

Appeal Decision

Site visit made on 27 August 2024

by D Wilson BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 September 2024

Appeal Ref: APP/Q1445/W/24/3338770

5 Valley Drive, Brighton and Hove BN1 5FA

- 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 Mrs Shala Razak against the decision of Brighton and Hove City Council.
 - The application Ref is BH2023/01409.
 - The development proposed is the erection of a new building to be used for AirBnB/ Guest Accommodation in the garden of 5 Valley Drive.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of proposed development on:
 - the character and appearance of the area, and
 - the living conditions of neighbouring occupiers with regard to privacy, noise and disturbance.

Reasons

Character and appearance

3. No 5 Valley Drive is a two storey dwelling located within a predominantly residential area. The appeal site is a triangular shape with the rear garden gradually rising and narrowing, ending in a point. The rear garden is surrounded by neighbouring gardens which are generally landscaped and well vegetated which results in a verdant character and appearance.
4. The proposed development would occupy a section towards the rearmost of the garden and would result in an increase of 14% of building footprint. It would take up the entire width with the side walls of the building replacing the existing fencing to form the boundary between the neighbouring gardens. While I note the width is designed to reduce the necessary depth of the proposal, the overall size of the proposed building, combined with the modest size of the garden would result in a building that appears too wide for the plot and therefore an overdevelopment of the site.

5. The proposed grey roofing and cladding would be out of character with the prevailing materials in the area. There are also no significant features proposed to soften the appearance would result in the building being a harsh addition that would stand out within the garden setting.
6. I therefore conclude that the proposed development would unacceptably harm the character and appearance of the area. It would be contrary to Policy CP12 of the Brighton & Hove City Plan Part One Brighton & Hove City Council's Development Plan March 2016 (CP1) and Policies DM18 and DM21 of the City Plan Part Two Brighton & Hove City Council's Development Plan October 2022 (CP2). Amongst other things, these seek to ensure that developments establish a strong sense of place by respecting the diverse character and urban grain and make a positive contribution to a sense of place and visual quality of the environment.

Living conditions

7. The proposed development would reduce the amount of useable garden space for No 5 due to the overall size of the proposal. Furthermore, access for the proposed development would be required through the existing garden which due its narrow width, would also reduce the attractiveness of using the garden space for No 5 due to the lack of privacy from the comings and goings of occupiers of the holiday let.
8. While the resulting garden would exceed nationally described space standards this would not mitigate the attractiveness and usability of the space due to the competing use of the proposed holiday let.
9. The proposed building would be against the boundary of both neighbouring properties, both of which have modest sized gardens and by the landscaped nature of No 3 Valley Drive's garden and outbuilding at the rearmost section of the garden of No 7 Valley Drive, indicate that the full extent of both gardens are enjoyed by the occupiers. The closeness of the proposal, combined with the turnover and comings and goings of occupiers, is likely to result in noise and disturbance for both of these occupiers and reduce the ability to enjoy their gardens.
10. I acknowledge that the building has been designed, through abutting the boundary to reduce foot traffic and activities along the boundary of the holiday let, however, occupiers would still need to walk very close to the boundary on either side to access the holiday let which would lead to unacceptable noise and disturbance.
11. I note that Airbnb hosts are given extensive guidance, however, there would be no planning control in securing compliance with this guidance and also no control over where the holiday let would be advertised with other letting platforms likely having different guidance and controls.
12. I therefore conclude that the proposed development would unacceptably harm the living conditions of the occupiers of neighbouring properties with regard to privacy, noise and disturbance. It would be contrary to Policies DM1 and DM20 of the CP2 which amongst other things, seeks to ensure that development provides useable private outdoor amenity space and would not cause unacceptable loss of amenity to existing, adjacent or nearby residents.

Other Matters

13. The appellant has put forward a fallback position in the form of the erection a single storey garden room/shed using permitted development rights. I note that the appellant has a certificate of lawfulness for the proposed permitted development scheme and as such I accept that the fallback position is available.
14. I accept that there is a greater than theoretical possibility that the fallback would be implemented should the appeal scheme be dismissed. It is therefore a material consideration in the assessment of the proposal.
15. However, for significant weight to be afforded to a fallback position there needs not only to be a real possibility of it being carried out, but it would also need to be equally or more harmful than the appeal scheme.
16. I have not been provided with all the information in relation to the fallback position. However, from the evidence before me, while the fallback position proposed a similar building to the appeal proposal it would need to be incidental to the main dwellinghouse and as such, would differ from the use proposed in the appeal before me. I have found that the use as a holiday accommodation would be harmful to the living conditions of neighbouring occupiers and for these reasons, I find that the appeal scheme would be more harmful than the fallback position.
17. Consequently, for these reasons considered cumulatively, the fallback position carries limited weight in favour of the proposal.
18. The appellant has drawn my attention to several developments in the area in order to justify the appeal proposal. I have been provided very limited information of these development and in any case each proposal should be considered on its own merits.
19. In regard to No 17 Valley Drive this appears to relate to an outbuilding to the side of the property which is for student accommodation. This differs from the appeal before me in that the use for student accommodation would not result in a potential frequent turnover of occupiers and it also located to the side of No 17 as appose to the rear garden.
20. In regard to No 9 Valley Drive, I have been provided with very limited information in respect of this development and there appears to be no planning history. The building is however similar to the proposed development in that it occupies a similar section to the rear of the garden and uses similar materials. However, there is no evidence before me to suggest that it is being used in the same way as the appeal proposal before me and the garden is also generally bigger and therefore the relationship with the host dwelling and wider area is different.
21. The appellant raises concern that the Council did not visit the appeal site and while I note their frustration, I am only in a position to consider the planning merits of the appeal before me. I also note that the Council have referred to conflict with Policy DM28 of the Brighton & Hove Local Plan 2005 within their statement of case which relates to locally listed heritage assets and it therefore not relevant to the development proposed.

Conclusion

22. For the reasons given above the appeal should be dismissed.

D Wilson

INSPECTOR