
Appeal Decision

Site visit made on 25 January 2021

by Robin Buchanan BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 February 2021

Appeal Ref: APP/Q1445/D/20/3262164 70 Greenways, Brighton BN2 7BL

- 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 Paul Nicholson against the decision of Brighton & Hove City Council.
 - The application Ref BH2020/02044, dated 27 July 2020, was refused by notice dated 22 September 2020.
 - The development proposed is the conversion of a bungalow to a two storey house with rear and front extensions.
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Decision

1. The appeal is allowed and planning permission is granted for the conversion of a bungalow to a two storey house with rear and front extensions at 70 Greenways, Brighton BN2 7BL in accordance with the terms of the application, Ref BH2020/02044, dated 27 July 2020, subject to the conditions set out in the attached schedule.

Preliminary Matter

2. In its decision notice the Council's first reason for refusal includes Policy QD2 of the Brighton & Hove Local Plan, 2005 'retained policies' (the LP). During the appeal the Council confirmed that this was an error. This policy had already been superseded by Policy CP12 of the Brighton & Hove City Plan Part One, March 2016 (the CP) and was included in the appeal questionnaire. The appellant has had an opportunity to comment on CP Policy CP12. I have had regard to these comments and have considered the appeal on this basis.

Main Issues

3. The main issues are:
 - the effect of the proposed development on the character and appearance of the area, including the host building, streetscene and the setting of the South Downs National Park (the SDNP); and
 - its effect on the living conditions of the occupiers of neighbouring properties, having particular regard to daylight and outlook.

Reasons

Character and appearance of the area

4. The appeal site comprises a detached bungalow and its garden. It is in the settlement of Ovingdean, towards one end of a row of detached residential properties along one side of Greenways (road) facing farmland on rising ground which is in the SDNP. These properties include bungalows and dormer bungalows as well as one and a half-storey and two-storey houses of varied design and appearance in varied plot sizes and widths with differing gaps between. In contrast to a relatively uniform linear building line there is therefore a fluctuating and undulating pattern and sequence of built form and spaces between and over these properties along Greenways.
5. The appeal proposal would retain part of the bungalow and extend it in height and depth to create a house with a second storey of accommodation (and a loft room above) over a ground floor extended to the front and rear. It would have a modern contemporary design and external appearance, including some fenestration in the form of glazed panels.
6. I note that the Council has refused previous proposals for development on the appeal site and, in particular, considers that the appeal proposal does not address matters identified in another Inspector's appeal decision for development at the appeal site. Whilst excerpts from that decision are contained in the officer report the decision itself is not before me in evidence in this appeal, moreover, nor are any plans. I am therefore unable to determine whether that development is comparable. I have, in any event, considered the current appeal on its individual planning merits.
7. The ground floor front elevation of the house would be approximately the same width and height as these parts of the bungalow. Furthermore, the narrow forward projection of the flat roof front extension, including the garage and store doors, would not extend across the entire width of the house. This part of the proposal would not therefore be unduly prominent or out of keeping with the general building line of the other properties along Greenways and some of these have similar integral garages.
8. The flat roof rear extension would incorporate and 'round off' the stepped floorplan of this part of the bungalow. On one side it would be no closer to the adjoining one and a half-storey house at No 68a Greenways. On the other side the increase in width would be reasonably modest and the gap to the common property boundary would be comparable to the gap that exists between the two-storey house at No 72 Greenways and this boundary. This flat roofed part of the house would extend further back into a paved area of the rear garden, including slightly beyond the main rear elevations of the adjoining houses. However, it would be approximately half the depth of the two storey part of the proposed house and therefore not excessive in depth and would have no material effect on the openness of the long rear garden.
9. Consequently, this single storey part of the development would not over extend the existing bungalow or be overly cramped in layout. Furthermore, this rear extension would be sited behind the two storey part of the proposed house and the taller houses either side. It would not therefore be observed in any meaningful way in public views.

