



Appeal Decision

Site visit made on 14 December 2022

by J Wellstead BA(Hons) MA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 January 2023

Appeal Ref: APP/Q1445/W/22/3303358

Land east of 5 Nolan Road, Brighton BN2 6RS

- 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 Leigh Brand against the decision of Brighton & Hove City Council.
 - The application Ref BH2022/00903, dated 16 March 2022, was refused by notice dated 19 May 2022.
 - The development proposed is the demolition of an existing garage/workshop and the provision of two, three bed two person houses.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the time of the Council's decision, the Brighton & Hove City Plan Part Two was Adopted on the 20 October 2022. Its policies supersedes the policies in the Brighton & Hove Local Plan 2005.

Main Issues

3. The main issues in this appeal are:
 - the effect of the proposed development upon the character and appearance of the area.
 - the impact on the living conditions of the occupiers of the neighbours at 62 Downs Valley Road with particular regard to outlook and light.

Reasons

Character and Appearance

4. The appeal site currently accommodates a garage and area of hard standing within a residential area. It is located within Nolan Road, which has two, two-storey dwellings and a chalet bungalow on the junction of Nolan Road and Downs Valley Road. This row of houses is partly characterised by pitched roofs and entrances fronting onto Nolan Road.
5. The surrounding area is characterised by a mix of two-storey dwellings and chalet bungalows which are generally located close to their respective roads with small front gardens and driveways, and predominantly benefit from generous sized rear gardens. There is a clear and established building line, with a predominantly uniform pattern of rear gardens and plot sizes.

6. The plot size of the appeal site is smaller than the prevailing size of the surrounding plots and the proposed development would see it divided into two smaller plots. The two proposed dwellings would also have much smaller rear gardens than is characteristic of the area.
7. The roof orientation of the proposal is uncharacteristic of the area, with predominantly pitched roofs facing onto the road, not to the side of the properties. Also, the use of windows of a taller height than in the rest of the immediate area would result in a different emphasis than is predominantly characteristic of the area. The front door is positioned in the middle of the proposed properties in contrast to existing adjacent properties along Nolan Road. As a consequence, the combination of the design, roof orientation and fenestration would be in marked contrast to the predominant features of its surroundings and existing street scene.
8. The appellant has drawn my attention to the state of the existing garage on the site, stating that the proposed development would constitute an improvement compared to the current street scene. While I agree that the existing garage contributes little in terms of character to the area, this would not outweigh the proposed development's harm to the character and appearance of the local area as described above.
9. The proposed development would be of a more contemporary design than neighbouring properties with a proposed finish in clay tile roof, brick and white render. The main material used in the area is brick and there are also examples of existing properties that have white render treatment and hanging tile cladding to the front of properties. Given that the external finish of the lower half of the house is brick matching others in the immediate area, there would be sufficient continuity in materials for the use of render on its upper walls to not be unacceptably harmful to the street scene.
10. The National Planning Policy Framework (the 'Framework') confirms that great importance should be attached to the design of the built environment. As part of this innovation, originality and initiative should not be stifled. However, the Framework also indicates that it is proper to promote or reinforce local distinctiveness, which this proposal does not achieve.
11. For all these reasons, I conclude that the proposed development would unacceptably harm the character and appearance of the area. As a consequence, it would be contrary to policies CP12 and CP14 of the Brighton & Hove City Plan Part One (March 2016) which seek – among other things - to protect and enhance urban character and appearance, and policy DM18 of the Brighton & Hove City Plan Part Two (Adopted 20 October 2022) which seeks to ensure high quality design and places. It is also inconsistent with the core planning principle of the Framework which seeks to ensure high quality design.

Outlook

12. The proposed development would be set close to the boundary of 62 Downs Valley Road (No.62), with a large, two-storey elevation facing directly towards the rear garden and only 10 metres from the neighbouring dwelling. The slightly lower level of the appeal plot would not mitigate the resulting dominance of the proposal due to its height and proximity, which would cause significant overshadowing and harm to the outlook from the rear garden and rear facing habitable rooms of No.62. This conflicts with policy DM20 of the

Brighton & Hove City Plan Part Two (Adopted 20 October 2022) which seeks to protect amenity.

Other Matters

13. Both parties have acknowledged that the Council has no five-year housing land supply, and the shortfall is major, based on the Council's latest calculations published in the SHLAA Update 2021. As such, paragraph 11d) of the Framework sets out that permission should be granted unless the adverse impacts of the development would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole.
14. The net increase of just two dwellings would be a modest benefit and would bring modest economic and social benefits, including construction jobs, increased local spending, and sustainably located new homes boosting the supply of housing.
15. The Framework advocates good design that is sympathetic to local character and a high standard of amenity for existing residents. The proposal would fail to accord with this due to the harm caused to the character and appearance of the local area together with the overshadowing and overbearing impact on the outlook of No.62.
16. Given the harm that I have identified, I consider that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole. The presumption in favour of sustainable development does therefore not apply.
17. I note that residents have expressed additional concerns about the development, including transport, lack of environmental benefits, proximity to electricity substation, size of internal space and privacy. Given my findings in relation to the main issues, it is not necessary to consider these matters in detail.

Conclusion

18. For the reasons given, I conclude that the proposed development conflicts with the development plan, read as a whole. No material considerations have been shown to carry sufficient weight to warrant a decision otherwise than in accordance with it. Therefore, the appeal is dismissed.

J Wellstead

INSPECTOR