

Appeal Decision

Site visit made on 30 June 2022

by D Cramond BSc MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 28 July 2022

Appeal Ref: APP/Q1445/W/22/3291040

91 Lustrells Crescent, Saltdean, Brighton, BN2 8FL

- 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 & Mrs Dennis Burnett against the decision of Brighton & Hove City Council.
 - The application Ref BH2021/03083, dated 20 August 2021, was refused by notice dated 27 October 2021.
 - The development proposed is the erection of 1no two bedroom detached single storey dwelling (C3) on land east of existing dwelling, incorporating removal of existing garage, landscaping and parking.
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Decision

1. The appeal is allowed and planning permission is granted for is the erection of 1no two bedroom detached single storey dwelling (C3) on land east of existing dwelling, incorporating removal of existing garage, landscaping and parking at 91 Lustrells Crescent, Saltdean, Brighton, BN2 8FL in accordance with the terms of the application, Ref BH2021/03083, dated 20 August 2021, subject to the conditions on the attached schedule.

Preliminary Matter

2. I use the Council's description of development which is more precise than the application form; I note the Appellants also use this on the appeal form.

Main Issues

3. The main issues are the effect of the proposal on the:
 - character and appearance of the locality; and
 - living conditions for existing and future residents.

Reasons

Character and appearance

4. The proposed building plot is 91 Lustrells Crescent's side garden area, alongside the roads at the junction of Lustrells Crescent and Ridgewood Avenue. The street scene is predominantly characterised by detached bungalows. The area is of established residential character and has a pleasant
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suburban appearance. The proposal is as described above and would embody a bungalow with a fully hipped roof.

5. The Council is concerned that the proposed building would be inappropriate and cramped with an uncharacteristic subdivision being over-development and impinging upon the character and appearance of the site, streetscene and the wider area.
6. In contrast to the Council, I do not read this junction location as particularly open given the existing vegetation and the garage and I am not persuaded that building lines on either street, such as they are, need rigid adherence to protect streetscene qualities. Just in the way that front garden treatment varies between open plan style and dense vegetation so a slight variance in building line would not jump out as jarring on the eye or inappropriate in character terms. Bungalows in the locality are side by side and this scheme would appear in that idiom. I accept that garden scale behind the new building would not be reflective of the mathematical norm but that is not something which would be read in the streetscene and I deal with practicality of garden space under the second main issue.
7. The site slopes down to the east and this change in level would help visually separate the two homes, reduce any impression the scheme was cramped, and mean the new property would be more subtle in the wider scene generally. I am not sure that two dimensional plans do the scheme justice but I am satisfied that when constructed as planned the overall development will not appear as over-development or alien; there will be another relatively innocuous bungalow in the road at this junction compatible in the local scene.
8. In summary the appeal scheme would be an example of an aesthetically reasonable and effective modest development to bring about the productive creation of a new home having regard to local character and appearance attributes.
9. Policies CP12 and CP14 of the Brighton & Hove City Plan Part One (CP) are relevant. Taken together and amongst other matters they seek well designed sustainable development that should protect the character and local distinctiveness and generally have architectural merit. I conclude that the proposal would not conflict with these policies; it would not be inappropriate and harmful to the site, street scene or wider area.

Living conditions

10. The Council is concerned that the scheme would result in the loss of garden space to the host property, such that living conditions of that family unit would be compromised, and also that the proposed new dwelling would not have adequate private amenity space.
11. I examined that space which would remain available to the host property and was impressed by its sense of scale and versatility. On plan the rear garden may not look to be of large dimensions but with the use of levels, varied hard and soft landscape, and a west facing end, I consider this to be a very useable and private outside space. Couple this with a not insignificant front landscaped area and a useful generous hardstanding in the south west corner and to my mind there need be no issues raised over outside amenity space provision for the existing home.

12. The proposed dwelling is a tighter proposition but even here one would have a available a small and private rear space which while north facing would gain some east and west light entrance. More significantly there is scope for an appreciable area to the front south east corner. I fully accept this lies alongside the highway but as the existing fence and hedge arrangement shows it is quite practicable for this to be a private space, and it would have a good degree of direct sunlight. Again, the dwelling would have a useable hardstanding as part of the new curtilage. Taken in the round the planned modest sized dwelling would have a reasonable, useable modest sized garden quite sufficient to provide good quality private outdoor amenity space.
13. Brighton & Hove Local Plan Saved Policies HO5 and QD27 are pertinent. Taken together and amongst other matters they seek to ensure that any residential proposal would provide a good standard of amenity and space for future occupiers and that there is suitable protection of amenity for those alongside new development. Given the foregoing I would conclude that the appeal scheme would not conflict with these policies.

