



Appeal Decision

Site visit made on 24 March 2025

by **JJ Packman MPlan MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 06 May 2025

Appeal Ref: APP/Q1445/W/24/3356778

3 Merston Close, Brighton BN2 6WJ

- 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 Jethro East on behalf of Fairstone Property Holdings Limited against the decision of Brighton and Hove City Council.
 - The application Ref is BH2024/02071.
 - The development proposed is demolition of side extension, porch and garage and erection of 2no. new dwellinghouses with car carport and associated landscaping.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - The effect of the development on the character and appearance of the area; and
 - The effect on the living conditions of the occupiers on nearby residential properties, with regard to privacy and outlook.

Reasons

Character and appearance

3. 3 Merston Close is a semi-detached house situated within a cul-de-sac of other semi-detached properties. The properties are arranged in a 'D' shape and have rear gardens that fan out and abut the rear gardens of properties fronting Cowley Drive and Donnington Road.
4. Because of this arrangement, the gardens within the cul-de-sac are typically wedge shaped, being narrower near the house and wider towards the end of the garden. This is the case with no. 3 Merston Close.
5. The pattern of development within the local area is reasonably spacious with most properties having good, usable rear gardens. Some rear gardens include outbuildings.
6. I note that both the LPA and the appellant have undertaken an analysis of plot sizes and built ratios within the local area, with the appellant's analysis showing the proposals to have a lower density than that calculated by the LPA. The appellant

has also provided details of other planning applications granted by the LPA at similar claimed densities.

7. However, the concept of 'overdevelopment' is more than just a function of mathematical built density. In this case relevant factors include the shape and characteristics of the plot, the proximity of existing buildings to proposed buildings, and the resulting plot size and plot characteristics of the original dwelling.
8. Significant compromises appear to have been made with many aspects of the scheme's design in order to accommodate the proposed development. Whilst the proposed private amenity space may be similar in dimensional terms to others found locally, their shape appears awkward and their usability limited. This awkward arrangement contributes towards the cramped appearance of the proposed development.
9. With the proposed dwellings being situated towards the rear of the plot, they are correspondingly nearer the dwellings that front Cowley Drive and are immediately adjacent to outbuildings situated in the rear gardens of neighbouring properties. The proposed dwellings would be situated side by side and would appear to occupy most of the width of the plot. All of this contributes towards the perception of an uninterrupted mass of development in this location that would conflict with the character of the surrounding area.
10. Merston Close is characterised by post war dwellings with conventional pitched roofs and brick or part brick / part render elevations. Some properties have been subject to extensions and additions. Noticeably the dwellings at Merston Close are situated at a higher level than those on Cowley Drive to the east.
11. The appeal scheme proposes a pair of two storey houses with asymmetrical pitch roofs, designed in a contemporary style with contemporary light-coloured brick and dark framed windows.
12. Purely in terms of general architectural form, detailing and use of materials the proposal represents an acceptable architectural response to the character of the area.
13. In other respects, the design of the scheme is not responsive to its context. Despite being situated close to the boundary of no.s 59 and 61 Cowley Drive and situated at a higher level, the proposed dwellings would be two storeys in height. Although the proposal will be lower than the prevailing height of surrounding dwellings, it would still result in a highly visible and oppressive form of development in a conspicuous location that would be harmful to the character of the surrounding area.
14. Consequently, I find the amount of development proposed, and resulting density, to be inappropriate for the size, shape and characteristics of the plot, and despite my findings on general architectural form, the design and scale of the proposal to be damaging to the established character of the area.
15. I find therefore, the development would be unacceptably harmful to the character and appearance of the area. As such, it would fail to comply with Policies CP12, CP14 of the Brighton and Hove City Plan Part One 2016 and Policy DM18 of the Brighton and Hove City Plan Part Two 2022 (CP2), which seek to ensure

development raises the standard of design in the city and is of a density appropriate to the character of the local area.

Living Conditions

16. The proposed dwellings would have a close relationship with 59 and 61 Cowley Drive. Given their proposed height and the presence of rear facing windows, there is the potential for harmful overlooking to occur. To mitigate this the appellant is seeking to rely on the installation of angled louvres. It is accepted that these measures are likely to reduce the potential for overlooking, although not eliminate it entirely. The perception of being overlooked would also remain.
17. Whilst the impact of overlooking maybe reduced; substantial, two storey forms of development are proposed close to the boundary with no.s 59 and 61 and 4 Merston Close. Development of the scale proposed, in this location, would appear oppressive and unneighbourly, unduly dominating the outlook from the rear windows and gardens of these neighbouring properties, significantly harming the living conditions of their occupants.
18. Whilst there would be a cumulative impact resulting from the proposed carport, in terms of its contribution to the overall density and amount of built development on site, I do not consider that it's presence would have a significant impact by itself upon the living conditions of the occupants of no. 4 Merston Close. The proposed carport would be of a scale that one might find commonly in rear gardens.
19. Notwithstanding my findings on the carport, the development as a whole would have a significantly harmful effect on the living conditions of the occupants of neighbouring properties, with regard to privacy and outlook. As such, it would conflict with Policy DM20 of the CP2, which is only permissive of proposals that do not cause an unacceptable loss of amenity to the proposed, existing or adjacent nearby users.

Conclusions.

20. For the reasons explained above and having had regard to all other matters raised, the appeal is dismissed.

JJ Packman

INSPECTOR