



Appeal Decisions

Site visit made on 29 March 2022

by Robert Parker BSc (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 April 2022

Appeal A Ref: APP/Q1445/W/21/3282764

Land to the rear of 25 Hove Park Villas, Hove BN3 6HH

- 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 K Keehan against the decision of Brighton & Hove City Council.
- The application Ref BH2021/00185, dated 12 January 2021, was refused by notice dated 16 March 2021.
- The development proposed is new dwelling keeping the existing footprint of the previous building.

Appeal B Ref: APP/Q1445/W/21/3282762

Land at Rear of 25 Hove Park Villas, Hove BN3 6HH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr K Keehan against the decision of Brighton & Hove City Council.
- The application Ref BH2021/00186, dated 12 January 2021, was refused by notice dated 16 March 2021.
- The application sought planning permission for demolition of existing rear conservatory and erection of part single storey, part two storey rear extension and alterations including changes to fenestration. Loft conversion with dormers to front, side and rear and rooflights to sides to create additional flat without complying with a condition attached to planning permission Ref BH2013/00255, dated 1 March 2013.
- The condition in dispute is No 2 which states that: The development hereby permitted shall be carried out in accordance with the approved drawings listed below.

Plan Type	Reference	Version	Date Received
Site plan and block plan	TA663C/01	C	15/02/2013
Existing plans and elevations	TA663C/02	-	28/01/2013
	TA663C/03	-	28/01/2013
	TA663C/04	-	28/01/2013
	TA663C/05	-	28/01/2013
	TA663C/06	-	28/01/2013
	TA663C/07	-	28/01/2013
	TA663C/08	-	28/01/2013
	TA663C/09	-	28/01/2013
	TA663C/10	-	28/01/2013
Proposed plans and elevations	TA663C/20	C	15/02/2013
	TA663C/21	-	28/01/2013
	TA663C/22	C	15/02/2013
	TA663C/23	C	15/02/2013
	TA663C/24	C	15/02/2013

	TA663C/25	D	15/02/2013
	TA663C/26	D	15/02/2013
	TA663C/27	C	15/02/2013

- The reason given for the condition is: For the avoidance of doubt and in the interests of proper planning.

Decisions

1. Both Appeal A and Appeal B are dismissed.

Main Issue

2. The main issue in both appeals is the effect of the proposal on the character and appearance of the area.

Reasons

Appeal A

3. Hove Park Villas is an attractive tree-lined avenue linking Hove Station to the Old Shoreham Road. It contains a mix of period detached and semi-detached villas, many with dominant front gables, which are set back from the road behind short front gardens. Some of the properties have been subdivided into flats, but a significant number remain as single dwellings. The buildings are closely spaced but in the gaps between there are glimpses of verdant rear back gardens and mature trees. Two flatted properties on the west side of the road have rear garage/parking courts and a few dwellings have narrow access ways for vehicles, but parking to the rear is not a characteristic feature of the street.
4. No 25 is a substantial, double fronted, detached Victorian villa which has been converted into five flats. The approved plans show the large rear garden subdivided to serve the two ground floor flats. At the far end of the curtilage, adjacent the boundary with properties in Wilbury Gardens, is the remains of what is described as a 'coach house and stables'. The building, which was destroyed by fire, retains some of its walls, but no roof. Building Control plans provided by the appellant indicate that the structure was single-storey and built in a number of phases, with sections of pitched roof and flat roof. There is no firm evidence in relation to the use of the building, but the parties agree that it would have been used for purposes ancillary to the main house.
5. The proposal is to erect a two bedroom dwelling on the footprint of the coach house. The new building would be single-storey with elements of green roof, and its overall form and massing would be very similar to the original structure – albeit not much of that remains. Access to the new dwelling from the street would be via an existing passageway along the south side of No 25.
6. Two previous schemes have been dismissed at appeal, one for a three bedroom dwelling¹ and the other for a two bedroom dwelling². The Inspector in the most recent case acknowledged that the proposal had been improved through the removal of vehicle access to the rear of No 25, the corresponding increase in garden/amenity space associated with the proposed dwelling and the reduction in the height of the proposed building. Nevertheless, she was concerned that

¹ APP/Q1445/A/13/2196839

² APP/Q1445/A/14/2227995

the scheme would introduce a detached self-contained dwelling within the rear garden of No 25; this, she concluded, would fail to respect the character and appearance of the area, resulting in an incongruous feature which would seriously harm the character of the verdant gardens in the immediate locality.

