

Appeal Decision

Site visit made on 13 January 2022

by Catherine Jack BSc(Hons), MA, MA(TP), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 JANUARY 2022

Appeal Ref: APP/Q1445/W/21/3282730

58 Denmark Villas, Hove, East Sussex BN3 3TJ

- 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 Yem Investments Ltd against the decision of Brighton & Hove City Council.
 - The application Ref BH2021 00151, dated 14 January 2021, was refused by notice dated 31 March 2021.
 - The development proposed is demolition of garage and erection of a two storey dwelling house with associated hard landscaping, boundary walls, steps and ramp.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. In addition to the application plans considered by the Council, floor plans 1320.10A and 1320.11A have been provided with the appeal. These show alternative furniture arrangements with the overall scale and appearance of the building, and its internal layout, essentially unchanged from the previous floor plans. As a result, the additional plans do not significantly alter the nature of the proposed development and I am satisfied no party would be prejudiced by my consideration of them in the appeal.

Main Issues

3. The main issues are the effect of the proposed development on:
 - i) The character or appearance of the Hove Station Conservation Area and the setting of Grade II Listed Nos 2 to 36 Cromwell Road;
 - ii) The living conditions of nearby residents, with particular regard to light and privacy; and
 - iii) The living conditions of future residents of the development, with particular regard to the provision of adequate internal and external living space.

Reasons

Designated Heritage Assets

4. The site lies within the Hove Station Conservation Area (HSCA) thus the proposal includes the demolition of a non-listed garage building in a conservation area. Based on the Hove Station Conservation Area Character Statement, and my visit, the significance of the HSCA for the purposes of this

appeal lies principally in the historic development of this part of Hove following the arrival in 1865 of Cliftonville Station, now known as Hove Station, and the associated surviving late Victorian buildings and pattern of development.

58 Denmark Villas (No 58) forms part of a substantial residential terrace built around 1880 which retains some good quality historic detailing, despite some unsympathetic elements of subdivision and alteration.

5. Nevertheless, No 58 and the wider terrace of which it forms part, contribute positively overall to the significance of the HSCA. The garage at No 58, which is accessed from and faces Cromwell Road, is of relatively poor quality materials and construction and of no particular merit. It has been subject to graffiti and is a generally negative feature in the street scene, albeit the degree of harm arising to the significance of the HSCA, as a whole, is limited due to the modest size of the garage. However, its demolition is acceptable in principle in the context of the effect on the HSCA.
6. Two further conservation areas are situated very close to the site, Denmark Villas Conservation Area on the opposite side of Cromwell Road, and the Willett Estate Conservation Area covering much of Cromwell Road to the east. There is intervisibility between the site and parts of both these conservation areas. Furthermore, the site lies within the street scene setting of consecutive Nos 2 – 36 Cromwell Road which, together with the attached railings and walls, are listed Grade II (the listed building). Of these, I saw that a terrace comprised of Nos 2 – 12 Cromwell Road is situated closest to the site, separated from it by the detached building known as Eaton Lodge.
7. Nos 2 - 12 originate from a similar date to 58 Denmark Villas and form a substantial and attractive terrace of three storeys plus attic over basement. Despite some very significant, largely mid to late twentieth century, changes at roof level, Nos 2 – 12 retain a wealth of historic detailing including the lavish use of moulded and incised bricks for cornices, aprons, string courses and lintels, segmental-headed window openings, and six-panelled doors with fanlights and sidelights. These, and other, historic features make a strong contribution to the significance of the listed building, which in turn makes a prominent and very positive contribution to the character and appearance of Cromwell Road in the vicinity of the appeal site.
8. Other built form within the street scene setting of 2 – 36 Cromwell Road is varied and, in addition to the garage building, includes examples of late Victorian housing and mid to late twentieth century development such as the imposing block of flats at the corner of Cromwell Road and Eaton Gardens. The proposed two-storey dwelling would be attached to the rear of No 58, set down from the street level of Cromwell Road. It would be highly subservient in height and scale to the host dwelling and wider Denmark Villas terrace and would allow some views of the rear elevation of that terrace to be retained. Despite this, the relatively modest-sized dwelling would be notably inconsistent in scale and development pattern with the predominant traditional built form of mainly substantial terraces and semi-detached villas in the vicinity.
9. The juxtaposition would be exacerbated by the window headers being misaligned with those of the host building and the eaves level of the proposed dwelling falling partway up the ground floor level of No 58. This would result in a somewhat awkward visual relationship between the host and the extension dwelling, which would be open to clear view in the street scene.

