



Appeal Decision

Site visit made on 11 November 2025

by I A Dyer BSc (Eng) FCIHT

an Inspector appointed by the Secretary of State

Decision date: 28th November 2025

Appeal Ref: APP/Q1445/W/25/3367324

114 Sunninghill Avenue, Hove, Brighton and Hove, BN3 8JA

- 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 Jayashree Crouch against the decision of Brighton & Hove City Council.
 - The application reference is BH2024/01886.
 - The development proposed is planning application to sub divide a dwellinghouse into two dwellings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. At the time of my site visit 114 Sunninghill Avenue the full development, which includes a single storey extension and loft conversion adding a roof dormer, had already taken place. The proposal is, therefore, retrospective, and I have dealt with it as such during my decision-making process.

Main Issues

3. The main issues in this appeal are: -
 - Whether the development provides suitable living conditions for future occupiers with particular regard to the provision of external amenity space;
 - The effect of the development on the availability of family housing; and : -
 - The effect of the development on the character and appearance of the site and the surrounding area.

Reasons

4. The appeal site lies at the junction of Sunninghill Close with Sunninghill Avenue. It is a corner plot which formerly contained a modest bungalow. At the time of my site visit this has been enlarged by the addition of ground floor and roof extensions and subdivided to create two flats, one having two, and the other three, bedrooms.

Living conditions of future occupiers

5. The development has retained a garden space on the corner of the plot fronting onto the junction associated with the two-bedroom flat. This is enclosed by a mature hedge composed of predominantly deciduous planting. Generally, the hedge is high enough to avoid overlooking from the street. However, a section of the hedge is significantly lower, and this allows direct views into the garden space for passersby. During the summer, when the planting is in leaf, the hedge is likely

to significantly reduce views into the garden. However, I was able to observe the hedge during the winter months, and leaf fall had increased visual permeability of the hedge such that clear views were available into the garden.

6. The garden would, therefore, lack privacy from passersby. It would not, therefore, provide a good-quality private amenity space for occupiers of the two-bedroom flat from the adjacent footway.
7. A small, enclosed yard is provided for the three-bedroom flat. The size of this yard, when combined with the high, hard boundaries, creates a claustrophobic space. Whilst the appellant considers that the space available to the occupiers of the flat could accommodate a table, chairs and an area for drying clothes, no layout has been provided to demonstrate how this would be achieved and, from my observations on site, doing so would provide a very cramped arrangement. The limited area would not allow for a family living in the flat to engage in normal household activities, such as dining outside, whilst drying clothes and would be very restrictive of outdoor play.
8. Whilst there is no soft landscaping within the yard, a grassed area is provided for the flat, fronting onto Sunninghill Close. This, however, is narrow and would not provide usable space for play or many other household activities. Further, the area is overlooked from the street, both through the hedge and through the wide access to the flat.
9. The appellant has indicated their willingness to provide areas for bin storage and cycle parking. Again, no layout has been provided, but this would make further demands on the limited space available.
10. Thus, neither of the outdoor spaces available to the three-bedroom flat would provide a suitable area for family use.
11. The appellants argue that policy does not preclude the use of land to the side or front of a dwelling to provide private recreation space, nor the use of hedging to enclose it. Further they identify that there are no minima for space provision in terms of area. I agree that the position of the land in relation to the dwelling is not, of itself, determinative of acceptability, nor the form of the boundary. It will be seen from my reasoning that I have assessed the quality of the spaces and their practical ability to provide family amenity space to the standard that would be expected for use by a typical family.
12. The appellants identify that it is not uncommon for dwellings to have side or front gardens, bounded by hedges, in urban settings, and have drawn my particular attention to the neighbouring property, at 116 Sunninghill Avenue, and another, nearby, at 1 Amberley Drive.
13. 116 Sunninghill Avenue has its main garden to the front of the property and a small patio to the rear. The front garden, however, is enclosed within a high evergreen hedge which would provide effective screening throughout the year.
14. 1 Amberley Drive has its principle private amenity space to the rear and is, like the appeal site, a corner plot. The rear garden is screened by a fence of moderate height that provides a high, though not total, degree of visual screening to limit overlooking from the road, and taller persons would be able to see over into the

garden. In the development before me the wall is low, and the hedge is permeable to overlooking at a much lower height.

