



Appeal Decision

Site visit made on 10 October 2022

by Robin Buchanan BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 November 2022

Appeal Ref: APP/Q1445/W/22/3292466

Palmer and Harvey House, 106-112 Davigdor Road, Hove BN3 1RE

- 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 Stonegate Homes (Hove) Ltd against the decision of Brighton & Hove City Council.
 - The application Ref BH2021/00633, dated 5 February 2021, was refused by notice dated 26 August 2021.
 - The development proposed is the erection of a new office block.
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Decision

1. The appeal is dismissed.

Application for Costs

2. An application for costs was made by Stonegate Homes (Hove) Ltd against Brighton & Hove City Council. It is the subject of a separate Decision.

Preliminary Matters

3. There is agreement that the Council's reason for refusal (RfR) should have referred to an existing office building to the north of the site, not south.
4. With the appeal the appellant submitted a Daylight and Sunlight report. The Council had an opportunity to consider it in its appeal statement. It would not prejudice any party, so I have taken it into account in determining the appeal.
5. The Council adopted the Brighton & Hove City Plan Part Two (CPP2) on 22 October 2022. It replaced Policies QD5 and QD27 of the Brighton & Hove Local Plan 2005 listed in the RfR. The main parties were invited to comment on the relevant CPP2 Policies DM18, DM20 and SSA3. I have taken comments received into account in my decision and give full weight to these policies.

Main Issues

6. These are:
 - the effect of the proposal on the character and appearance of the area, with particular regard to the Davigdor Road streetscene; and
 - its effect on the living conditions of future occupiers of nearby development, having regard to outlook, privacy and natural light.

Reasons

Character and appearance

7. The appeal site is a paved and grassed area next to Davigdor Road. It provides a mainly open setting in front of the large L-shaped Palmer and Harvey House (PHH) office building to the north of the site. Until relatively recently it contained some roadside trees. Development along this road, near the site, is diverse. It includes Victorian or Edwardian residential and public buildings and modern blocks of offices and flats which on the north, appeal site side, are generally taller, between 3 and 8 storeys, and lower along the south side, between 2 and 5 storeys. Next to the site, on its west side, a building up to 8 storeys high is under construction for commercial and residential use. Roadside trees are a notable feature along both sides of this stretch of Davigdor Road.
8. The modern, contemporary flat roof design and external materials of the 3 storey office block would be compatible in these respects with its immediate context and in an area which is allocated for mixed use redevelopment.
9. It would follow the building line either side of it but this is established by original buildings or the replacement of buildings in similar positions to begin with. Its proximity to the road and almost full width across the site would leave no worthwhile open areas in these places, including for trees. Private open areas or trees planted behind the building, out of sight, or in a rooftop terrace would make no meaningful contribution to the street level public realm. The proposal would, therefore, fundamentally undermine important objectives of the Council's development plan for development in Davigdor Road, including active spaces (not just active uses, such as offices) with vibrant and engaging streetscapes and additional street trees.
10. Development next to the site is (or will be) closely spaced or over-lapping, including a long terrace of tall buildings up to the junction with Montefiore Road, PHH to the rear and, albeit with an angled upper profile receding away from the site, the lower floors of the building under construction. Replacing openness with built form to the extent proposed by means of the siting, layout and floorplan of the office block would unduly tighten the density of development in this part of Davigdor Road. It would, therefore, be at odds with the prevailing pattern and arrangement of development east from Holland Road to the site, which is (or will be) buildings separated by notable gaps or with inset open corner notches, including trees.
11. Accordingly, I find that the proposal would not assimilate into the Davigdor Road streetscene in a satisfactory manner and cause pronounced harm to the character and appearance of the area. Consequently, it conflicts with Policy CP12 of the Brighton & Hove City Plan Part One and with CPP2 Policies DM18 and SSA3. These policies include that development should enhance sense of place and the visual quality of the local environment in terms of urban grain, the shape of buildings and the spaces between and around buildings with improved public realm and shared amenity space in Davigdor Road.

Living conditions

12. Prior approval and planning permission has been granted to convert PHH into flats, including by upward extension. There is no apparent reason why this development would not take place.

13. However, the rectangular floorplan of the office block would stretch across the entire closest, front part of PHH, overlapping it at one end. The tall and wide rear elevation would be directly in front of single aspect habitable room windows in some of these approved flats. While this part of the office block would be articulated with indented elevations, including a vertical glazed panel, it would be mainly brick with very narrow, high level windows. In scale, bulk and massing its innate, sheer monolithic presence at this separation distance would unduly foreshorten views from these flats, especially in the lower down ground and first floors, which would be oppressive.
14. The narrow, but tall, side elevation of the office block would face the closest part of the building under construction, directly in front of an east facing dual aspect second floor flat. Despite the stepped arrangement of this part of the building under construction, this part of the office block at this separation distance would foreshorten and restrict perpendicular views from the main habitable room windows and a terrace. Reciprocal views from second floor side facing office windows would be intrusive, including sideways towards the terrace of the adjacent first floor flat. Both of these terraces, and the terraces of third floor flats above, would be overlooked from the roof terrace of the office block.
15. The appellant's Sunlight and Daylight report demonstrates that the office block would have a marginal adverse effect on natural light received into habitable rooms of the closest flats in PHH and in the building under construction. These rooms would not, therefore, be unduly gloomy or over-reliant on artificial lighting during the day or evening. Nonetheless, this would not alleviate the overbearing expanse and proximity of built form which would detract from the residential use and enjoyment of these flats.
16. Accordingly, I find that the proposal would cause marked harm to the living conditions of some future occupiers of flats in both of these nearby developments, having regard to outlook and privacy. Consequently, it conflicts with CPP2 Policy DM20. This policy includes that development should not cause unacceptable loss of amenity for proposed residents.

Planning Balance and Conclusion

17. The proposal would make a more efficient use of the site to provide a modest quantum of high quality, flexible office floorspace suitable for small or start-up businesses. It also would help to off-set the loss of offices by the conversion of PHH, and other offices nearby, to flats. I give moderate weight to these considerations in support of the proposal, whereas each harm that I have identified above has significant weight against it.
18. The proposed development would not accord with the development plan overall. There are no other material considerations, including the provisions of the Framework, which outweigh this finding. Therefore, for the reasons given above the appeal does not succeed.

Robin Buchanan

INSPECTOR