the social and economic benefits associated with an additional well-designed dwelling, when the proposal is assessed against the policies in the Framework taken as a whole. The presumption in favour of sustainable development therefore applies.

Conditions

21. Conditions are necessary in the interests of certainty and to comply with legislation in relation to the commencement of development; to ensure that appropriate provision is made for cycle parking to encourage sustainable modes of transport; to ensure that appropriate provision is made for ecological enhancement in line with local and national planning policies; to achieve a satisfactory standard of development with appropriate provision for waste storage and surface water drainage; to ensure that the proposal is appropriate in relation to the character and appearance of the area; to ensure that a safe and suitable access is provided and finally to secure accessible dwellings as reflected in the objectives of development plan policies.
22. Condition 7 requires a full tree survey to take place before any works start on site, identifying any trees on or around the site that are to be retained. This must also provide details of how such trees are to be protected throughout the construction of the proposed building. It must be a pre commencement condition to ensure that no damage takes place to these trees whilst the preparation of the site is underway. Condition 11 requires that east facing windows on the first-floor level are made of obscure glazing, this is to avoid any unacceptable overlooking of neighbouring residential properties visible from the site. The list of conditions was agreed in principle with both the local planning authority and the appellant during this appeal.

Conclusion

23. The proposal complies with the development plan and there are no other considerations that outweigh this finding. The appeal should be allowed.

Neil Holdsworth

INSPECTOR

SCHEDULE OF CONDITIONS

1. The development hereby permitted shall be carried out in accordance with the following approved drawings.
 - Proposed Drawing 1190/P/2A
 - Proposed Drawing 1190/P/3A
 - Block Plan 1190/B/1B
 - Location Plan 1190/L/1
 - Proposed Drawing 1190/P/1A
 - Proposed Drawing 1190/SV/1
2. The development hereby permitted shall be commenced before the expiration of three years from the date of this permission.
3. Prior to first occupation of the development hereby permitted, details of secure cycle parking facilities shall have been submitted to and approved in writing by the Local Planning Authority. The approved facilities shall be fully implemented and made available for use prior to the first occupation of the development and shall thereafter be retained for their intended use at all times.
4. No development above ground floor slab level of any part of the development hereby permitted shall take place until details of all materials to be used in the construction of the external surfaces of the development hereby approved have been submitted to and approved in writing by the Local Planning Authority. This shall include samples if requested by the Local Planning Authority. The development shall be carried out in accordance with the details approved under the terms of this condition.
5. The development hereby approved shall not be occupied until a bee brick has been incorporated within an external wall of the development hereby approved. This shall be in accordance with details submitted to and approved in writing by the local planning authority. Once installed, the bee brick shall be retained thereafter.
6. The new dwelling hereby permitted shall not be occupied until the dwelling(s) hereby permitted have been completed in compliance with Building Regulations Optional Requirement M4(2) (accessible and adaptable dwellings) and shall be retained in compliance with such requirement thereafter. Evidence of compliance shall be notified to the building control body appointed for the development in the appropriate Full Plans Application, or Building Notice, or Initial Notice to enable the building control body to check compliance.
7. Prior to the commencement of the development hereby approved (including demolition and all preparatory work), a scheme shall be prepared which identifies any trees on the site which are to be retained and provides for the protection of these, as well as others in close proximity to the site. This shall be in accordance with BS 5837:2012, including a tree protection plan(s) (TPP) and an arboricultural method statement (AMS). These details shall be submitted to and approved in writing by the Local Planning Authority before works commence. The development thereafter shall be implemented in strict accordance with the approved details.

8. The development hereby approved shall not be occupied until the refuse and recycling storage facilities indicated on the approved plans have been fully implemented and made available for use. These facilities shall thereafter be retained for their intended use at all times.
9. The hard surfaces hereby approved shall be made of porous materials and retained thereafter or provision shall be made and retained thereafter to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the property.
10. Prior to occupation of the development hereby permitted, a scheme for landscaping shall be submitted to and approved in writing by the Local Planning Authority. This shall include measures to enhance the ecology of the site. The approved landscaping scheme shall be implemented in accordance with the approved details in the first planting season after completion or first occupation of the development, whichever is the sooner. The scheme shall include the following:
 - a. details of all hard and soft surfacing to include type, position, design, dimensions and materials and any sustainable drainage system used;
 - b. a schedule detailing sizes and numbers/densities of all proposed trees/plants including details of tree pit design, use of guards or other protective measures and confirmation of location, species and sizes, nursery stock type, supplier and defect period;
 - c. details of all boundary treatments to include type, position, design, dimensions and materials;

Any trees or plants specified within this landscaping statement which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

11. All windows on the first floor, east facing elevation of the building facing No.2 Brackenbury Close (as visible in the elevation entitled 'to pathway (E)' on plan numbered 1190/P/3A, including those that may be inserted in the void area above the rear bay), shall be made of obscure glass. Details of the obscure glazing used, together with any opening mechanism incorporated into the design of the windows, shall be submitted to and approved in writing by the local planning authority and the development shall be carried out in accordance with the approved details. No part of the development hereby approved shall be occupied until the windows are installed in accordance with the details approved under the terms of this condition. Once installed, the windows should be retained as approved for the lifetime of the development.
12. The development hereby permitted shall not be occupied until the new crossover and vehicular and pedestrian access to the site, as shown on the approved plans, has been constructed in accordance with detailed drawings that shall be submitted to and approved in writing by the Local Planning Authority. These detailed plans must demonstrate that there is an appropriate level of visibility towards pedestrians entering and leaving the footpath on the eastern boundary of the site, when vehicles enter and leave the site. Once built, the access must be retained as approved for the lifetime of the development.

END OF SCHEDULE