



Appeal Decision

Site visit made on 4 December 2023

by J Pearce MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 January 2024

Appeal Ref: APP/Q1445/W/23/3323902

93 Applesham Avenue, Hove BN3 8JN

- 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 Mrs Sandy O'Neill against the decision of Brighton & Hove City Council.
 - The application Ref BH2022/02654, dated 18 August 2022, was refused by notice dated 12 December 2022.
 - The development proposed is the conversion of detached annexe to one bedroom dwelling (C3) including the demolition of an existing garage.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A revised National Planning Policy Framework (the Framework) was published in December 2023 accompanied by a written ministerial statement (WMS). The revised Framework is a material consideration which should be taken into account from the day of publication. I have familiarised myself with the content of the revised Framework and the accompanying WMS and none of the revisions to the Framework would appear to be material to this appeal. Having considered the revisions and in light of the principles of natural justice, the parties have been provided with an opportunity to comment on the revised Framework.
3. The Council's first reason for refusal refers to Policy SA6 of the Brighton & Hove City Council's Development Plan Part One (2016) (the CCP1). This policy relates to sustainable neighbourhoods and is not directly relevant to the issues raised in this appeal.

Main Issues

4. The main issues are the effect on the:
 - character and appearance of the area; and
 - living conditions of the occupants of neighbouring properties, with regard to the privacy and outlook of Numbers 91-95 Applesham Avenue.

Reasons

Character and appearance

5. The appeal site is part of No 93 Applesham Avenue (No 93) and includes a detached garage and two-storey annexe. The surrounding area is largely

characterised by two-storey semi-detached dwellings on generous plots that give the area a sense of spaciousness. The dwellings generally have a mixture of brick and render and hipped roofs that result in a pleasant character and appearance.

6. There are several outbuildings within the rear gardens in Applesham Avenue, including garages. Development to the rear is typically single-storey, the low scale of which adds to the spacious feel of the locality. The annexe at the site is an exception to this, given its two-storey scale, although its visual impact is limited by its modest proportions and ancillary use.
7. The proposal is for the conversion and extension of the two-storey annexe to create a one-bedroom dwelling, and the consequential subdivision of the garden at No 93. The scheme would result in a reduction in the overall built form at the site through the removal of the garage and the extension of the proposed dwelling. However, the dwelling would occupy a larger proportion of its site and the resultant plot sizes of the existing and proposed dwelling would be smaller in comparison to other dwellings in the locality.
8. The proposal includes physical alterations to the building, including the addition of a flat roof and a single-storey front extension. The alterations would retain the overall height of the building and the use of render is not objectionable given its prevalence in the area. However, the change in roof form and single-storey extension would make the dwelling appear bulky and would jar with the prevailing form of the surrounding development. The position of the building, on rising land, means that the alterations have a greater visual effect, and would emphasise the incongruent appearance and position of the proposed dwelling.
9. I note the evidence from both parties regarding density, including the Urban Characterisation Study of the Hangleton neighbourhood. However, notwithstanding the density figures, the proposed dwelling within the subdivided rear garden of an existing property would seem overly large for the size of its plot. This would appear harmfully at odds with the prevailing pattern of development in the locality. Whilst I note the dwelling at No 44A Applesham Avenue (No 44A), this is an isolated example of development to the rear of dwellings and does not define the overall character of the area.
10. The appellant has drawn my attention to development at No 4A Cranmer Avenue (No 4A) and No 316 Hangleton Road (No 316). Although I do not have all of the details of these dwellings, I note that the dwelling at No 4A fronts the road within the defined building line and its smaller plot size is more consistent with that of the surrounding properties, whilst No 316 is positioned on a larger plot. Therefore, these developments are not directly comparable to this appeal. As I must, I have considered the specific context of this proposal.
11. I conclude that the proposal would harm the character and appearance of the area. The development therefore fails to accord with Policies CP12 and CP14 of the CCP1 and DM18, and DM21 of the Brighton & Hove City Plan Part Two (2022) (the CPP2), which collectively require all new development to raise the standard of architecture and design in the city, respect, reinforce or repair the character of the neighbourhood and make a positive contribution to the visual quality of the environment.

