



Appeal Decision

Site visit made on 15 April 2025

by **C Coles MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 12 JUNE 2025

Appeal Ref: APP/Q1445/W/25/3358469

70 Downs Valley Road, Brighton & Hove, Brighton BN2 6RF

- 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 (Fairstone Property Holdings Limited) against the decision of Brighton & Hove City Council.
 - The application Ref is BH2024/02081.
 - The development proposed is demolition of existing house's side extension and replacement of conservatory with single story rear extension. Subdivision of site and erection of a new dwellinghouse in the rear garden with associated landscaping.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. As part of their submission, the appellant has submitted revisions to the proposal introducing louvres to the first-floor windows of the proposed dwelling and additional planting in the rear garden of 70 Downs Valley Road. However, I am mindful that it is not the purpose of the appeal process to evolve a scheme, and it is therefore important that what is considered by the Inspector is essentially what was considered by the Council. I have therefore proceeded to determine the appeal on the basis of the plans as originally submitted. The merits of the louvres and planting would, if necessary, be a matter for the main parties to consider as part of a fresh proposal away from this appeal.

Main Issues

3. The main issues are the effect of the proposed development on:
 - The character and appearance of the area;
 - The living conditions of the occupiers of 68 and 72 Downs Valley Road with specific reference to outlook from the rear gardens;
 - The living conditions of the occupiers of 70 Downs Valley Road with specific reference to privacy.

Reasons

Character and Appearance of the Area

4. The appeal site comprises a detached property with the appearance of a bungalow from the road, but due to the gradient of the site is two-storey to the rear. The property has a large rear garden which is characteristic of the area and which slopes sharply away from the road. The site is located within a residential area with properties fronting the street. Neighbouring properties are a mix of architectural styles and sizes but are predominantly post-war detached, semi-detached and terraced houses with white render and slate being common materials.
5. The proposed development is for a detached two-storey, four-bedroom dwelling in the rear garden of No 70, with pedestrian access only from a side passage between 70 and 72 Downs Valley Road following the demolition of a single storey side extension. One of the existing parking spaces for No 70 would be allocated to the new dwelling and one would be retained by the existing dwelling.
6. The proposal has been designed to emulate the form and appearance of an old Sussex farm building. Whilst this may be appropriate in a rural landscape, the post war, suburban environment of the site is not where you would expect to find a building of this design. The design of the proposal would therefore be out of character with the area.
7. The effect of the proposed development on the character of the area encompasses more than public views, but also the typical form, pattern and location of development in the area. The rear garden of the appeal site is not uncharacteristically large and its subdivision to provide a dwelling in the rear garden would appear cramped and out of character with the prevailing pattern of development which has gardens of a similar size to the existing dwelling. The dwellings within the immediate vicinity of the site also have a road frontage whereas the proposal would have pedestrian access to the side of the host dwelling. The site is also unusual in that it is steeply sloping to the rear and, although revisions have been made to the plans to prevent significant excavation on the site, the proposal does not work with the changes in elevation and sloping site characteristics and would be located on an area in the middle of the rear garden that would be levelled. The proposal therefore does not align with the existing site characteristics or prevailing pattern of development.
8. The appellant has provided examples of backland development within the area, however, although I have case numbers, floor plans and elevations for the examples, I have not been given any details of the background or context to the permissions, including the site characteristics which will be individual to each case. Despite this, from evidence gathered at my site visit, I noted that the majority of sites identified within Crescent Drive North and The Ridgeway were closely located to other examples of backland development therefore the character of the area would already be influenced by this style of development. I also noted that 9 The Ridgeway appears to have been a much larger plot originally than the proposal and therefore the resulting development would appear less cramped. The design of the examples provided by the appellant also appear to relate more to a post-war suburban area than the proposal which has been designed to reflect a rural Sussex barn.

9. The relationship of each individual property to the character of the area, to neighbouring properties and site boundaries will differ for each plot and thus the acceptability of a backland dwelling on one site does not necessarily set a precedent for other neighbouring sites which may have different constraints on design and amenity and would need to be assessed on their own individual merits.
10. In conclusion, the design of the proposal would not relate to the immediate character of the area and the subdivision of the plot would result in a cramped form of development and would not respond to the typical form, pattern or location of surrounding development. For these reasons the proposed development would be contrary to Policies CP12 and CP19 of the Brighton & Hove City Plan Part One 2016 (CP Part One) and Policy DM18 of the Brighton & Hove City Plan Part Two 2022 (CP Part Two) which requires all new development to respect the characteristics and urban grain of the City's neighbourhoods, including the scale and shape of buildings and the local context.