10. Whilst taking a generally modern approach, the proposed design also references some traditional detailing nearby including sash windows and a squared bay. However, typically the principal windows and doors at No 58, Eaton Lodge, and 2 – 36 Cromwell Road, have segmental arches; and substantially glazed doors are not typical of historic buildings in the locality albeit fanlights and sidelights are quite commonplace. The proposal includes flat window headers and a substantially glazed door. Whilst individually modest, these different details would add to the generally inconsistent appearance of the proposed dwelling in the street scene. Furthermore, while the glazed balustrade to the front balcony would be modest in size, lightweight in appearance, and may not be entirely uncommon in conservation areas generally, it would be out of keeping in the mainly historic context of this part of the HSCA where glazed modern balconies are not typical or common.
11. While there are clear examples nearby of more recent developments interspersed among the historic buildings, as well as numerous examples of alterations to historic buildings over the years to varying degrees of success, it is principally the mid to late Victorian heritage that contributes to the significance of the designated heritage assets in this case. In particular, the incongruous design and form of the proposed development would moderately harm the significance of the HSCA and the setting of the listed building.
12. Access ramps are also not typical of the locality. However, the proposed ramp would be set behind a low wall and situated mainly below street level given the entrance to the dwelling would be at basement level. The ramp would not interfere with historic access ways to No 58 and, overall, the ramp would have no significant effect on the character or appearance of the HSCA or the wider street scene and setting of the listed building.
13. I have viewed the additions to buildings in Eaton Gardens, to which my attention has been drawn. The appellant's Fig. One example forms a single-storey, flat-roofed, link between two substantial historic villas. It is set significantly below street level and, whilst visible from the street, it allows clear views of the properties behind through the generous retained gap between the villas. The Fig. Two example is significantly more noticeable in the street scene. However, the wing has clear references to the host building, including in the proportions and levels of the windows and the detailing of the string course. While there appears to be a more recent addition to the rear, the wing principally visible from the road appears to be historic. Very limited details are provided for both examples, but there are clear differences between each and the appeal scheme, which would comprise an extension on a significantly smaller but prominent plot.
14. My findings in relation to the ramp and the two example additions do not change my view that the proposal would be an incongruous development in the street scene and in relation to No 58. As such, it would have an adverse effect on the character and appearance of the HSCA which would harm the significance of the HSCA and the setting of the listed building.
15. However, the extent of this harm to the designated heritage assets would be less than substantial in the context of paragraph 202 of the National Planning Policy Framework (the Framework) because the proposed development would be relatively modest in overall scale and would reflect historic elements to a

degree. The Framework requires less than substantial harm to be weighed against the public benefits of the proposal and I return to this matter below.

16. I conclude that the development would fail to preserve the character or appearance of the HSCA and to preserve the setting of the Grade II listed building, matters of considerable importance and weight. This would be contrary to the Framework's expectation that great weight should be given to the conservation of designated heritage assets. It would also be contrary to Brighton and Hove Local Plan 2005 Policy QD14 which, among other things, requires extensions to be well designed, sited and detailed in relation to the host property and surroundings; Policy HE3 which, among other things, requires development to have no adverse impact on the setting of a listed building; and Policy HE6 which, among other things, requires development to preserve or enhance the character or appearance of a conservation area. It would also be contrary to Policy CP15 of the Brighton and Hove City Plan Part One which, among other things, seeks to conserve and enhance the city's historic environment including by giving great weight to designated heritage assets and their settings.

Living conditions for neighbouring residents

17. No 60 Denmark Villas has a modest rear garden situated on the northern side of the appeal site. Whilst set down, the proposed two-storey dwelling would be significantly taller and wider than the existing garage building. It would therefore result in increased shading toward the garden at No 60, particularly given the proximity of the new dwelling. I note that the garden is partially shaded by the existing garage as well as the more substantial Eaton Lodge and No 58. Nevertheless, the resulting increased height and mass would further restrict sunlight towards the garden, the effect of which would be exacerbated by the increased sense of enclosure from the greater expanse of built form adjacent to the boundary. Given the limited size of the garden, reduction of sunlight and outlook in this manner would have a negative effect on the useability of the outdoor space, and the harm would not be satisfactorily mitigated by the hipped roof form.
18. A very small outdoor yard area is proposed by the kitchen of the proposed dwelling. This would be close to windows at the rear of No 58, which appear to serve kitchen and bathroom facilities and I saw that some are obscure glazed. The presence of a new dwelling would be likely to significantly intensify the use of the appeal site, and the limited size of the yard would result in outdoor activity being concentrated close to those windows at No 58. This may result in increased perception of reduced privacy. However, the proposed yard area is part of an existing yard space between the garage and No 58. Whilst there may be some change in the degree to which the yard area would be used, the resulting small size is also likely to be a limiting factor to the nature and extent of its use in association with the proposed dwelling. Overall, I am not persuaded the development would result in loss of privacy to the extent that would significantly harm the living conditions experienced at No 58.
19. I conclude that the proposed development would harm the living conditions of nearby residents with regard to light. It would therefore be contrary to Policies QD14 and QD27 of the Brighton and Hove Local Plan 2005, which among other things seek to avoid significant loss of privacy, outlook, and light to neighbouring residents.