Living conditions

12. The dwelling would include first floor windows within the front elevation. The proposed windows would be set higher in the elevation than the existing windows serving the annexe providing clearer views from the first floor. One of the windows would serve a bedroom and the other would be an obscured glazed window serving a bathroom. Both windows would face towards the rear elevation and garden of No 93.
13. The first floor windows would be reasonably distant from the rear windows of No 93. However, the raised position of the dwelling would allow for unobstructed views towards the rear of No 93, in particular the private amenity area immediately, including the patio, adjacent to the rear of the dwelling. The resulting overlooking would lead to a significant loss of privacy for the occupants of No 93. I acknowledge that, as the occupant of No 93, the appellant is content with the effect of the proposal. However, this may not always be the case, particularly if there are changes of ownership at the site.
14. The window would allow for views towards No 95 Applesham Avenue (No 95). Although views would be screened by existing planting at No 95, the foliage may not always be present and consequently clearer views towards the rear of No 95 could be afforded to future occupants.
15. In addition, the window would also provide views towards the rear of No 91 Applesham Avenue (No 91). Given that No 91 is to the side of the site, the views afforded would be oblique rather than direct. There is some planting to the boundary which screens views from the window towards the neighbouring properties. Furthermore, the garage at No 91 would reduce intervisibility between the window and the rear of No 91. Given the presence of the intervening garage, the proposal would not result in a loss of privacy for the occupants of No 91.
16. In order to reduce the overlooking towards No 95, the proposal includes glazed screens to the sides of the roof of the single-storey element. This would limit views from the window to the rear parts of the neighbouring properties but offers minimal protection to the areas of these properties closest to the dwellings. As a result, the screens do not sufficiently mitigate the harm identified.
17. I conclude that the proposal would significantly harm the living conditions of the occupants of No 93 and No 95 with regard to privacy. The development therefore fails to accord with Policy DM20 of the CCP2, which requires development to not cause unacceptable loss of amenity to the proposed, existing, adjacent or nearby users, resident and occupiers.

Other Matters

18. The appellant suggests that the annexe could be used as a dwelling ancillary to the main dwelling under the government's Rent a Room scheme. However, no further details have been advanced to demonstrate that this would not constitute a breach of planning control and that the eligibility criteria of the scheme can be met. Consequently, this would not comprise a fallback position and I therefore attribute minimal weight to this suggestion.
19. I note the reference to the Council's handling of the application, including correspondence during the course of the application and the procedures in

relation to Councillors and the Planning Committee. However, this is not relevant to my consideration of the planning issues of the appeal scheme.

Planning Balance

20. The Framework does not change the statutory status of the development plan as the starting point for decision making. The proposal conflicts with the aforementioned policies of the CCP1 and CCP2, with the associated conflict reflecting harm to character and appearance of the area and to the living conditions of occupants of adjacent properties. The development conflicts with the development plan as a whole and should be refused unless other material considerations indicate otherwise.
21. There is no dispute between the parties that the council is currently unable to demonstrate at least a five year supply of housing land that the Framework requires. The Council states that it has a 2.1 year supply, which is substantially below the required level of five years.
22. Paragraph 11 d) of the Framework states that in these circumstances planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
23. The proposal would make a positive contribution to housing supply with associated social and economic benefits during the period of construction and once the dwelling is occupied. However, the contribution of a single dwelling to meeting housing need in Brighton through a more efficient use of land in an urban area, in accordance with Policy DM19 of the CCP2, and the associated benefits are limited by the scale of development proposed.
24. In the particular circumstances of this case, I have concluded that the proposal would have a harmful effect on the character and appearance of the area, would significantly harm the living conditions of occupants of neighbouring properties and would conflict with the relevant policies of the development plan and the Framework to which I apportion significant weight. The adverse impacts would therefore significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework as a whole.

Conclusion

25. The proposal conflicts with the development plan when considered as a whole. The material considerations in this case do not indicate that the appeal should be determined otherwise than in accordance with the development plan. For the reasons given above I conclude that the appeal should be dismissed.

J Pearce

INSPECTOR