



Appeal Decision

Site visit made on 4 January 2024

by C Butcher BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 February 2024

Appeal Ref: APP/Q1445/W/23/3326518

Land to the rear of 56A Trafalgar Road, Portslade, Sussex BN41 1GR

- 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 John Warner (Downside Developments (Btn) Ltd) against the decision of Brighton & Hove City Council.
 - The application Ref BH2023/00731, dated 7 March 2023, was refused by notice dated 3 May 2023.
 - The development proposed is the removal of redundant outbuilding/store and erection of single storey dwelling (C3) fronting Elm Road, repositioning of site boundary fence and associated alterations.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposed development on the living conditions of future occupiers and those of the occupiers of No. 56A, with regards to outlook and outdoor amenity space.

Reasons

3. The proposed development would involve the provision of a new studio dwelling. It would be served by a window on the front elevation, two windows on the east elevation, and bi-fold doors to the rear with glass panels above.
4. The front of the building would be situated extremely close to the existing boundary wall on Elm Road. While the height of the wall would be reduced, the presence of metal railings so close to the front window would reduce the outlook when viewing from the bedroom area. Furthermore, the existing three metre high boundary wall to the rear of the site would also be very close to the proposed bi-fold doors, while the window in the kitchen area would be set at a high level, thereby offering very limited outlook. In my view, the lack of sufficient outlook from all windows would mean that the dwelling would likely feel very cramped and oppressive for future occupiers. The glass panels in the ceiling to the rear of the property would provide additional daylight but would not mitigate the harm in terms of a lack of lateral outlook.
5. The proposed private amenity space to the rear of the dwelling would also be very small. While there may still be space for some garden furniture, the close proximity of the tall rear boundary wall, the wall of the neighbouring building, as well as the proposed two metre high fence, would likely mean that occupiers would again feel cramped and somewhat 'hemmed in'. The garden area would

therefore be an unpleasant and unattractive space. While I accept that some flats have balconies that are of a similar size or smaller than the proposed garden, they would normally have a reasonable outlook and therefore feel relatively spacious in comparison. In addition, while the urban grain of the immediate area is quite tightly knit, the majority of properties are situated on larger plots that offer greater space and outlook than the appeal proposal.

6. With regards to the outdoor garden space associated with No. 56A, the appellant has set out that much of the appeal site is already outside of the curtilage of that property. The remaining garden space would be quite a bit larger than that of the proposed dwelling and would not have the same cramped feel. I am therefore satisfied that this element of the proposal would not be harmful to the living conditions of the occupiers of No. 56A. Nevertheless, this does not overcome the harm that I have identified.
7. As a result, I conclude that the proposal would harm the living conditions of future occupiers of the proposed dwelling. It would therefore conflict with Policies DM1 and DM20 of the Brighton and Hove City Plan Part Two, 2022. Taken together, the relevant aspects of the policies seek to ensure that new developments are designed in a way that provides adequate living conditions.

Conclusion

8. It is not in dispute that the Council cannot currently demonstrate a 5-year supply of deliverable sites for housing. Indeed, the current shortfall is significant, and I have no evidence before me to suggest that this position is likely to improve in the short-term. As a result of the shortfall, policies related to the location and supply of housing are deemed to be out of date. In such circumstances, Paragraph 11d and footnote 8 of the National Planning Policy Framework (the Framework) require that 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 as a whole.
9. In this instance, the benefits of the proposal include the provision of a single new home that would assist in meeting need in the area, support for local facilities, and the creation of jobs during the construction phase. Despite the level of shortfall in housing land supply, which leads me to attribute increased weight to the benefits, I still only afford limited weight to them overall given that they are relatively minor in nature.
10. I have concluded that there would be material harm to the living conditions of the future occupiers of the proposed development. The support for the principle of development within the Framework is countered by the importance it places on the provision of development that provides adequate living conditions. In this instance, the harm would be significant and enduring. As a result, when assessed against the policies in the Framework taken as a whole, the adverse impacts would significantly and demonstrably outweigh the benefits. Consequently, for the reasons given, the proposed development conflicts with the development plan as a whole, and there are no other considerations, including the provisions of the Framework, that outweigh the identified harm. The appeal is therefore dismissed.

C Butcher

INSPECTOR