Other matters

14. The Council acknowledges it does not have a five-year housing land supply and I would add that I have considered the planning history and a previous appeal decision relating to this site (Ref APP/Q1445/A/07/2046336). I would comment that the form of this application is at variance from the 2006 scheme, there have been changes to the host property and garden, boundary treatment has altered, the City Plan was not in place, the housing supply situation did not appear to be suboptimal as it presently stands, and national planning guidance was not available in the National Planning Policy Framework format. I am therefore led to reach a different decision to my colleague in 2008.

Conditions

15. The standard commencement period should apply. A condition that works are to be carried out in accordance with listed, approved, plans is put forward; I would agree to provide certainty. External materials need to be agreed in the interests of amenity. Refuse and recycling arrangements should be fixed in the interests of residential amenity as should cycle parking in the interests of encouraging sustainable travel. Parking space control should be applied in the interest of highway safety and convenience and landscaping agreement should be reached to protect visual amenity and help with the provision of good quality living conditions. To assist with provision of homes for people with disabilities I agree with the Council on the issue of an accessible and adaptable dwelling being secured. In the interests of sustainable development and to accord with CP Policy CP8 I shall apply suggested conditions relating to energy efficiency and maximum water consumption. I agree with the Council's proposition on bee brick and swift box provision in the interests of biodiversity.
16. I would agree with the Council that 'permitted development' rights ought to be removed appropriately in the interests of visual and residential amenity. This is such an unusual site arrangement with its restrictive nature, relationship to roads and potential for prominence that exceptional controlling circumstances should apply.
17. On occasions I include some variation from the wording set out by the Council in order to aid precision and accord with national guidance and legislation.

Overall conclusion

18. For the reasons given above I conclude that the appeal proposal would not have unacceptable adverse effects on the character and appearance of the locality or on living conditions for existing or future residents. Accordingly, the appeal is allowed.

D Cramond

INSPECTOR

SCHEDULE OF CONDITIONS (12)

1. The development to which this permission relates shall begin no later than three years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: 1362022/01 and /02.
3. The development hereby permitted shall not be occupied until a scheme for the storage of refuse and recycling has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be carried out and provided in full in accordance with the approved details prior to first occupation of the development and the refuse and recycling storage facilities shall thereafter be retained for use at all times.
4. The development hereby permitted shall not be occupied until details of secure cycle parking facilities for the occupants of, and visitors to, the development have been submitted to and approved in writing by the Local Planning Authority. The approved facilities shall be fully implemented and made available for use prior to the first occupation of the development and shall thereafter be retained for use at all times.
5. No extension, enlargement, alteration or provision within the curtilage of the of the dwellinghouse as provided for within Schedule 2, Part 1, Classes A - E of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended (or any order revoking and re-enacting that Order with or without modification) other than that expressly authorised by this permission shall be carried out without planning permission obtained from the Local Planning Authority.
6. The residential unit hereby approved shall not be occupied until it has achieved an energy efficiency standard of a minimum of 19% CO₂ improvement over Building Regulations requirements Part L 2013 (TER Baseline).
7. The residential unit hereby approved shall not be occupied until it has achieved as a minimum, a water efficiency standard of not more than 110 litres per person per day maximum water consumption (to include a fixed factor of water for outdoor use of 5 litres per person per day for in accordance with the optional requirement defined within Approved Document G of the Building Regulations).

8. The vehicle parking area shown on the approved plans shall not be used otherwise than for the parking of private motor vehicles and motorcycles belonging to the occupants of and visitors to the development hereby approved.
9. A bee brick shall be incorporated within the external wall of the dwelling hereby approved and shall be retained thereafter.
10. Three (3) swift bricks/boxes shall be incorporated within the external walls of the development hereby approved and shall be retained thereafter.
11. Prior to occupation of the development hereby permitted, a scheme for landscaping shall be submitted to and approved in writing by the Local Planning Authority. The approved landscaping shall be implemented in accordance with the approved details in the first planting season after completion or first occupation of the development, whichever is the sooner. The scheme shall include the following:
 - a. details of all hard and soft surfacing to include type, position, design, dimensions and materials and any sustainable drainage system used;
 - b. a schedule detailing sizes and numbers/densities of all proposed trees/plants including food-bearing plants and including details of tree pit design, use of guards or other protective measures and confirmation of location, species and sizes, nursery stock type, supplier and defect period;
 - c. details of all boundary treatments to include type, position, design, dimensions and materials;

Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
12. The dwelling hereby permitted shall be completed in compliance with Building Regulations Optional Requirement M4(2) (accessible and adaptable dwellings) prior to first occupation and shall be retained as such thereafter. Evidence of compliance shall be notified to the building control body appointed for the development in the appropriate Full Plans Application, or Building Notice, or Initial Notice to enable the building control body to check compliance.