
Appeal Decision

Site visit made on 1 December 2020

by Andrew Bremford BSc (Hons) MRICS

an Inspector appointed by the Secretary of State

Decision date: 11 December 2020

Appeal Ref: APP/Q1445/W/20/3255552

Smart House, Ditchling Road, Brighton BN1 4SE

- 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 Colin Brace against the decision of Brighton & Hove City Council.
 - The application Ref BH2019/03607, dated 4 December 2019, was refused by notice dated 29 January 2020.
 - The development proposed is erection of dwelling on lower ground floor and ground floor level of south end of site.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. As part of the appeal, the appellant has submitted an amended plan¹ which shows glazed flooring instead of solid flooring to the proposed ground floor level balcony/terrace and a 3D render montage showing the proposed lower ground floor level courtyard. I am satisfied that the amendment is of a minor nature and does not alter the development considered at the planning application stage. Consequently, I shall accept the amended plan for the purposes of determining this appeal and do not consider that any interested party would be prejudiced from a public consultation point of view.

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 issue is whether future occupiers of the proposed dwelling would be likely to experience acceptable living conditions in terms of outlook.

¹ Drawing No: D.6 Rev B

Reasons

5. The appeal site is at the front of a property known as the 'Smart House', on a corner plot on the west side of Ditchling Road at the junction with Vere Road. The proposal is to erect a two storey one bedroom dwelling comprising ground floor and basement level accommodation which would be accessed from Vere Road. An earlier proposal for the erection of a two storey two bedroom dwelling as part of a development to extend and convert the Smart House into two, two bedroom houses was dismissed on appeal². I have had regard to that decision as a material consideration in the determination of this appeal.
6. In that decision the Inspector concluded that inadequate amenity space would be provided for the proposed two bedroom dwelling on the grounds that owing to the number of bedrooms the proposal needed to be considered in the context of a potential family use. In this case, taking into account that the proposal is for a one bedroom dwelling and so not suitable for family occupation, although of limited size, the proposed courtyard would afford adequate amenity space for a single person or a couple.
7. It is acknowledged that the revised scheme proposes a smaller house in terms of footprint, meaning that greater outside space is generated, including at basement level. However, notwithstanding the inclusion of alternative glazed flooring to the ground floor balcony/terrace and an area of planting, which would soften the appearance of the retaining walls that would form the basement level courtyard, the outlook from the bedroom would be very limited. The retaining walls of the sunken courtyard, in combination with the existing high boundary walls, would create a sense of enclosure that would have an overbearing effect upon the outlook from the basement level accommodation. This would result in an unduly oppressive living environment for future occupiers of the proposed dwelling.
8. It has already been established as part of the findings of the previous Inspector that the sunken courtyard would be very private and would benefit from good levels of sunlight. The Council have not sought to contest these matters. Based upon my own observations I have no reason to take a different view to that of the previous Inspector.
9. For the reasons outlined above, I conclude that the proposed development would have a significantly harmful effect upon the living conditions of future occupiers in respect of outlook. Consequently, in this regard, the proposal would conflict with Policy QD27 of the Brighton & Hove Local Plan 2005 which seeks to protect the living conditions of a development's future occupiers in terms of outlook. It would also conflict with paragraph 127 (f) of the Framework which seeks to create places with a high standard of amenity for future occupiers.

Other Considerations

10. I have taken into account the appellant's point that the proposed one bedroom dwelling would be 50% larger than the minimum space standard, have a bedroom more than double the minimum space standard, and would have three outside spaces. I have also taken into account that high levels of

² Appeal Ref: APP/Q1445/W/18/3218740

insulation are proposed and a green roof with photovoltaic cells would be installed.

11. The proposal would be a windfall development that 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.
12. However, whilst paragraph 59 of the Framework refers to boosting significantly the supply of housing the proposal is for only one new dwelling. Consequently, the very modest contribution that the proposal would make in housing supply terms is a matter that weighs in its favour to only a limited degree.
13. I weigh the aforementioned considerations in the overall planning balance below.

Planning Balance and Conclusion

14. I have found that the proposed development would have a significantly harmful effect upon the living conditions of future occupiers in terms of outlook. I afford substantial weight to this matter as part of the determination of this appeal noting conflict with both development plan and Framework policies.
15. 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