



Appeal Decision

Site visit made on 5 January 2024

by N Perrins BSc (Hons), MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08.02.2024

Appeal Ref: APP/Q1445/W/23/3321111

Garages to rear of 10 Bavant Road, Brighton BN1 6RD

- 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 Paul Corcut against the decision of Brighton & Hove City Council.
 - The application Ref: BH2022/03434, dated 1 November 2022, was refused by notice dated 15 March 2023.
 - The development proposed is for redevelopment of existing garage block with a pair of semi-detached two bedroom dwellings.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Council can currently only demonstrate 1.8 years of deliverable housing supply. In these circumstances Paragraph 11 of the National Planning Policy Framework ('the Framework') states 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. I return to this matter in my 'Planning Balance and Conclusion' section, below.
3. The site is in the Preston Park Conservation Area. The duty under Section 72 (1) of the Planning (Listed Building and Conservation Areas) Act 1990 (the Act) requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of Conservation Areas. The Framework advises that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.
4. Finally, and for the avoidance of doubt, I have based this decision on the amended plans that were submitted during the course of the application and upon which the Council made its decision.

Main Issues

5. The main issues are the effect of the proposed development on:
 - (i) the character and appearance of the area; and
 - (ii) the living conditions of neighbouring properties, with particular regard to outlook.

Reasons

Character and appearance

6. The appeal site is a back-land plot comprising a block of single storey garages and hard surfacing with access from Bavant Road. The site adjoins the rear boundaries of properties on Bavant Road to the west, Harrington Villas to the east and Preston Drove to the south. The character of the area is primarily residential detached and semi-detached properties.
7. The proposal seeks to develop the site by replacing the garages with two, two-storey semi-detached dwellings each with rear garden areas. Back-land development is not a common characteristic of the area, with development predominantly laid out in perimeter blocks with dwellings facing towards roads with spacious gardens behind. Outbuildings within rear gardens are generally single storey and subservient features to residential dwellings. In this context, introducing two-storey development to the site would be a stark and visually prominent change from the existing situation. Moreover, whilst views of the proposal would be limited to those from properties adjoining the site, it would be highly visible due to its two-storey scale, width and depth within the plot resulting in a development that would appear incongruous and intrusive in its context.
8. Irrespective of whether any local plan policy specifically refers to subservience, the scale of development is out of keeping with its immediate surroundings and would harm the visual quality of the area.
9. With respect to S.72(1) of the Act, the significance of the heritage asset arises mainly from the architectural quality of dwellings and views into and out of the conservation area. The contribution of the site to the significance of the heritage asset is therefore neutral given it comprises garages, hard surfacing and is largely hidden from public vantage points.
10. The development would for the aforementioned reasons, however, result in visual harm to the overall character of the area by reason of excessive scale, bulk and mass of the proposal. Accordingly, the proposal, and the change it would have in visual terms, would also neither preserve or enhance the character or appearance of the conservation area. However, I conclude that this impact would be at the lowest end of less than substantial harm given that the development would largely be hidden from public vantage points and that the change would be contained to its immediate surroundings.
11. The overall design and detailing before me is consistent with the varied styles of development in the nearby area and an acceptable design approach to use in terms of materials and architectural style. However, this does not alter the conclusion that the proposal would be intrusive and incongruous and result in harm to the character and appearance of the area.
12. To conclude, the proposal would not be in keeping with the character and appearance of the area by virtue of its excessive scale and prominence within its plot contrary to Policy CP12 of the Brighton & Hove City Plan Part 1 (2016) (CPP1) and DM18 of the Brighton & Hove City Plan Part 2 (2022) (CPP2), which whilst encouraging higher densities requires development to establish a strong sense of place by respecting the diverse character and urban grain of the city's identified neighbourhoods and make a positive contribution to a sense of place

and the visual quality of the environment. The proposal would also not preserve the character of the conservation area contrary to Policy DM26 of CPP2. Finally, the proposal does not accord with Paragraph 135 of the Framework, which requires decisions to ensure that developments function well and add to the overall quality of an area. I return to whether there are any material considerations that outweigh the identified conflicts with the development plan later in this decision.

Living conditions

13. As set out above, the proposal would be highly prominent when viewed from the rear of the properties surrounding the site. In particular, views from some of the properties on Harrington Villas and Bavant Road would be looking directly out onto the flank walls of the building, which would be two storeys in height and with a depth at around 9m. This impact would be particularly noticeable from the properties on Harrington Villas given they are on higher ground than the appeal site.
14. Whilst the separation distances at around 19m are relatively large, the views across the site in both east and west directions are also mainly open other than for boundary treatment. Given the scale of the proposal, the effect of this when looking from the east and west directions would be a highly visible and incongruous development that would result in an unacceptable degradation to outlook from the affected properties.
15. I have reviewed the examples provided by the appellant of other back-land development approved in the city. However, these are not directly comparable to the appeal scheme and its site context, as some or all had greater separation distances to neighbouring properties, more screening, proposed smaller buildings or affected less properties than in this case. Overall, the examples provided do not add significant weight in favour of the proposal.
16. The outlook from the properties to the north and south would not be materially harmed given the separation distances and that the views in both directions already look across to much taller buildings than the proposed development. No harm to the outlook of these properties, however, does not outweigh the harm I have identified from the those along Harrington Villas and Bavant Road.
17. In conclusion, the appeal proposal would by virtue of its excessive scale, height, bulk and mass, harm the outlook of properties along Harrington Villas and Bavant Road contrary to Policy DM20 of the Local Plan Part Two, which only permits development where it would not cause unacceptable loss of amenity to proposed, existing, adjacent or nearby users, residents and occupiers. The proposal would also be contrary to Paragraph 135 of the Framework that requires a high standard of amenity for future and existing users.

Other Matters

18. Although no harm has been identified in any other respect, this is a neutral factor and weighs neither for nor against the development.
19. Whilst the appellant made changes to the scheme following pre-application comments, I must determine the appeal based on what is before me and I have concluded that the development would not be acceptable.

Heritage and Planning Balance

20. As set out above, the proposed development would result in harm to the character and appearance of the area. The development would be contrary to the development plan in this regard, and I attach significant weight to this conflict. Accordingly, the proposal also results in less than substantial harm to the conservation area, although only to a very limited degree when considering the site context and overall significance of the heritage asset.
21. Set against this, the development would make a small contribution towards the supply of housing on a brownfield site in an accessible location, and on a small site within an existing settlement. It would also generate some economic benefits during the construction phase and through local expenditure by future residents.
22. The effect on the significance of the conservation area is very limited and thus the public benefits of these two dwellings would outweigh this particular harm. The policies of the Framework that protect areas or assets of particular importance do not therefore provide a clear reason for refusing the development.
23. However, this does not alter the fact that the development would create an incongruous and harmful form of development in its immediate area and unacceptably impact on the living conditions of neighbouring occupants.
24. On balance, and taking all matters into consideration, I conclude that the adverse impacts of the development would significantly and demonstrably outweigh the benefits when considered against the Framework as a whole. Therefore, the development does not benefit from the Framework's presumption in favour of sustainable development, and there are no material considerations that indicate that the proposal should be determined other than in accordance with the development plan.

Conclusion

25. For the reasons given above I conclude that the appeal should be dismissed.

N Perrins

INSPECTOR