

Appeal Decision

Site visit made on 20 September 2022

by B Pattison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 OCTOBER 2022

Appeal Ref: APP/Q1445/W/22/3297554

Garages, Southdown Avenue, Portslade BN41 1XE

- 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 John Wood against the decision of Brighton & Hove City Council.
 - The application Ref BH2021/04509, dated 22 December 2021, was refused by notice dated 15 February 2022.
 - The development proposed is demolition of three garages, and construction of a two bedroom house.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council adopted City Plan Part Two (2022) (CPP2) on 20th October 2022. On adoption the policies in CPP2 replaced the remaining 'saved' policies from the Brighton & Hove Local Plan (2005) (BLP). The two BLP policies quoted in the Council's decision have, so far as relevant to this appeal, been replaced by policy DM1 of CPP2.

Main Issues

3. The main issues are:
 - The effect of the proposed development on the character and appearance of the area.
 - The quality of accommodation for future occupiers with particular regard to the quality of the internal layout and the size and quality of the external amenity area.

Reasons

Character and appearance

4. Southdown Avenue is a narrow road with a row of terraced houses along one side and a motor dealership on the other. The southern end of the road is flanked by a small parade of shops fronting onto Victoria Road. Southdown Avenue is residential in character although the wider area is more commercial in nature.
5. The building would be of a similar height and scale to others in the road. Its pitched roof would follow the line of roofs of the adjacent terrace, and it would have a projecting tiled canopy at ground floor, which, whilst not identical, would

be similar in appearance to the other properties on the street. The proposed external materials of brick and tiles would match those used on the adjacent buildings.

6. However, the new dwelling would have a minimal set back from the footway, at odds to the established pattern of the terraced properties on this side of the street which have a much more generous set back. As a result of this awkward positioning, the proposal would appear overly prominent and uncomfortably close to the front of its plot. Whilst the wider area has a mixed commercial and residential character, the siting of the new dwelling forward of the established building line would be at odds to the more uniform residential character on this side of Southdown Avenue.
7. The proposal's roof would have a "cut-out" to provide outlook and light to the first-floor amenity area. Whilst not a characteristic feature in the area, the "cut-out" would not be overly large, ensuring that the majority of the roof planes are unaltered, and would be at a high level and therefore not overly prominent. The majority of views of the "cut out" would be angled views from either the north or south of Southdown Avenue, which would not emphasise the "cut out". Consequently, I am not persuaded that this design element would be a harmful feature within the streetscene.
8. Both parties agree that the existing garages do not make a positive contribution to the character of the area. Furthermore, I note that a previous appeal¹ accepted the principle of development on the site. Nevertheless, the siting of the dwelling forward of the building line would be unduly prominent and would be harmful to the character of the area. Consequently, it would harm the appearance of the streetscene. I therefore find that it would conflict with Policy CP12 of the Brighton and Hove City Plan Part One (2016) (CPP1). Amongst other aspects, this policy seeks to secure development of a high standard of design which positively contributes to the existing street scene, and with the National Planning Policy Framework (the Framework), which has similar aims.

Quality of accommodation

9. The new house would be largely single aspect, albeit the doors to the external amenity area would provide a secondary aspect at first floor level. The ground floor would have only two windows - one for each of the bedrooms - which would provide acceptable light and outlook to these rooms. The bathroom, laundry room and en-suite located to the rear of the house, would not have any windows. However, these are not main rooms, and it is not unusual for these types of spaces to have no windows. Overall, I find the internal layout of the house would be to an acceptable standard for future occupiers.
10. Policy DM1 of the CPP2 requires the provision of private useable amenity space in new residential development where appropriate to the scale and character of the development. In this case, as a two-bedroom house, the appeal scheme is capable of housing a small family. The 8 square metre amenity area, whilst not large, is a usable shape which would allow a play area and would permit all occupiers of the house to sit within the amenity area at the same time. It would provide a private and secure external space which provides views onto Southdown Avenue, and which would receive natural light throughout much of the day. Overall, I find the private amenity space to be appropriate to the scale

¹ APP/Q1445/W/20/3258630

of the development. Consequently, the proposed development would not be contrary to Policy DM1 of the CPP2 which identifies the Council's aim for the delivery of a wide choice of high-quality homes.

11. The Council has also referred to Policy DM21 of the CPP2 which relates to the design of extensions and alterations to existing buildings. As the appeal scheme relates to the demolition of existing garages and the erection of a new dwelling it is not strictly applicable to the proposal.

Other Matters

12. The appellant outlines that the proposal would not demonstrably harm the light received by occupiers of neighbouring properties, nor create harmful levels of overlooking to neighbouring properties. However, this absence of harm is not in itself a benefit that weighs in favour of the scheme.
13. One neighbouring resident wrote to express their support for the appeal development. I have taken into account their reasons for supporting the appeal proposal, including those relating to the potential reduction in vandalism, potential for additional on-street car parking and combatting vermin problems. However, these considerations are outweighed by the harm identified above.

Conclusion and Planning Balance

14. The Council accepts that it cannot demonstrate a five-year housing land supply at present. Consequently, policies which potentially limit housing supply should be considered in the context of paragraph 11(d) of the National Planning Policy Framework (the Framework). In such circumstances and, in accordance with the Framework paragraph 11(d), as this is an application for the provision of housing, the development policies which are most important for determining the application are deemed to be out-of-date. In this case, there are no Framework policies that protect areas or assets of particular importance that provide a clear reason for refusing the development proposed. Accordingly, and in line with paragraph 11(d)ii, I am required to consider if any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
15. The proposed development would provide an additional windfall dwelling which would contribute to the supply of housing in the borough. However, given the modest scale of the development, the benefits would be limited. In contrast, I have found that the appeal proposal would result in an unacceptably poor living environment for future occupiers and would harm the character and appearance of the area. Accordingly, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
16. The proposal would not accord with the development plan as a whole and there are no other considerations, including the provisions of the Framework, to indicate that the appeal should be determined otherwise. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

B Pattison

INSPECTOR