
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/20/3254088
2 Winfield Avenue, Brighton BN1 8QH

- 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 Stephen Hayden against the decision of Brighton & Hove City Council.
 - The application Ref BH2019/00645, dated 28 February 2019, was refused by notice dated 24 January 2020.
 - The development proposed is described as 'Demolition of existing 2 storey, 3 bed House 1 storey sheds at 2 Winfield Avenue, followed by the construction of 5 No. proposed 2 storey 3 bed houses and access road into site from Winfield Avenue'.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. In response to my request the Council has clarified that the 1:200 scale 'Proposed Plan' has been incorrectly labelled as 'Site location plan and block plan'. Moreover, it has been incorrectly labelled as 'Y0354-001' Rev A; it should read as 'Y0354-010' Rev A. The Council dealt with the proposal on this basis and so shall I.

Background and Main Issue

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:
 - the character and appearance of the area;
 - the living conditions of future occupiers in respect of outlook and privacy; and
 - the living conditions of the occupiers of No 3 Winfield Avenue in respect of outlook.

Reasons

Character and appearance

5. Winfield Avenue and Patchdean, within the immediate vicinity of the appeal site, varies in character. On the east side of Winfield Avenue, opposite the site, there are open playing fields. To the north and west of the site residential development is characterised by a mix of single storey, one-and-a-half storey and two storey detached and semi-detached dwellings set within mostly spacious plots. By contrast, development to the south of the appeal site, is denser in character comprising mainly terraced rows of two storey dwellings set within small plots and blocks of apartments. The appeal site, by virtue of it comprising a detached dwelling, set within a large corner plot at the junction of Winfield Avenue and Patchdean, is reflective of the lower density housing to the north and west of its boundaries. Thus, in this regard, the site positively contributes towards the character and appearance of the area.
6. The proposal seeks the demolition of the existing dwelling and outbuildings and the erection of five two storey dwellings. While the orientation of the proposed pair of semi-detached properties that would front onto Winfield Avenue would be reflective of the layout of development along this section of the road, by virtue of the sub-division of the site to accommodate an additional three dwellings, they would be set within markedly smaller plots than most other properties to the north and west of the site.
7. Access to the proposed terrace of three dwellings, which would be adjoined at first floor level over carports, would be via a new shared driveway off Winfield Avenue. The driveway would run parallel to the southern boundary and would represent a substantial area of hardstanding such that the proposed three dwellings that would face Patchdean would be 'squeezed' into the remaining part of the site.
8. Consequently, the size of the plots and resultant garden areas for each of the proposed dwellings, especially the three properties that would face Patchdean, would be materially smaller than the plots and garden areas of most neighbouring dwellings to the north and west of the appeal site.
9. It is acknowledged that the appeal site is substantial. However, as a result of the number of proposed dwellings, the reduction in the useable area of the site resultant from the proposed driveway, and the layout which would result in the proposed westernmost dwelling being sited close to the neighbouring property in Winfield Close, the proposal would represent a cramped form of development not in keeping and, hence, out of character with the prevailing urban grain to the north and west of the site as described above.
10. There is no objection in principle to the contemporary design approach. However, the proposed cable trellis system to accommodate climbing plants would not be enough to break up the prominence of the large expanses of blank cladding at first floor level, even after the plants have been allowed to evolve over time. Although the roof arrangement responds to the topography of the site in so far as it gives the impression of a 'falling' roof across the site, the lack of a defined visible gap between the roof form of the proposed three terraced properties would serve to highlight the continuous bulk of the built form within the site. This in turn would serve to draw attention to the unacceptably cramped appearance of the proposal in the context of the

spacious pattern of development that typifies the surrounding area to the north and west of the appeal site.

11. For the reasons outlined above, I conclude that the proposed development would cause significant harm to the character and appearance of the area. Consequently, in this regard, it would conflict with the urban design and housing density aims of Policies CP12 and CP14 of the Brighton & Hove City Plan Part One 2016 (BHCP) which, amongst other things, seek to ensure that residential development should be of a density that is appropriate to the identified positive character of the neighbourhood; raises the standard of architecture and design in the city; and respects the character and urban grain of the neighbourhood.
12. 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 of the area to the north and west of the site as described above. Paragraph 122 of the National Planning Policy Framework (the Framework) makes clear that the objective of making efficient use of land should, amongst other things, 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. Moreover, it 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.