15. I do not consider that either example provides a direct comparison to the development before me. Historic poor design does not justify further shortcomings, and I have, in any case, determined this appeal on its own merits.
16. The appellants have suggested that a visually impermeable boundary could be provided through the installation of a fence or additional planting. A high, hard boundary, such as a fence or wall would prevent overlooking from the street and therefore provide privacy. However, no fence or wall design has been put before me and so it has not been demonstrated that such a solution would have an acceptable effect on the character and appearance of the site and the surrounding area.
17. Whilst planting could increase the visual screening of the garden and notwithstanding the successful establishment of the existing planting, it would take time to establish and there is no certainty that it would do so satisfactorily or deliver the necessary degree of screening to prevent overlooking from the street.
18. I accept that the degree of visual screening would be greater in the summer months and increase privacy, when compared to winter. However, the restriction of use to the summer months is inappropriate for a family use.
19. The appellants have brought my attention to several public open spaces¹. Two of these are within reasonable walking distance of the site and could provide opportunities for recreation and relaxation. The third, however, lies outside of what is normally considered a walkable distance. Public amenity space, whilst providing some opportunities for outdoor relaxation and play, cannot be considered a complete substitute for private outdoor amenity space.
20. I therefore find that the development does not provide suitable living conditions for future occupiers with particular regard to the provision of external amenity space. It would, therefore, be contrary to the aims of Policies DM1 and DM22 of the Brighton and Hove City Council City Plan Part Two (2022) (CPP2) in as much as these require, amongst other things, that new development provides useable private outdoor amenity space appropriate to the scale and character of the development and that landscaping should be provided for flexible and multifunctional use including, where practicable, informal/formal sports, children's play and food growing.

Availability of family housing

21. Formerly the site contained one dwelling. Through the extension of the building and subdivision the site now contains two separate, independent dwellings.
22. Policy DM3 of CPP2 seeks to control the subdivision of single dwellings into smaller units of self-contained accommodation. The aims of the policy are to ensure that conversions provide a high standard of accommodation and promote and retain housing choice in the city.
23. The policy sets out three criteria for assessing the suitability of the dwelling for conversion. Criterion a) requires that, to safeguard against the conversion of

¹ St Helen's Park, Greenleas Football pitches and Benfield Valley Nature Reserve.

smaller family dwellings, the original floor area of the dwelling must be greater than 120m² or the dwelling has four or more bedrooms as originally built.

24. The floor area to be considered under the policy is identified as the original floor area excluding later additions such as extensions, garages and loft conversions since the dwelling was built or as built on 1st July 1948.
25. The Council identify that the original floor area of the dwelling was approximately 76m² and was built with one single and one double bedroom, thus the original dwelling satisfied neither requirement under criterion a).
26. The policy further requires, under criterion b), that at least one unit of the accommodation provided is suitable for family occupation and has a minimum of two double bedrooms, and, under criterion c), that the proposal provides a high standard of accommodation that complies with requirements set out in policy DM1 of CPP2.
27. Amongst other things, Policy DM1 requires that all residential units should meet the nationally described space standards and provide useable private outdoor amenity space appropriate to the scale and character of the development.
28. With regards to criterion b), the dwellings proposed have two and three bedrooms and some outdoor amenity space. The policy, within a footnote, requires one unit to be a two-bedroom four-person unit of at least 70sqm or larger.
29. The Council have considered the development as intended to provide a two bedroom 3-person flat and a three-bedroom, 5-person flat. The appellant, however, contends that the latter is intended as a three-bedroom, four-person flat.
30. There is no dispute between the parties that the new two-bedroom, three-person flat satisfies the Nationally Described Space Standards (NDSS). However, given the dispute between the parties as to the occupancy of the three-bedroom flat, there is disagreement as to whether the development provides adequate internal space. There is, in association to this, dispute as to whether the development satisfies the definition of a family dwelling.
31. In regard to the provision of internal space the development would satisfy the NDSS internal space requirement for a three-bedroom dwelling to accommodate four persons on two storeys. From the plans provided and my observations on site there is no evidence before me to demonstrate that the layout of the living space provided is impractical for use by four persons.
32. There is nothing to say, in Policy DM3, that the two bedrooms provided must both be double bedrooms and I find no contradiction to policy in the provision of the accommodation for four persons to be spread over three bedrooms. As one bedroom is suitable for use as a double bedroom, the internal space of the flat would be suitable for housing a small family, in accordance with the requirements of the policy.
33. The other flat makes provision for three persons living together. As such its internal space could accommodate a couple with a single child, or a single parent family with one or two children. My attention has been brought by the appellant to an appeal² (the 2023 Decision) where the inspector reached a similar conclusion.

² PINS Ref: APP/Q1445/W/23/3319713

34. Bringing these matters together, the development would provide two units of accommodation and increase local housing stock by one dwelling; one of the dwellings has a minimum of two bedrooms and accommodates a minimum of four persons.
35. The requirement to provide at least two bedrooms and accommodation for a minimum of four persons in one of the dwellings is satisfied. However, it will be seen above that I have found that the proposal does not provide appropriate private outdoor amenity space, as would be expected in a family home and so it does not satisfy criterion b) to provide a small family dwelling when the standard of accommodation is considered in the round and so the development fails criteria b) and c). As there would be conflict with Policy DM3, it follows that the development would conflict with Policy DM1.
36. On the same basis as I have reasoned above, the former dwelling had internal accommodation to provide for the needs of a small family. The development has built over part of the former dwelling's outdoor space, undermining the potential to provide private outdoor recreational space. Thus, in practical terms, the potential for the use of the site as a family dwelling is reduced.
37. Whilst there was previously potential to extend the dwelling through permitted development to provide improved accommodation for a single family, I have no evidence to demonstrate that this could only have been carried out to produce the layout that has resulted in the inappropriate level of provision of private amenity space.
38. The proposal would have an adverse effect on the availability of family housing, contrary to Policies DM1 and DM3 of CPP2. The development would, for similar reasons, be contrary to Policies CP12 and CP14 of the Brighton and Hove City Council City Plan Part One (2016) (CPP1) and Policies DM18 and DM21 of CPP2 in as much as, together, these seek to ensure that development raises the standard of good design in the city and provides a mix of dwelling types and sizes that reflect identified local needs.

