

Appeal Decision

Site visit made on 25 September 2024

by L J O'Brien BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 October 2024

Appeal Ref: APP/Q1445/W/24/3346600

70B Old Shoreham Road, Hove, East Sussex, BN3 6HJ

- 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 Alpha Projects (Sussex) Ltd against the decision of Brighton & Hove City Council.
 - The application Ref is BH2023/02239.
 - The development proposed is erection of a new build detached dwellinghouse.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are:
 - the effect of the proposal on the character and appearance of the area; and
 - the effect of the proposal on the living condition of the occupiers of 34 Wilbury Gardens with particular regard to amenity space.

Reasons

3. The appeal site is a parcel of land, sited between 70A Old Shoreham Road and the rear of 34 Wilbury Gardens (No 34), which fronts Old Shoreham Road. Whilst it would appear that the site has been subdivided from, and is not in active use by, the property at No 34, the evidence before me indicates that the Council's last known use of the site was as a garden area connected to that property.
4. The proposal is for the erection of a two-storey, four bedroomed, detached dwelling which would front Old Shoreham Road.

Character and appearance

5. Though specific designs and architectural forms vary, the wider area is broadly characterised by two-storey, detached residential properties which line the roads and are set back behind small front garden areas. The character along Old Shoreham Road itself is somewhat different in the

immediate vicinity of the appeal site as Hove Recreation Ground occupies a large section of the opposite road frontage. This area of Old Shoreham Road also differs in that there are a number of gaps between buildings which are not present to such an extent elsewhere in the area.

6. The proposed development would partially infill one such gap. In my view, though the character and appearance of the area in the immediate vicinity of the appeal site differs, the prevailing pattern of development in the area is that of fairly close-knit properties with limited gaps between plots. The surrounding roads are lined on both sides by the built form and the roads are in an almost "block" like formation with buildings along the interlinking roads. The proposed dwelling would reflect this pattern of development and would introduce an active frontage to this part of Old Shoreham Road similar to that which is present elsewhere.
7. Furthermore, the design of the proposed new dwelling is such that visual breaks between the properties would still be present and the dwelling would respect the sense of openness which is created by the gaps between plots.
8. I note from the plans that many plots in the area appear to have reasonably sized rear gardens. However, this particular element of the character and appearance of the area is not notable when viewing the surrounding roads at a human scale. Furthermore, the proposed dwelling would include a garden area of its own. As such, though I note that the subdivision of the plot would result in a somewhat smaller plot than those found elsewhere in the vicinity, for the reasons set out above, I do not consider that it would lead to a loss of visual openness or be harmful in this regard.
9. The proposed dwelling would be constructed in a similar scale and palette of materials and would feature design elements which would ensure visual cohesion with other properties nearby. The proposed dwelling would not appear unduly intrusive or incongruous and, in my view, would sit comfortably within its context.
10. Consequently, I find that the proposal would not cause harm to the character and appearance of the area. The proposed development, would, therefore accord with the aims of Policies CP12 and CP14 of the City Plan Part One - Brighton and Hove City Council's Development Plan, March 2016 (CPP1) and Policy DM18 of the City Plan Part Two - Brighton and Hove City Council's Development Plan, October 2022 (CPP2). Amongst other things, these policies seek to ensure that all new development raises the standard of design in the city and states that development will be permitted at higher densities than those typically found in the locality where the proposal is of a high standard of design and would help to maintain or create a coherent townscape.
11. The proposal would also accord with the broad aims of Supplementary Planning Document SPD17: Urban Design Framework, June 2021 which sets out the priorities that the Council would like considered when new development proposals are prepared and provides guidance on good design.

Living conditions

12. Policy DM1 of the CPP2 states that all new residential development will be required to provide useable private outdoor amenity space appropriate to the scale and character of the development. The policy goes on to set out the important contribution made by private amenity space to improving the health, well-being and general quality of life of the city's residents. This Policy is supported by Policy DM20 of the CPP2 which states that planning permission for development including change of use will be granted where it would not cause unacceptable loss of amenity to the proposed, existing, adjacent or nearby users, residents, occupiers or where it is not liable to be detrimental to human health.
13. The proposed new dwelling would have a reasonably sized garden area to serve the needs of the potential future occupiers of the property. However, as a result of the subdivision the existing property at No 34 would be left with only a very small area of garden space.
14. Though the appellant states that residents of No 34 have access to small pockets of outdoor amenity space, the plans before me indicate that, where present, this space would not be of a sufficient size for sitting out, drying clothes or other day to day activities associated with residential living. For this reason, I consider that the proposed development would fail to provide a high standard of amenity for future occupiers.
15. I note that the supporting text to Policy DM1 is clear that in considering the type and amount of useable private amenity space the Council will have regard to the type, scale, location and context of residential development and that the Council accept that it may be difficult to provide outdoor amenity space where development involves conversion of existing buildings, particularly with regard to upper floors. The scheme before me, however, does not involve the conversion of an existing building of this type and I have limited evidence before me in respect of the precise details of the accommodation or the associated amenity space which would be provided for residents of No 34.
16. Hove Park and Hove recreational Ground, areas of public open space, are located a short distance from the appeal site. As per the supporting text to Policy DM1, the presence of this space would go some way towards ensuring that the residents of No 34 would have some access to outdoor space. However, though close, the nearest space is still a short walk away across a wide regularly trafficked road and lacks the convenience and privacy of on-site facilities. It would also not provide a space for activities associated with residential living such as drying laundry.
17. I accept that the site has previously been subdivided from the property at No 34 and that the use of the site as garden space serving this property appears to have ceased. However, the Council indicate that the lawful use of the site remains as garden land in connection with No 34. Further consideration of this is not a matter for consideration as part of this appeal at this time.
18. For the reasons set out above, the development would result in a poor standard of accommodation and insufficiently sized private amenity space, for the occupiers of No 34 Wilbury Gardens. The proposal is, therefore, contrary to Policies DM1 and DM20 of the CPP2. Amongst other things, these policies seek to protect residential amenity and to ensure that all new

residential development provides useable private outdoor amenity space appropriate to the scale and character of the development.

Other Matters and Planning Balance

19. There is no dispute between the parties that the Council cannot demonstrate a five year housing land supply. As such, the Framework advises that planning 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.
20. The proposal would provide one additional unit of residential accommodation in a highly sustainable location which would assist, to a very limited degree, in boosting the supply of housing in the area. This would be a benefit of the scheme. This benefit is, however, limited by the small scale of the proposal and must be considered in that context. On the other side of the balance, I have found that the proposal would cause unacceptable harm to the living conditions of the occupiers of No 34 Wilbury Gardens in respect of amenity space. As such, in my view, the adverse effects of the proposal would significantly and demonstrably outweigh the benefits.

Conclusion

21. The proposal would not accord with the development plan when it is considered as a whole. For the reasons given above I conclude that the appeal should be dismissed.

L J O'Brien

INSPECTOR