Future occupiers' living conditions

13. The side elevation of the proposed easternmost terraced dwelling would be two storeys in height and would have a projecting balcony.
14. The provision of a privacy screen for the balcony could be secured by planning condition. This would prevent any significant harmful effect of the proposal upon the living conditions of the future occupiers of the proposed adjacent semi-detached dwelling in terms of privacy caused by overlooking.
15. However, the side elevation of the terraced dwelling would be set directly on the boundary of the rear garden of the proposed adjacent semi-detached dwelling. Owing to the small size of the rear garden and the height of the proposed terraced building the development would be dominant and overbearing upon the outlook from the rear garden space of the proposed adjacent semi-detached dwelling.
16. For these reasons, therefore, I conclude that the development would have a significantly harmful effect upon the living conditions of the future occupiers of the proposed adjacent semi-detached dwelling in terms of outlook.
17. Consequently, in this regard, the proposal would not accord with Policy QD27 of the Brighton & Hove Local Plan 2005 (BHLP) and paragraph 127 f) of the Framework which, amongst other things, set out to ensure proposals avoid harmful effects upon the living conditions of the future occupiers of proposed development.

Neighbours' living conditions

18. The existing detached dwelling on the site is close to the boundary with No 3 Winfield Avenue. However, it is orientated in the same way as No 3. Thus, the two neighbouring gardens run parallel to each other, thereby

respecting the prevailing layout of development along this part of Winfield Avenue. Moreover, while the existing property is set further back into its plot than No 3 and so projects beyond the rear elevation of the neighbouring building, owing to its pitched roof that slopes away from No 3 the existing building on the site represents a low key built form in views from No 3.

19. By contrast, the proposed development would introduce a terrace of three properties orientated in a north/south direction which, whilst sited further away from the boundary with No 3 than the existing dwelling on the site would, nonetheless, represent significantly more built form than currently exists.
20. It is acknowledged that part of the proposed terrace of buildings would be sunk into the ground to respond to the topography. However, owing to the scale of the proposed terrace and taking into account that it would extend from the line of the rear elevation of No 3 virtually all the way to the western boundary of the site, with no significant break in the continuous bulk at first floor level, the development would have a significant enclosing effect and be a dominant and overbearing feature in the outlook from the rear garden area of No 3.
21. It is noted that the Council's officer report briefly refers to the effect of the proposal on the living conditions of the occupiers of No 3 in terms of privacy. However, this matter does not feature in the Council's reasons for refusal of planning permission. I have not, therefore, addressed this matter further here.
22. For the reasons outlined above, I conclude that the proposed development would cause significant harm to the living conditions of the occupiers of No 3 Winfield Avenue in respect of outlook. Consequently, in this regard, the proposal would not accord with Policy QD27 of the BHLP and paragraph 127 f) of the Framework which, amongst other things, set out to ensure proposals avoid harmful effects upon the living conditions of the occupiers of existing development.

Other Considerations

23. I have taken into account the appellant's point that the appeal proposal would provide family housing in a location with access to a range of facilities.
24. 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. Moreover, the Framework acknowledges at paragraph 68 that small and medium sized sites can make an important contribution to meeting the housing requirements of an area.
25. However, whilst paragraph 59 of the Framework refers to boosting significantly the supply of housing the proposal is for a net increase of only four 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.
26. I weigh the aforementioned considerations in the overall planning balance below.

Planning Balance and Conclusion

27. I have found that the proposed development would cause significant harm to the character and appearance of the area. I have also found that the proposal

would have a significantly harmful effect upon the living conditions of the future occupiers of the proposed development (the left-hand half of the proposed semi-detached dwellings) in terms of outlook and would cause significant harm to the living conditions of the occupiers of No 3 Winfield Avenue in terms of outlook.

28. I afford substantial weight to these matters as part of the determination of this appeal noting conflict with both development plan and Framework policies.
29. In conclusion, I find that the identified adverse impacts 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