
Appeal Decision

Site visit made on 30 November 2020

by Andrew Bremford BSc (Hons) MRICS

an Inspector appointed by the Secretary of State

Decision date: 10 December 2020

Appeal Ref: APP/Q1445/W/20/3256033

Land rear of 19 and 21 Isfield Road, Brighton BN1 7FE

- 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 Anthony Ward of BG Ward Ltd against the decision of Brighton & Hove City Council.
 - The application Ref BH2020/01028, dated 30 March 2020, was refused by notice dated 15 June 2020.
 - The development proposed is erection of a terrace of three houses on land fronting Lambourne Road.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. I have taken the appeal site address from the Council's refusal notice as this is more precise than the address given on the planning application form and the appellant's appeal form. Moreover, the appellant has confirmed that the correct site address is as set out on the Council's refusal notice.

Background and Main Issues

3. There is no dispute between the main parties that the Council cannot currently demonstrate a five-year supply of deliverable housing sites. The Council states that its most up-to-date figures show a housing land supply of 4.0 years. Therefore, the presumption in favour of sustainable development contained in paragraph 11 d) of the National Planning Policy Framework (the Framework) is engaged. Permission should therefore be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
4. In the context of the above, the main issues are the effect of the proposed development on (i) the character and appearance of the area; and (ii) the living conditions of the occupiers of Nos 17, 19, 21 and 23 Isfield Road in terms of privacy.

Reasons

Character and appearance

5. The appeal site relates to the steeply sloping garden land at the rear of Nos 19 and 21 Isfield Road. The highest part of the site, furthest from the rear

elevation of these two properties, backs directly onto the eastern side of Lambourne Road.

6. The area is mainly residential in character and is predominantly defined by wide semi-detached properties along the western side of both Isfield Road and Lambourne Road. Owing to the sloping topography and thus the inclusion of garages at street level dwellings are also comparatively tall. Buildings are mainly set back from the road frontage behind steeply sloping driveways within good sized front gardens and are sited within long, steeply sloping, generous sized plots. There is a general consistency in the size and design of properties and the size and layout of their respective plots, which combine to give the street-scene an ordered balanced appearance and strong rhythm of development.
7. It is acknowledged that the Council has approved an application¹ for a pair of semi-detached properties at the site and so there is no objection in principle to new residential development or to the fact that the proposal would leave the existing dwellings, Nos 19 and 21, sited within reduced sized plots. Furthermore, the proposed dwellings would be of traditional design and palette of materials consisting of brick elevations and pitched roofs. However, the proposal is for a terrace of three narrow houses and so would disrupt the established balanced pattern of development in the immediate vicinity of the site as described above, which mostly comprises pairs of wide semi-detached properties.
8. Due to the proximity of the proposal to the eastern side of Lambourne Road the front gardens of each proposed dwelling would be small and so not in keeping with the generally larger front gardens of properties along the western side of the road. Indeed, the submitted site plan indicates that the front gardens would not be of sufficient depth to accommodate a car parking space. Thus, while the two end terrace properties would have car parking spaces to the side of their respective buildings, this would be materially out of character with the general layout of development on the opposite side of the Lambourne Road where properties mostly have driveways to the front of the buildings.
9. The proposal would split the severed garden land at the rear of Nos 19 and 21 into three separate plots. The plot sizes of the three proposed dwellings would be significantly smaller than most others in the vicinity of the appeal site and would also be smaller than the resultant reduced sized plots of Nos 19 and 21. Consequently, the proposal would fail to respect the predominant character of the area which is of dwellings set within generous sized plots.
10. Owing to the limited size of the three plots, in combination with the size of the footprint of the proposed terrace of three houses, the development would result in the provision of small private amenity spaces compared to the gardens of most other properties along this part of Lambourne Road and Isfield Road. Indeed, given that the proposed mid-terrace dwelling would not include any side space its garden area would be substantially smaller than most others in the area. While the provision of bin storage and cycle storage could be secured by planning conditions, such storage facilities would further reduce the available amenity space. Consequently, in terms of size, the private amenity space for each of the proposed three dwellings would be out of keeping with the established character of development in the surrounding area.

