



Appeal Decision

Site visit made on 31 July 2024

by V Goldberg BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30th September 2024

Appeal Ref: APP/Q1445/W/23/3331096

50 Benfield Way, Portslade, Brighton and Hove BN41 2DL

- 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 J Chadwick of HGN Homes against the decision of Brighton & Hove City Council.
 - The application Ref is BH2022/02615.
 - The development proposed is the erection of 1 no. four bedroom dwelling to rear and demolition of existing garage and side extension and formation of access.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development on:
 - the character and appearance of the area; and
 - the living conditions of the occupiers of 6 and 8 Hillside with particular reference to outlook and sunlight.

Reasons

Character and appearance

3. The appeal site is situated on Benfield Way, which is characterised by good sized, detached properties. The dwelling on site, is positioned towards the front of an uncharacteristically long plot compared to surrounding properties. The rear garden is terraced due to its steep profile, with the highest level being at the rear.
4. The properties on Mill Lane and Hillside which lie behind Benfield Way and surround the appeal plot, are modest semi-detached bungalows. These denote the prevailing built form around the appeal plot.

5. Whilst Policy CP12 of the Brighton and Hove City Plan Part One¹ (BHCPPO) and Policy DM18 of The Brighton and Hove City Plan Part Two² (BHCPPT) do not refer to back land development, the Council's Supplementary Planning Document 17 Urban Design Framework³ (UDFSPD) is supportive of small-scale back garden development, where gardens are especially large. In this case, the proposed dwelling is not small in scale and despite the ground floor of the dwelling being cut into the slope of the site, it would appear disproportionately large within its setting. The proposed first floor, has a comparable footprint to properties on Hillside, Mill Lane and the main dwelling, and as a result would fail to appear subservient to the main property.
6. The Design Response Statement considers that the proposal would be consistent with dwellings in the area. However, whilst plot sizes may be comparable, the size of the dwelling proposed is larger than the prevailing built form. In any event, being consistent in size would not constitute a small-scale development.
7. Whilst the proposed dwelling does not exceed the height of the main property, the first-floor element of the scheme is particularly long and this emphasises its massing. The proposal would therefore appear overly dominant within the plot and its wider setting. The configuration of the solar panels on top of the building would exacerbate the prominence of the dwelling and whilst their configuration and the external finish of the dwelling, could be controlled by conditions, these would not address the unacceptable scale of the proposal.
8. Reference is made to paragraph eight of the dismissed appeal decision proposing two dwellings at the site (APP/Q1445/W/20/3264787). Within this appeal, the Inspector considered that '*the proposed buildings would not dominate the local area*'. In the same decision, the relationship with the side boundaries was considered insufficient for the buildings to sit comfortably within their surroundings, with their mass being appreciable to the detriment of the character and appearance of the area. Whilst the appeal scheme is of a smaller scale, in terms of position, it would have a similar relationship with the northern boundary, but the proposed dwelling has a greater height and would extend considerably above the boundary wall. Given the height, position and length of the upper floor of the proposed dwelling, I do not consider that the harm identified previously has been overcome.
9. Whilst the site is not within a conservation area, and it is not visible from public vantage points, Policy DM18 of the BHCPPT requires new development to make a positive contribution to a sense of place and the visual quality of the environment. Thus, the impact of the proposed development on the character and appearance of an area is not constrained to public viewpoints.
10. For the reasons identified above, I conclude that the proposed development would result in harm to the character and appearance of the area. It is therefore contrary to Policy CP12 of the BHCPPO, and Policy DM18 of the BHCPPT. These policies require new development to make a positive

¹ Adopted March 2016

² Adopted October 2022

³ Adopted June 2021

contribution to a sense of place, the visual quality of the environment and respect the character of the urban grain of the neighbourhood. The proposed development is also contrary to the Council's UDFSPD.

Living Conditions

11. The appeal site shares its northern boundary with the rear gardens on Hillside. The boundary is demarcated by a stepped brick wall which follows the gradient of the land. There are trees in the rear garden of properties on Hillside towards the end of the appeal site with notable gaps in the vegetation cover.
12. The first-floor section of the proposed dwelling would run parallel to the rear gardens of 6 and 8 Hillside and extend along the entire boundary of No 6. There is a clear gap in the vegetation behind 6 and 8 Hillside and the dwelling would extend above the boundary wall. Given the depth of the gardens on Hillside and the proximity to the boundary wall, the proposed dwelling would appear overbearing and dominate views from within these gardens.
13. Reference is made to the previous appeal decision and that this appeal was not dismissed on the impact on the living conditions of adjoining occupiers. However, the two schemes and main issues are materially different. As detailed above, whilst the position of the building line is similar, the appeal scheme runs along the full width of the rear boundary of No 6 Hillside and has a significantly greater bulk and mass compared to the previous scheme. As such the two schemes are not comparable in terms of the impact on the living conditions of the occupiers of Nos 6 and 8 Hillside.
14. The first floor of the proposed dwelling would impinge on the amount of sunlight received at the end of the garden at 6 Hillside. Whilst only a portion of the garden would be affected, the garden is modest in size and the area affected would be significant. The shadowing would result in the patio at the end of the garden being covered in shade and this would negatively affect the desirability of the garden as private amenity space.
15. For the reasons identified above, I conclude that the proposed development would result in harm to the living conditions of the occupiers of 6 and 8 Hillside with particular reference to outlook and sunlight. The proposed development is therefore contrary to Policy DM20 of the BHCPT which seeks to protect the amenity of adjacent occupiers.

Planning Balance and Conclusion

16. The proposal would cause material harm to the character and appearance of the area and the living conditions of the occupiers of Nos 6 and 8 Hillside. These harms bring the scheme into conflict with the development plan read as a whole.
17. The Council concedes that it is unable to demonstrate a five-year supply of deliverable housing sites. Paragraph 11(d) of the National Planning Policy Framework (the Framework) indicates that in such circumstances 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.

18. The proposal would contribute to the Council's housing supply and bring social and economic benefits from the construction process together with the ongoing occupation of the dwelling. These are clearly factors that weigh in favour of the appeal, but the benefits of a single dwelling are clearly limited.
19. Taking all of the above into account, I consider that the harm identified significantly and demonstrably outweighs the minor benefits when assessed against the policies in the Framework when taken as a whole. The proposal cannot therefore be considered to be sustainable development.
20. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it.
21. For the reasons given above the appeal should be dismissed.

V Goldberg

INSPECTOR