10. The front elevation of the first floor part of the house would be stepped back twice and would not therefore extend across the entire width of the building in a uniform plane. This articulation would as a result have a noticeable moderating effect on the apparent scale and massing of the building across the width of the plot, including that there would be an appreciable gap to one side at the front.
11. Whilst the proposed first floor would reduce the degree of spaciousness above and to the sides of the bungalow roof, this part of the house would not extend significantly in depth to the rear or beyond the main first floor parts of the houses either side. Furthermore, the main ridge line of the new roof would be relatively short and consequently there would be significant gaps above the side hipped slopes and between the roofs of the houses on either side. In addition, most of the vertical side elevations of this part of the house would be screened from view by the siting and proximity of the houses either side and would not as a result be unduly conspicuous. Moreover, the vertical elevations and ridge height of the proposed house would be similar to the houses either side and the eaves height would step down from the higher eaves level at No 72 to the lower eaves level at No 68a.
12. Consequently, whether viewed face on or at an angle from Greenways the proposed house would not 'dominate' in such views but would be in keeping with the immediate context of the houses either side in these regards. Furthermore, within this part of Greenways, towards its junction with Beacon Hill (road) and beyond, there are four two-storey houses within sight of the appeal site and there are some other houses in the opposite direction further away in Greenways. Accordingly, the proposed house would also be readily assimilated into the wider pattern and sequence of built form along the Greenways streetscene.
13. The extent and design of fenestration in properties varies along Greenways. However, I saw that some properties incorporate full height glazed panels, including some in a more contemporary style. The proposed form of glazing would not therefore be an 'alien' feature as the Council otherwise suggests. Furthermore, at first floor level the glazing would be in two discreet parts and in two different planes of the building. In addition, the lower part of the horizontal bi-fold doors and the lower part of the vertical glazed panel would be partially screened in some views by the projection of the ground floor front extension. While this glazing would nonetheless be more extensive than elsewhere in Greenways, it would not therefore be overly prominent and in the context of the proposed contemporary design it would not be 'excessive'.
14. Consequently, whilst the appeal proposal would face towards the SDNP and would be seen as such within its setting, it would not be an isolated development and nor would the house appear as an unwarranted feature on the edge of this part of Ovingdean. Accordingly, it would be compatible with the first statutory purpose of the SDNP insofar as it would conserve and enhance the natural beauty and cultural heritage of the National Park.¹
15. I accept that the appeal proposal would result in a significant change to the appearance and character of the bungalow and in the scale and massing of a property on the appeal site. To some extent this is a corollary of the nature of

¹ Section 61(1)(a), Part III, Environment Act 1995 and Section 11A(2) of the National Parks and Access to the Countryside Act 1949 (as amended).

the proposed development and in this regard, I note that the Council does not object in principle to a 'two-storey conversion' or to 'additional storeys' in this appeal. Notwithstanding this I have, in any event, found above that the appeal proposal would nonetheless be an acceptable form of development.

16. Considering the above, the proposed development would not cause harm to the character and appearance of the area or to the host building, the streetscene or the setting of the SDNP. It would accord with LP Policy QD14 and with CP Policy CP12. These policies include that development should be well designed, sited and detailed in relation to adjoining properties and to the surrounding area, should take account of existing space around buildings and the character of the area and retain gaps to prevent a terracing effect, and should establish a strong sense of place and have regard to the setting of the SDNP. It would also reflect the Council's 'design guide for extensions and alterations' supplementary planning document, June 2013, in these regards.
17. It would also be consistent with Framework paragraphs 124 and 127 which include that development should create high quality buildings and places, add to the overall quality of the area, be visually attractive in architecture and layout, sympathetic to local character, including the surrounding built environment and landscape setting and maintain a strong sense of place; and with paragraph 172 which requires that great weight should be given to conserving and enhancing landscape and scenic beauty, and cultural heritage, in National Parks, which have the highest status of protection in these regards.

Living conditions

18. I saw that there are ground and first floor windows to rooms in the facing side elevations of No 72 and No 68a and that some of these are obscured glazed. By virtue of the flat roof design the proposed front and rear ground floor extensions would be reasonably limited in height. These parts of the house would not therefore materially obstruct views out of ground floor rooms or cause overshadowing and loss of light to these windows.
19. Having regard to the passage of the sun across the sky, and despite that it would be on the south side of No 72, the vertical first floor side elevation of the proposed house would be stepped back a significant distance from the windows in No 72. Furthermore, the hipped roof would be reasonably low-pitched and the plane of the roof slope would as a result recede away from No 72. These parts of the house would not therefore materially obstruct views out of ground or first floor rooms or cause material overshadowing or loss of light to these windows.
20. With regard to No 68a, the increased height of the vertical side elevation of the proposed house would be relatively close to No 68a. However, this part would be seen only in very limited and steep, upward views from next to these windows from within the ground floor rooms and at first floor level views from windows would include towards and over the reasonably low-pitched, receding roof slope. Furthermore, the first floor part of the proposed house would be on the north side of No 68a. The appeal proposal would not therefore materially obstruct views out of ground or first floor rooms or cause material overshadowing or loss of light to these windows.
21. Considering the above, the proposed development would not result in harm to the living conditions of the occupiers of neighbouring properties, having