¹ Local Planning Authority Ref: BH2019/02677

11. Overall, considering the number of dwellings proposed in combination with the resultant small plot sizes following the sub-division of the site, the proposal would result in a denser and cramped form of development that would be at odds and, hence, out of character with the prevailing pattern of development within the immediate vicinity of the site, where dwellings are generally set within generous sized plots. Moreover, by virtue of being close to Lambourne Road, the proposed terrace of three houses would be very readily apparent from the public domain and so would have a significant adverse influence on the street-scene. Within the context of the built form of the existing semi-detached properties on the western side of the road, the proposal would erode the sense of continuity within the street-scene and in so doing disrupt the strong rhythm of development.
12. Therefore, for the reasons outlined above, the proposal would cause significant harm to the character and appearance of the area. Consequently, in this regard, it would conflict with Policies CP12 and CP14 of the Brighton & Hove City Plan Part One 2016 (BHCP) and Policy HO5 of the Brighton & Hove Local Plan 2005 (BHLP). These policies, amongst other things, set out to ensure that proposals for development of a higher density than those typically found in the locality respect, reinforce or repair the character of the neighbourhood; respect the general layout, pattern and character of development in the area; and require the provision of private useable amenity space appropriate to the scale and character of the development. The proposal would also conflict with paragraph 127 c) of the Framework which seeks to ensure that developments are sympathetic to local character including the surrounding built environment.
13. Although the proposal would represent a more efficient use of land, in terms of the density of development it would also be at odds with the character which typifies the area. Paragraph 122 d) of the Framework makes clear that the objective of making efficient use of land should take into account the desirability of maintaining an area's prevailing character and setting (including residential gardens). In this regard, the proposal does not balance these factors appropriately.

Living conditions

14. The Council's second reason for refusal refers to an increased sense of overlooking toward Nos 17, 19, 21 and 23 Isfield Road as a result of the proposed ground floor level (the middle storey of the rear elevation) rear fenestration. It is evident from reading the Council's officer report that this relates to the effect of the proposed six window openings as opposed to the four window openings of the approved pair of semi-detached properties.
15. It would appear to be common ground between the main parties that the three clear windows and the three obscure glazed windows at ground floor level would not necessarily result in overlooking towards Nos 17, 19, 21 and 23. Although concern about overlooking is raised by interested parties, taking into account the separation distances involved, I see no reason to disagree with the Council and the appellant that the proposal would not result in a loss of privacy due to direct overlooking.
16. It is acknowledged that there would be a perception of overlooking owing to the elevated position of the proposed dwellings relative to the neighbouring properties. However, even after taking into account the fact that there would be additional windows in the appeal proposal compared to the approved

scheme, I do not consider that the loss of privacy as a result of the perception of overlooking, owing to the separation distances involved, would be so significant as to warrant refusal of planning permission.

17. For the reasons outlined above I conclude, therefore, that the proposal would not result in a harmful change to the living conditions of the occupiers of Nos 17, 19, 21 and 23 in respect of privacy due to the perception of overlooking. Consequently, the proposal would adhere to Policy QD27 of the BHLF and paragraph 127 f) of the Framework which, amongst other things, seek to protect the living conditions of the occupiers of existing development.

Other Considerations

18. I have taken into account the appellant's point that the site is within close walking distance to a railway station and is located in an established residential neighbourhood with schools, local shops, services and other community facilities.
19. The proposal would seek to boost the supply of housing in the context that the Council cannot currently demonstrate a deliverable five-year supply of housing land. However, the proposal is for only three new dwellings. Consequently, the modest contribution that the proposal would make in housing supply terms is a matter that weighs in its favour to only a limited degree.
20. I weigh the aforementioned considerations in the overall planning balance below.

Planning Balance and Conclusion

21. I have found that the proposed development would cause significant harm to the character and appearance of the area. I afford substantial weight to this matter as part of the determination of this appeal noting conflict with both development plan and Framework policies.
22. While the proposal would not result in a harmful change to the living conditions of the occupiers of Nos 17, 19, 21 and 23 Isfield Road, this is a matter of neutral consequence in the overall planning balance.
23. In conclusion, I find that the identified adverse impact of the proposed development would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. Consequently, the proposal would not amount to a sustainable form of development and therefore the appeal is dismissed.

Andrew Bremford

INSPECTOR