



Appeal Decision

Site visit made on 9 April 2024

by D Wilson BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 April 2024

Appeal Ref: APP/Q1445/W/23/3333949

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

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) 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 is BH2023/01799.
 - The development proposed is redevelopment of existing garage block with a pair of semi-detached chalet style dwellings.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Mr Paul Corcut against Brighton & Hove City Council. This application is the subject of a separate decision.

Main Issues

3. The main issues are the effect of the proposed development on;
 - the character and appearance of the area and Preston Park Conservation Area (CA), and
 - the living conditions of the occupiers of neighbouring properties with regard to outlook.

Reasons

Character and appearance and CA

4. The appeal site is a back-land plot which contains a block of single storey garages. The site is accessed from Bavant Road by a hard surfaced track with the remainder of the appeal site being mostly hard surfaced. The appeal site is surrounded by residential properties and forms the rear boundary for several properties on Bavant Road, Harrington Villas and Preston Drove.
5. The wider area is residential with most of the dwellings being large, two-storey and face the road with large, spacious gardens to the rear which generally results in an open and spacious character and appearance. The appeal site is mostly open with low level garages, and it therefore generally contributes positively to the open and spacious character and appearance.
6. Back-land development is not a characteristic feature within the area. The proposed development has been designed to be single storey, with

accommodation in the roof, however, the result would still be higher than the existing garages within the site. Views of the appeal site will be extremely limited from the adjoining roads, and only possible through fleeting views through gaps between existing dwellings.

7. The appeal proposal would be most visible from the existing properties that surround the site. Due to the significant depth of the dwellings, which would occupy most of the depth of the appeal site, as well as the overall height above the existing garages, the proposed development would be an incongruous feature in this context.
8. I note that the proposal would represent a density of 39 dwellings per hectare which is below the target of 50 dwellings per hectare. However, the significant depth of the dwellings that would occupy most of the appeal site's depth would also appear cramped and be an overdevelopment of the appeal site.
9. I note that the appellant raises concern that overdevelopment did not form part of previous refusals on the appeal site. I do not have the full details of these previous proposals, however, from the evidence before me, while the height of the dwellings has reduced, the depth and footprint has increased. While this may be a marginal increase, for the reasons given, the proposed development would represent an overdevelopment of the appeal site.
10. The CA covers two areas of predominantly residential properties dating from mid to late 19th Century. Its significance is derived from its predominance of family dwellings, resulting in a domestic and tranquil character. Around the appeal site is a more varied architecture which results in a less cohesive streetscape, with the trees, deep gardens and mature planting providing an attractive setting for appreciation of these buildings.
11. Given the above, I find that the significance of the CA, insofar as it relates to the appeal before me, to be primarily associated with the predominantly open space that forms the appeal site that contributes positively to the tranquil character of the CA.
12. The proposed development would occupy a large proportion of the appeal site and result in dwellings that are higher than the existing garages within the site. As a result, the proposed development would erode the openness of the appeal site and result in an incongruous form of development that would neither preserve or enhance the character or appearance of the CA. The harm would be less than substantial given that views of the proposed development would be largely limited to views from the existing properties that surround the site.
13. I therefore conclude that the proposed development would harm the character and appearance of the area and fail to preserve or enhance the character or appearance of the CA. It would be contrary to Policy CP12 of the Brighton & Hove City Plan Part 1 (2016) (CPP1) and Policies DM18 and DM26 of the Brighton & Hove City Plan Part 2 (2022) (CPP2). Amongst other things, these seek to ensure that development to establish a strong sense of place by respecting the diverse character and urban grain of the city's identified neighbourhoods, make a positive contribution to a sense of place and the visual quality of the environment and preserve the character of the CA.

Living conditions

14. The proposed development would be most visible from the surrounding properties with many of the rear elevations looking directly towards the development. While the proposal is single storey, albeit with accommodation in the roof, it would still be higher than the existing garages and would therefore affect the largely open views from these properties.
15. The depth of the proposal would take up the majority of the appeal site and although the separation distances are large between the existing properties, views of the proposal would still be prominent due to the mainly open gardens between. The occupiers of the dwellings on Bavant Road and Harrington Villas would face the flank walls with views from Harrington Villas being particularly prominent due to the houses being on higher ground.
16. The proposed development would be visible from the properties on Preston Drove, however, the occupiers of these dwellings already look towards taller buildings on Harrington Villas. This, combined with the separation distances would mean that the outlook for these occupiers would not be unacceptably harmed.
17. Notwithstanding the occupiers of dwellings on Preston Drove, I conclude that the proposal would unacceptably harm the living conditions of the occupiers of neighbouring properties with regard to outlook. It would be contrary to Policy DM20 of the CPP2 which amongst other things, seeks to ensure that development does not cause unacceptable loss of amenity to existing, adjacent or nearby users, residents and occupiers.

Other Matters

18. I have had regard to a previous appeal decision¹ on the appeal site. However, the scheme was different in that the dwellings were two storeys in height. The Inspector found that, amongst other things, that the height of the proposed dwellings would be harmful. However, this is not to say that a reduced height would be acceptable. Furthermore, the Inspector raised concerns with the width and depth, which for the appeal before me, the depth in particular has increased. In this regard, I have found that the proposed development, for the reasons outlined to be harmful despite the reduced height.
19. The Council have found that the proposed development would be acceptable in other regards including the proposed materials, flood risk, meeting Nationally Described Space Standards, energy and water efficiency standards, livening conditions of neighbouring occupiers in terms of privacy, sunlight, daylight, noise, biodiversity, trees and highway safety. While I have no reason to disagree with the Council, these are neutral matters.

Planning Balance

20. The proposal would be contrary to Policy CP12 of the CPP1 and Policies DM18, DM20 and DM26 of the CPP2. These Policies are consistent with the Framework in focusing on ensuring developments function well and add to the overall quality of the area with a high standard of amenity for existing users and create places that are safe, secure and attractive.

¹ APP/Q1445/W/23/3321111

21. The Council conceded that it is unable to demonstrate a 5-year supply of deliverable housing sites in accordance with Paragraph 77 of the Framework. The figure quoted is a 1.8 year supply which is a substantial shortfall.
22. Paragraph 11 d) of the Framework indicates that, in such circumstances where the requisite housing land supply cannot be shown, the Policies which are important for determining the application should be deemed out-of-date and permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the Policies in the Framework taken as a whole.
23. The proposed development would contribute to the supply of new homes in a situation where there is a shortfall. The proposal would result in a net increase of two homes and use brownfield land which attracts significant weight in favour of the proposed development, albeit this is tempered by the fact that the proposal is only for two homes. The proposal would also support the creation of jobs directly and indirectly during construction and result in future occupiers spending in the locality.
24. In respect of the harm to the CA, I have found that the proposed development would attract less than substantial harm. Nevertheless, I must attach great weight to this identified harm. The Framework requires that where less than substantial harm is found, the harm must be weighed against any public benefits. Due to the very limited effect on the significance of the CA the public benefits associated with the provision of two dwellings would outweigh this specific harm.
25. However, taking all matters into consideration, the harm to the character and appearance of the area and harm to the outlook for neighbouring occupiers would significantly and demonstrably outweigh the modest benefits. As such, the proposal would not constitute a sustainable form of development in terms of the Framework.
26. Consequently, when assessed against the Policies in the Framework when taken as a whole the adverse impacts would significantly and demonstrably outweigh the benefits.

Conclusion

27. The proposal would conflict with the development plan as a whole and there are no other considerations, including the provisions of the Framework, which outweigh this finding. Therefore, for the reasons given, the appeal should not succeed.

D Wilson

INSPECTOR