Internal and external living space

20. The Nationally Described Space Standards (NDSS) can only be applied where there is a relevant development plan policy. The Council has provided Policy DM1 of its emerging City Plan Part 2, which among other things expects all residential units to meet the NDSS. While Policy DM1 is not yet part of the development plan, the City Plan Part 2 is now at an advanced stage of preparation and this emerging policy clearly indicates the Council's direction towards requiring the NDSS. Given its advanced stage, and that I have been informed of no significant likely modifications or outstanding objections to it, I have given Policy DM1 significant weight for the purposes of this appeal.
21. For a two-bedroom, two-storey dwelling, the NDSS expects a minimum gross internal floor area (GIA) of 70m² for three bedspaces or 79m² for four bedspaces. The appellant considers the net internal space to be about 63.3m², with the Council calculating the GIA to be about 62.25m². Either way, it has not been shown that the proposed dwelling would meet the minimum NDSS expectation. The extent of the shortfall would be more significant if the dwelling would have four bedspaces as indicated by the two double beds included on the floorplan 1320.11A. Furthermore, it is not clear that at least one of the two bedrooms would meet the minimum floor area of 11.5m² expected to be provided for a double or twin occupancy bedroom.
22. I note the appellant's view that the proposed internal space would be manifestly adequate for a two-bedroom home, and I accept that in some circumstances that may be the case. However, where the NDSS is to be applied, the expectation is that a two-bedroom, two-storey dwelling should be capable of accommodating three or four people with at least the relevant minimum GIA provided. While it may be possible to turn a wheelchair in certain key areas in the dwelling, this does not address the shortfall in the expected standard of internal living space provision.
23. External space, other than that associated with the front access and cycle parking space, would essentially be limited to the small rear yard and a small front balcony accessed via a bedroom. While it would be possible to step out onto the balcony, the small space would be impractical for sitting or eating out and, even with obscure glass, would lack privacy being visible from the street. These factors would significantly limit its useability. The front steps and ramp area would primarily provide access to the dwelling, rather than provide private and useable outdoor space.
24. The rear yard would be enclosed on all sides, affording negligible outlook and little or no sunlight. This space would feel cramped and therefore unattractive for significant use by occupants, being generally unsuited for day-to-day activities such as sitting out, drying washing, playing, or keeping a few plants.
25. I accept that many residential units nearby, particularly units formed by the horizontal subdivision of the historic terraces and villas, have little or no private useable outdoor space available on site. Nonetheless, the proposal is a new two-bedroom house that would potentially, for example, be occupied by a young family. Moreover, it is made in the context of the Framework's expectations for achieving well-designed places, which include a high standard of amenity for existing and future users.

26. Overall, I find that the proposal would not provide satisfactory living conditions for future residents of the development, due to inadequate internal living space and unsuitable external space. It would therefore be contrary to Policies HO5 and QD27 of the Brighton and Hove Local Plan 2005, which together and among other things seek to provide a good standard of amenity for proposed occupiers and the provision of private useable amenity space.

Other Matters and Planning Balance

27. No specific public benefits of the scheme have been put to me. However, there would be public benefit in the provision of an additional dwelling, with step-free access, on an underused site in an accessible location. There would also be some public benefit to the local economy arising from the construction and future occupation of the dwelling. Public benefit arising to the appearance of the HSCA from the removal of the existing garage is limited due to the modest scale of the existing building and its relatively limited effect on the street scene. Furthermore, the appeal scheme would not be the only option for addressing the existing appearance of the site.
28. The Council cannot demonstrate a five-year supply of land for housing, advising that with the 35% city uplift applied it currently has around 2.2 years' supply. In the context of this shortfall, the public benefit from housing provision is significant, but the contribution from a single dwelling is limited, as are the cumulative benefits associated with its provision, particularly when I have found that the accommodation provided would be of an unsatisfactory standard. The absence of significant harm to the privacy of neighbouring occupiers and absence of objection from the owner of No 60 are neutral factors in the balance.
29. I have identified significant harms arising from the proposal in relation to the character or appearance of the HSCA, the setting of the Grade II listed building, and living conditions for neighbouring and future occupiers. The combined modest public benefits of the proposal do not outweigh the great weight that is to be given to the conservation of the designated heritage assets. Therefore, the application of policies in the Framework for the protection of designated heritage assets provides a clear reason for refusal, and the presumption in favour of sustainable development is not engaged. Overall, the considerable weight to be given to the less than substantial harm to the HSCA and the setting of the listed building would not be outweighed by the various benefits, individually or cumulatively.
30. Various other development plan and emerging policies have been provided in the appeal. While I have had regard to them all, I refer only to those policies most relevant to the appeal and upon which my decision relies.

Conclusion

31. Overall, the development would conflict with the development plan taken as a whole and there are no other considerations of sufficient weight to indicate that planning permission should be granted. Therefore, the appeal is dismissed.

Catherine Jack

INSPECTOR