



Appeal Decision

Site Visit made on 28 July 2021

by H Miles BA(hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 September 2021

Appeal Ref: APP/Q1445/W/21/3268664

140 Preston Drove, Brighton BN1 6FJ

- 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 Jesse Marshall against the decision of Brighton & Hove City Council.
 - The application Ref BH2020/02516, dated 7 September 2020, was refused by notice dated 30 October 2020.
 - The development proposed is erection of new storage building to rear of property.
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Decision

1. This appeal is dismissed.

Preliminary Matters

2. During the consideration of this appeal the revised National Planning Policy Framework July 2021 (the Framework) has been published. I have invited both main parties to submit comments on the relevance of the Framework to this case.

Main Issues

3. The main issues are whether the proposed development would preserve or enhance the character or appearance of the Preston Park Conservation Area (CA), and the effect of the proposed development on the living conditions of neighbouring occupiers with particular regard to outlook, amenity space and whether there is any overbearing effect.

Reasons

Preston Park Conservation Area

4. The significance of the CA as a whole appears to me to derive from its historic layout and buildings in this mainly residential area. The positive characteristics of the area around Preston Drove include its regular urban grain consisting of a tight layout of houses along a consistent street pattern with rear gardens providing important separation and relief from built form. Therefore, the significance of the CA is not limited to that visible in the streetscene.
5. 140 Preston Drove is in use as a shop at ground floor with residential above. It is part of the terraced row of buildings to Preston Drove. The rear open area provides spacing and separation between the appeal property and other buildings in this block. There is an existing outbuilding in this area, which is modest in scale, however it retains the majority of the outdoor space and is

ancillary to it. Consequently, the open rear garden makes a positive contribution to the CA in this respect.

6. There is a single storey dwelling at 148A Preston Drove to the rear of the appeal site¹. This permission was for a new dwelling, located on a separate parcel of land that did not form part of the rear gardens to the existing properties. As such the circumstances of appeal at no 148A are notably different to that before me now. Furthermore, its single storey flat roof form is uncommon in this area and consequently this design does not form an overriding characteristic of the CA.
7. The proposed development would be of a size that would occupy the vast majority of the rear garden area. Due to this scale, the outbuilding would be a harmfully dominant addition to this plot. It would remove the break in built form and harmfully erode the pattern of development described above which is a positive characteristic of the CA.
8. The outbuilding would remove some of the items stored in the existing garden which would result in a tidier appearance. However, I am not persuaded that a permeant structure of the size proposed is necessary to achieve this outcome. It would also not be seen from the street. However, it would be visible from neighbouring properties and as such the harm identified above would be experienced. This appeal does not seek a temporary consent and therefore, notwithstanding that the materials proposed are timber, the appeal has been assessed on the basis that the outbuilding would be permanent.
9. The outbuilding would not be attached to the host property and therefore the historic layout of the building would remain evident. Whilst it would be less visible this would not differ significantly from the current situation with boundary treatments and a small outbuilding. Consequently, I do not find harm in this regard.
10. I note that there is no dispute in relation to the materials proposed. However, the lack of harm in this regard does not weigh in favour of the development.
11. Taking all the above into account, the proposed development would not preserve or enhance the character or appearance of the CA. In terms of the Framework the harm to the CA would be less than substantial. However, the Framework advises that heritage assets are irreplaceable and should be conserved in a manner appropriate to their significance. It goes on to require that any harm should be weighed against the public benefits of the scheme.
12. The proposed development would increase storage space for the toy shop operating at 140 Preston Drove. This is required due to changes in its operation including an increase in online orders and would allow it to continue to trade now and to adapt in the future. This would provide the economic and social benefits associated with an active local retail business. However, I am not presented with evidence that the business is not operating successfully at present and, given the size of the development, the public benefits are limited in their scale. On the other hand, having regard to my statutory duty I am required to attribute considerable weight and importance to the harm I have found to the CA.

¹ APP/Q1445/W/17/3176231

13. Accordingly, the public benefits would not outweigh the harm to the CA. As such, the appeal scheme is not sustainable development in the terms of the Framework. Therefore, in this respect, it would be contrary to Policies QD14 and HE6 of the Brighton and Hove Local Plan 2005 (the Local Plan) and Policy CP15 of the Brighton and Hove City Plan Part One March 2016 (the City Plan) which together require that development in conservation areas should preserve or enhance the character or appearance of the area and that extensions and alterations should be well designed and take into account the character of the area, amongst other things.

Living conditions

14. There is an existing fence along the boundary between 138 and 140 Preston Drove. Although the proposed development would increase the height along the boundary it would not significantly change the arrangement along the boundary. The main outlook from 138 Preston Drove is to the rear and this would be maintained. Consequently, for these reasons, there would not be unacceptable harm to the outlook from 138 Preston Drove, nor would the proposed development be overbearing.
15. The residential flat at first floor and above does not have access to the outside space. Therefore, there would not be a harmful effect on the living conditions of these occupiers in this respect.
16. Therefore, the proposed development would not be harmful to the living conditions of neighbouring occupiers with particular regard to outlook, amenity space and whether there is any overbearing effect. As such it would not be contrary to Policy QD27 of the Local Plan and to the advice in SPD12 Design Guide for Extensions and Alterations 20 June 2013 which, in part, requires that new development should not cause loss of amenity including oppression to outlook and being overbearing to adjacent users.

Conclusion

17. Whilst I do not find harm in relation to living conditions or any other matters, the lack of harm in this regard this does not outweigh my finding in respect of the harm to the CA.
18. The proposal would not accord with the development plan and there are no other considerations to indicate that the appeal should be determined otherwise. Therefore, for the reasons set out above, this appeal is dismissed.

H Miles

INSPECTOR