



Appeal Decision

Site Visit made on 18 May 2021

by Martin Small BA(Hons) BPI DipCM MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9th June 2021

Appeal Ref: APP/Q1445/W/20/3252053

9 Steine Gardens, Brighton, BN2 1WB

- 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 Nicholas Monti (Whisper Developments) against the decision of Brighton & Hove City Council.
 - The application Ref BH2019/03577, dated 2 December 2019, was refused by notice dated 24 February 2020.
 - The development proposed is demolition of existing cottage and erection of new dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development on:
 - i) the character and appearance of the area, with particular regard to the appeal property's location within the East Cliff Conservation Area; and
 - ii) the living conditions of the occupiers of neighbouring properties with particular regard to outlook, privacy and sunlight.

Reasons

3. The appeal property is located within the East Cliff Conservation Area (the Area). In assessing the effect of the proposal, I have a duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the Area. The National Planning Policy Framework (the Framework) sets out that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance. Great weight should be given to the conservation of designated heritage assets and any harm to or loss of significance of such an asset requires clear and convincing justification.
4. The Area is extensive and includes a long length of seafront and the predominantly residential development behind. Its significance lies in its association with the growth of Brighton as a Regency and Victorian seaside resort. This growth took place eastwards from the Old Town so that the oldest streets and buildings in the Area are generally at the western end, where Steine Gardens is located. Whilst the street is set back from the grand properties on the seafront, it represents the historical development of Brighton in the mid-19th century and it is thus of historic interest, recognised by its inclusion within the Area.

5. Steine Gardens is a narrow cul-de-sac lined principally by terraces to either side. Although there is some variety in the age and design of properties in the street, it is characterised by relatively low, modestly proportioned, brick and render cottages with simple fenestration and pitched roofs. Many have an attic lit by small dormer windows in the front roofslopes, which themselves are an attractive characteristic of the street.
6. The appeal property is such a dwelling and forms the end of a terrace of similar historic properties. This terrace and the appeal property contribute positively to the street scene in their characteristic design and appearance. As one of the remaining original cottages in Steine Gardens, albeit with various additions and extensions, the appeal property is of historic interest and also contributes positively to the character, appearance and significance of the Area.
7. The proposed dwelling would occupy the footprint of the existing cottage. However, notwithstanding the contention in the Design and Access Statement that the proposal would match the existing elevation and ridge height of the appeal property, the submitted drawings indicate that it would in fact be higher than the existing ridge height. The bulk of the top floor and the flat roof would result in a monolithic appearance, uncharacteristic of the street, that would fail to maintain the roofline of the terrace.
8. Moreover, the size of the windows, and the proportion of solid to void would also be unattractive and uncharacteristic of the other dwellings in Steine Gardens. The overlarge windows would not significantly mitigate the bulk and mass of the proposed dwelling. Furthermore, the submitted drawings appear to indicate shutters or blinds for the windows which would be an alien feature and further emphasise the incongruity of the fenestration. The proposed use of timber cladding would be at odds with the prevailing materials in the street.
9. In contrast to the existing cottage, the proposed dwelling would thus be intrusive and incongruous, dominating the lower dwellings to either side and failing to respect the street scene. Consequently, it would not raise the standard of architecture in the street.
10. I therefore conclude that the proposal would be harmful to the character and appearance of Steine Gardens and would thus fail to preserve or enhance the character or the appearance of the Area. In terms of the Framework, this harm would be less than substantial and therefore must be weighed against the public benefits of the proposal.
11. The appellant contends that the appeal property is in a relatively poor condition but has provided no evidence to demonstrate this. Even if this is the case, any benefits from improvements to the property would primarily accrue to the property owner rather than to the public. Consequently, there are no public benefits sufficient to outweigh the harm I have found to the Area. Furthermore, I am not persuaded that, if needed, a sympathetic restoration of the cottage is not possible. There is thus no clear and convincing justification for the harm to the Area.
12. The proposal would conflict in this respect with Policies CP12 and CP15 of the Brighton & Hove City Plan Part One (2016) (the City Plan) and Retained Policies HE6 and HE8 of the Brighton and Hove Local Plan (2005) (the Local Plan). Policies CP12, CP15 and HE6 expect, amongst other things, development to conserve, preserve or enhance the city's built heritage and historic

environment, including conservation areas. Policy HE8 sets out that proposals should retain buildings that make a positive contribution to the character or appearance of a conservation area.

13. The appellant refers to Policies QD5 and QD14 of the Local Plan. Policy QD5 requires new development to present an interesting and attractive frontage particularly at street level. For the reasons given above, the proposal would also conflict with this policy. Policy QD14 relates to extensions and alterations to existing buildings rather than their demolition and replacement and is therefore not relevant to this appeal.

Living conditions

14. The proposed dwelling would extend over 3 storeys above ground the full width of and significantly deeper into the plot than the existing 3-storey extension to the rear of the appeal property. Its bulk would dominate the access to the rear garden and the side window of the modest single-storey extension to the rear of No.10 Steine Gardens. It would be overbearing and be materially harmful to the outlook from that property.
15. A degree of overlooking is to be expected in an area with a tight-knit urban grain and existing windows in the rear elevations of the properties in the terrace afford views over their neighbours' rear courtyards. However, the very large windows in the rear elevation of the proposed dwelling would afford greater views over the rear courtyards of the properties to either side and of the rear elevations and gardens of properties on Dorset Street backing onto the appeal property. This would result in an unacceptable loss of privacy. Furthermore, given the narrowness of the street, the larger windows in the front elevation would increase the perception of being overlooked for the occupiers of the dwellings opposite.
16. Overshadowing was not cited as a specific reason for refusal by the Council. Nevertheless, due to the orientation of the appeal property relative to No.7 Steine Gardens and the height, depth and width of the proposed dwelling, I consider that the proposal would result in a harmful loss of sunlight to the rear courtyard garden of No.7 during the latter part of the afternoon and into the evening.
17. I therefore conclude that the proposal would be harmful to the living conditions of the occupiers of neighbouring dwellings due to the loss of outlook, privacy and sunlight. Accordingly, in this respect, it would be contrary to Policy QD27 of the Local Plan, which protects such living conditions.

Other Matters

18. The Planning Officer's Report indicates that the Council cannot demonstrate a 5-year supply of deliverable housing sites, with the supply being 4.5 years as at February 2019. The shortfall is therefore moderate. Given this situation, paragraph 11 d) of the Framework is engaged and Policies CP12 and CP15 of the City Plan and Policies HE6, HE8, QD5 and QD27 of the Local Plan are deemed to be out of date.
19. However, this does not mean that these policies have no weight. As Policies CP12, CP15, HE6 and HE8 broadly reflect the policies of the Framework on the historic environment, Policy QD5 broadly reflects the Framework's policies on

design and Policy QD27 reflects paragraph 127 f) of the Framework, I have accorded the conflict with these policies substantial weight in my decision.

20. Nevertheless, in circumstances where paragraph 11 d) applies, permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. These policies include those relating to designated heritage assets as set out in footnote 6 of the Framework.
21. In this case I have found that the proposal would result in harm to the character and the appearance of the East Cliff Conservation Area which, although less than substantial, is not outweighed by the public benefits of the scheme. Consequently, the application of the Framework's policies on designated heritage assets, as summarised above, provide a clear reason for refusing the proposal and so it does not benefit from the presumption in favour of sustainable development.

Conclusion

22. I have found above that the proposal would be contrary to the development plan taken as a whole. There are no considerations that indicate that a decision should be made other than in accordance with the development plan.
23. For that reason, the appeal is dismissed.

Martin Small

INSPECTOR