particular regard to daylight and outlook. It would accord with LP Policy QD27. This policy includes that development should not cause loss of amenity to existing adjacent residents. It would also be consistent with Framework paragraph 127 which includes that development should provide a high standard of amenity for existing users.

Conditions

22. I have considered the conditions suggested by the Council and where necessary amended the wording in the interests of clarity and in light of the advice and tests in Framework paragraph 55 and in the Planning Practice Guidance.² I agree with the Council that in addition to the standard time limit condition, a condition is necessary to specify the approved plans to ensure certainty.
23. The Council has suggested a condition that the materials to be used in the construction of the external surfaces of the development shall match those used in the existing building. However, this would be inconsistent with the details of the external materials listed in the approved plans and would therefore not be what the appellant sought permission for. Accordingly, this condition is not necessary or reasonable and, in the interests of certainty, I have made explicit reference to external materials as part of the approved plans condition.
24. In the officer report the Council has suggested a condition so that the windows in the first floor side elevations of the proposed house, which would face towards windows in the houses either side, be obscured glazed and non-opening to prevent overlooking. I agree that obscured glazing would be necessary and reasonable in the proposed en-suite bathroom windows (including for reasons of privacy of the future occupiers). However, normal views out would be sufficiently restricted by a top opening bathroom fan light. I note that such windows are shown in the approved plans. It is not therefore necessary or reasonable to require that these parts of these windows also be non-opening and I have therefore imposed a suitable condition in these regards. Furthermore, the other proposed side facing window would be for a landing. Normal views out of this window would therefore be transient in nature and would as a consequence not result in any undue overlooking.
25. The Council has also suggested a condition to prohibit the use of any of the flat roofed parts of the development as a roof terrace. I appreciate that the approved plans contain no proposed means of access to the rear flat roof. Nonetheless, it would be a reasonably large surface area and could be used as a terrace with access gained via a bedroom window (or future replacement by a doorway) or by an external stairway. The appellant has confirmed that no access is intended to the flat roof at the front and side. However, I am mindful that a Juliette balcony would not necessarily itself prevent such access and a future owner or occupier could have different intentions in this regard. If either flat roof were used in this way it would be likely to result in undue overlooking or disturbance to the occupiers of the neighbouring properties. I have therefore imposed a suitable condition in this regard.
26. I appreciate that the appeal proposal is a relatively small-scale development. Nevertheless, construction works would take place reasonably close to the

² Paragraph: 003 Reference ID: 21a-003-20190723.

adjoining residential properties. There is therefore a likelihood of undue disturbance to the living conditions of the occupiers of these properties, eg from the operation of equipment and machinery or from the delivery and collection of materials, if this were to occur at unsociable hours. I consider that it is therefore necessary and reasonable to impose an hours of working condition.

Conclusion

27. For the reasons given, the appeal succeeds.

Robin Buchanan

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted, including external surface materials, shall be carried out in accordance with the following approved plans:
 - 04 Rev A Block & Location Plan
 - 01 Plans & Elevations as Existing
 - 02 Plans & Elevations as Proposed
- 3) Notwithstanding condition 2, the new house hereby permitted shall not be occupied until the en-suite bathroom windows for 'Bedroom 2' and 'Bedroom 3' (as shown in the approved plans) have been installed with obscured glazing and with the exception of top fanlights non-opening below 1.7m from the internal floor level. Once installed the windows shall be retained in this state thereafter.
- 4) Notwithstanding condition 2, no part of any flat roof in the development hereby permitted shall be used as a roof terrace.
- 5) Construction works, including deliveries taken at or despatched from the site, shall take place only between 0800 and 1800 Monday to Friday and between 0800 and 1300 on Saturday, and shall not take place at any time on Sunday or on Bank or Public Holidays.