Outlook to the Occupants of 68 and 72 Downs Valley Road

11. The proposed development would be partially sunken into the site, however, given the depth and height of the proposal and its proximity to the side boundaries, the bulk and mass of the development would be visible above the side boundary treatments. The current absence of two-storey built development in the rear gardens of the neighbouring properties would make the proposal appear an incongruous and intrusive feature which would have the potential to dominate the outlook for the occupants of 68 and 72 Downs Valley Road from their rear gardens having a harmful impact on their enjoyment of their amenity space.
12. Whilst the appellant has highlighted the distance to boundaries on backland permissions previously granted, I do not have compelling evidence that the details of the site characteristics, topography and relationship with neighbouring properties is the same as for the proposal and I am therefore unable to make a comparison with the appeal site.
13. The bulk and mass of the proposed development would be an incongruous and intrusive feature in the rear garden of No 70 and would dominate the outlook for the occupants of 68 and 72 from their rear gardens and would therefore affect the occupant's ability to enjoy their amenity space. The proposal would therefore be contrary to Policy DM20 of the CP Part Two which requires development not to cause unacceptable loss of amenity to the proposed, existing, adjacent or nearby residents.

Privacy of Occupiers of 70 Downs Valley Road

14. The proposed dwelling would have first floor windows looking directly into the private amenity space of No 70. The proximity and height of the first-floor windows in the proposal in relation to the rear garden of No 70 and the absence of sufficient screening to effectively block the view from the first floor windows of the proposal would result in the loss of privacy to the occupiers of No 70 when using their private outdoor amenity space.

15. The first-floor windows in the front elevation of the proposal would have the potential to cause overlooking and the perception of overlooking to the rear ground floor windows in No 70. The relationship between the two properties would be uncomfortable due to the proximity of the properties to each other and the ability to look directly from the front of the proposal towards the expanse of glazing to the rear of No 70.
16. In conclusion, the proposed development would cause a loss of privacy to the occupiers of No 70's external amenity space and ground floor rear windows, contrary to Policy DM20 of the CP Part Two which seeks to prevent an unacceptable loss of amenity to existing residents.

Other Matters

17. The proposed development presents various sustainability features and technologies which are encouraged under Policy DM44 of the CP Part Two and Policy CP8 of the CP Part One. However, the provision of these features alone would not overcome the harm identified above.

Planning Balance

18. The proposed development would conflict with the development plan due to its impact on the character and appearance of the area and the living conditions of neighbouring occupiers. The development plan policies relevant to these issues are consistent with those of the National Planning Policy Framework (Framework) and therefore I have attached the policy conflicts and harms significant weight.
19. The Council concedes that it is unable to demonstrate a five-year supply of deliverable housing sites (the Council have the equivalent to a housing land supply of 3.3 years), therefore the policies which are most important for determining the appeal are out of date for the purposes of the Framework. Paragraph 11(d) of 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, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.
20. The benefits of the development are the provision of a single dwelling in an accessible location, which would make a modest contribution to the supply of new homes given the housing shortfall. There would also be benefits to the local economy during construction and for the lifetime of the development through additional spending by occupants of the development in local shops and businesses. The proposal would also achieve high levels of sustainability and biodiversity on site through insulation and air tightness within the dwelling, designing in solar efficiency, utilising sustainable technology and planting with bird and insect friendly native species and the installation of bat and bird boxes. I have attached these benefits modest weight.

21. In the overall planning balance, the adverse impacts on the character of the area and on the living conditions of the occupants of neighbouring properties of granting permission would significantly and demonstrably outweigh the benefits. As a result, the proposal does not constitute sustainable development in terms of the Framework and the presumption in favour of sustainable development does not apply. The proposal conflicts with the development plan taken as a whole and the material considerations in this case do not indicate that the decision should be taken other than in accordance with the development plan.

Conclusion

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

C Coles

INSPECTOR