7. Both appeal decisions are important material considerations and therefore I have attached them significant weight. The scheme before me fails to address the most fundamental objection, which is the introduction of a dwelling into a rear garden where this does not reflect the prevailing character of the area. Although my attention is drawn to buildings at Nos 33 and 55 Hove Park Villas, neither is directly comparable to the proposal before me. The building at No 33 is a one-bedroom annexe which must be occupied for purposes ancillary to the use of the dwelling. The dwelling at No 55³ is a former ambulance garage with its own frontage onto Old Shoreham Road.
8. Whilst I accept that the development would not be visible from the public realm, it would be experienced from surrounding properties where it would read as an independent dwelling. As demonstrated by the appellant's evidence, outbuildings are not uncommon within the locality, but most are modest structures and they do not generate their own comings and goings. The number of daily movements associated with the appeal scheme would be low, but they would be discernible and at odds with the tranquil garden character. This would add to the harm arising from the incongruous siting of a dwelling in a back garden – despite the fact that the Council does not object to the design of the building itself.
9. The appellant refers to land at the rear of 60 Wilbury Road where permission has been granted⁴ for a single dwelling to replace an outbuilding. Not only did that site already benefit from planning permission for conversion of an existing outbuilding to a new home, but it also lies within a different character area within the Wilbury Neighbourhood Study⁵. The circumstances are different, but they do not persuade me that the proposal is acceptable in any event. I have treated the appeal before me on its merits.
10. I have taken account of the arguments put forward by the appellant in relation to the historic use of the site and the need for higher densities, but these do not alter my overall conclusion that the proposal would be seriously harmful to the character and appearance of the area. There would be conflict with Policy CP12 of the Brighton and Hove City Plan Part One (2016) (City Plan) insofar as this seeks to ensure that new development respects the diverse character and urban grain of the city's identified neighbourhoods.

Appeal B

11. The plans approved under Reference BH2013/00255 show the property's large rear garden subdivided front to back to provide a separate private garden for each of the ground floor flats. Under the appeal proposal, these areas would be truncated to create space for the dwelling proposed under Appeal A. This would involve the erection of solid boundary treatment (most likely fencing) across the garden, side to side, and a further section of boundary to form a pedestrian alleyway to the northernmost garden.

³ This property has the address of 70A Old Shoreham Road

⁴ Council Ref. BH2019/03066

⁵ Part of the Brighton & Hove Urban Characterisation Study (January 2009)

12. The properties on this side of Hove Park Villas are characterised by large and predominantly open rear gardens which stretch from the back walls of the buildings to the boundary with the gardens of houses in Wilbury Gardens. As explained in my reasoning above, I have found that the dwelling proposed under Appeal A would result in serious harm to the character and appearance of the area. However, the erection of fencing to subdivide the garden into smaller parcels, relative to neighbouring gardens, would compound that harm. The contrived layout would be visible from surrounding properties and it would be at odds with the prevailing grain of development in the area.
13. The Council does not raise any objections regarding the sizes of the gardens or their ability to meet the needs of the ground floor flats. Based on the information provided, I have no reason to take a different view. However, the proposal would harm the character and appearance of the area and it would conflict with Policy CP12 of the City Plan in this regard.

Other Matters

14. I saw during my visit that the site has not been laid out in accordance with the approved plans in respect of the garden configuration. This is a matter for the Council and does not affect my consideration of the appeals.
15. I have taken into account the fact that there has been no removal of permitted development rights for the erection of fencing, walls and other boundary treatments in the rear garden. Whilst this is a material consideration, it does not justify either appeal scheme.
16. Following its decisions on the planning applications, the Council adopted a Supplementary Planning Document SPD17 – Urban Design Framework (June 2021). This document builds on the Urban Characterisation Study and places the appeal site within Location 2a – Urban areas suitable for localised incremental development and enhancement. However, the expectation is that proposals will make a positive contribution to local character and distinctiveness or help to maintain or establish a strong sense of place in neighbourhoods. The proposal would not achieve this objective and for this reason SPD17 does not lend weight in support of the proposals.

Planning Balance and Conclusion

Appeal A

17. The Council's Strategic Housing Land Availability Assessment Update 2020 states that the authority has a 4.7 year supply of housing land. However, in March 2021 the City Plan reached five years since adoption. The National Planning Policy Framework indicates that where strategic policies are more than five years old, the Government's standard method should be used in place of the local plan housing requirement. In addition, following an amendment to the standard method, since June 2021 Brighton and Hove has been required to apply an additional 35% uplift as one of the top 20 cities in the urban centres list. Adopting this approach, the appellant calculates the authority's land supply position at 2.2 years, which I am told is equivalent to a supply shortfall of 6,604 units. The Council does not dispute this analysis.
18. The proposal is for a single dwelling and as such its contribution to remedying the housing shortfall would be very small. Nonetheless, this is a benefit to factor into the planning balance. The dwelling would be suitable for a small

family or as an accessible home, and this also weighs in favour of the scheme. However, the proposal would seriously harm the character and appearance of the area and this adverse impact would significantly and demonstrably outweigh the benefits, even taking the housing land supply position into consideration.

19. For the reasons given above, and having regard to all other matters raised, I conclude that Appeal A should fail.

Appeal B

20. The subdivision of the garden would harm the character and appearance of the area and for this reason I conclude that Appeal B should fail.

Robert Parker

INSPECTOR