



Appeal Decision

Site visit made on 4 December 2023

by J Pearce MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 January 2024

Appeal Ref: APP/Q1445/W/23/3324302

Land to rear of 236 Ditchling Road, Brighton & Hove BN1 6JF

- 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 Amanda Newins against the decision of Brighton & Hove City Council.
 - The application Ref BH2023/00133, dated 5 January 2023, was refused by notice dated 12 May 2023.
 - The development proposed is the erection of proposed double garage.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposal on highway safety, including the provision of parking.

Reasons

3. The appeal site is to the rear of the dwellinghouse at No 236 Ditchling Road (No 236), which is not part of the site. The site is a small parcel of land fronting Ditchling Gardens, a narrow road with on-street parking bays and a pavement on the opposite side. Although there is no dropped kerb to the frontage, the site is used for the parking of up to two cars.
4. The proposal is for the erection of a garage accessed from Ditchling Gardens. The distance between the access point and the parking bays on the opposite side of Ditchling Gardens is limited and could affect the efficiency of vehicles manoeuvring into and out of the site. Whilst I note that this may currently be the case, the provision of the garage would further constrain the available manoeuvring space on the site.
5. No technical evidence has been submitted to establish whether vehicles could enter and exit the garage in an efficient manner, such as a swept path analysis of vehicles' entry and egress from the site. Although vehicles using the garage may not hit vehicles parked in the disabled parking bay opposite the site, there is nothing before me to demonstrate that such a manoeuvre would be straightforward and not result in conflicts with other road users. The removal of the parking bay may therefore be required to facilitate the scheme and provide adequate access to the garage.
6. The garage would accommodate two parking spaces, which is commensurate with the current level of parking at the site. Although the provision of two spaces would be in excess of the maximum standards set out in the Parking

Standards Supplementary Planning Document 14 2016 (SPD14), the proposal would retain the two spaces at the site. However, the evidence presented does not indicate what use the parking is related to given that the scheme is not related to the residential use of No 236. Therefore, I cannot be certain that the development would comply with the parking standards.

7. Visibility at the site is limited by a brick wall to one of the side boundaries and a car parking space to the rear of the other adjoining property. The removal or reduction in height of the wall would improve visibility in one direction, but the presence of a parked vehicle within the space adjoining the site would continue to limit visibility in the other direction. Whilst this is an existing issue and the reduction in height or removal of the boundary wall would improve visibility, this would not outweigh the harm to highway safety due to the narrowness of the road.
8. The proposal would have an unacceptable impact on highway safety, and it has not been demonstrated that adequate parking would be provided. The development would therefore conflict with Policies CP9 and CP13 of the Brighton & Hove City Plan Part One (2016) and its strategic objective SO20, and Policy DM33 of the Brighton & Hove City Plan Part Two (2022) and SPD14 Parking Standards, which collectively state that that development should be prevented if there would be an unacceptable impact on highway safety and should seek to transfer people to sustainable forms of transport whilst contributing towards reducing inequalities.

Other Matters

9. I note that the Council has not raised concern in respect of the design of the proposal, which reflects the design of similar developments within the locality. I see no reason to disagree with this conclusion. I also acknowledge that the garage could enable the use of electric vehicles, however this would not outweigh the harm identified.
10. The appellant has stated that the use of the site for parking has been ongoing since 2014, whilst the Council has suggested that the use may not be lawful. The consideration of whether a use is lawful falls outside of the scope of a section 78 appeal and should be considered within an application for a Certificate of Lawfulness.

Conclusion

11. The proposal would not accord with the development plan as a whole. There are no material considerations, which would indicate that a decision should be made otherwise than in accordance with the development plan. For the reasons given above I conclude that the appeal should be dismissed.

J Pearce

INSPECTOR