Character and appearance

39. The site lies in a predominantly residential area. The dwellings around the site are a mix of detached and semi-detached one- and two-storey houses of varying design, albeit that there is some flatted development within the area. These are generally accommodated in two-storey blocks. Dwellings are generally set back off the road within their plot and usually have generous rear gardens, although some, such as the neighbour at 116 Sunninghill Avenue, has little by way of private amenity area to the rear. Dwellings are generally of traditional appearance with pitched roofs facing onto the street.
40. The general area, however, has a character of established, suburban spaciousness. The area is softened by landscaping, and this planting provides a degree of verdancy to the area. These features make a positive contribution to the character and appearance of the area. However, the landscaping has, in places, been undermined by demands for on-street parking which has cut up verges.
41. In summary the character and appearance of the area is defined by an open grain resultant from the low-density residential development, undermined by demands for on-street parking from denser development.

42. Through Policies CP19 and CP14 the Council seeks to ensure developments make effective and efficient use of sites. However, the policy seeks to achieve this whilst preserving the established character or appearance of the area.
43. The development has subdivided the dwelling into two, but to achieve this has significantly increased its footprint within the plot. The subdivision of the plot has produced smaller plot sizes, which, whilst not absent from the area, are generally uncharacteristic.
44. The proposed plot sizes and extent of built form within the site is uncharacteristic of the low-density suburban locality and results in a cramped form of development with a substantial side garden for one plot, but a small, unbalancing-sized side garden for the other.
45. Policy CP14 states: Residential development should be of a density that is appropriate to the identified positive character of the neighbourhood and be determined on a case by case basis. Development will be permitted at higher densities than those typically found in the locality where they are well-designed and it can be adequately demonstrated that it meets specified criteria.
46. In terms of building design, the side/rear extension occupies most of the area to the rear of the original dwelling. As viewed from the frontage of the site onto Sunninghill Close, it does, however, appear as a subservient addition.
47. The crown roof, with a flat element and hips is of a form uncharacteristic of the area. The large dormer dominates the roof of the former bungalow and the gable end on a street frontage is a prominent, unusual feature in the local street scene. However, given the variation in design of dwellings in the area, the appearance of the building itself does not stand out as harmfully incongruous.
48. Bringing these matters together, whilst the appearance of the building is not so out-of-character as to harm the character and appearance of the site and surrounding area, the subdivision of the plot and additional built form has harmfully undermined the grain of local built form and is thereby harmful to the character and appearance of the area.
49. The proposal is, therefore, contrary to the aims of Policies CP12 and CP14 of CPP1 and Policies DM18, and DM21 of CPP2 in as much as these, together, amongst other things, seek to ensure that the standard of architecture and design in the City is improved whilst respecting the diverse character and urban grain of the city, including its densities.

Other considerations

50. There is no dispute between the parties that the Council cannot demonstrate a five-year supply of deliverable housing sites in line with Government expectations. The council's most recent housing land supply position shows a five-year housing supply shortfall of 10,643 and the Council is only able to demonstrate a housing land supply of 1.4 years. This is a very significant shortfall and the additional dwelling that the development provides would go a small way to addressing this.
51. From the evidence before me, which was also before the Inspector in the 2023 Decision, Census data appears to suggest that smaller households are currently common in England and that, in respect of household sizes within Brighton and

Hove, the appeal scheme as a whole would be appropriate to the housing needs of a very significant part of the community.

52. The appeal site is previously developed land as defined by the Framework and within the built-up area of Hove. The Framework supports the development of windfall sites and of under-utilised land. Great weight should be given to the benefits of using suitable sites within existing settlements for homes and substantial weight to the value of using suitable brownfield land for that purpose. These considerations therefore weigh in favour of the proposal.

Final Balance

53. The proposal would not, because of its design and the poor quality of its outdoor amenity space, provide appropriate living conditions for occupiers making the accommodation unsuitable for use as family homes and would result in the loss of a small family dwelling. I have, further, found that because of its design it would harmfully undermine the character of the area. There would be conflict with Policies CP12 and CP14 of CPP1 and Policies DM1, DM3, DM18, DM21 and DM22 of CPP2. These policies accord closely with those aims of the Framework which seek to deliver high quality design and healthy lifestyles, and so conflict with them carries significant weight in my deliberations. The proposal would therefore not accord with the development plan as a whole and this is a matter that counts significantly against allowing the appeal.
54. However, the Government's objective is to significantly boost the supply of homes. Other provisions of the Framework give support to the development of brownfield land within settlements, seek to make the best use of available land and observe that small sites can make an important contribution to meeting the housing requirement. In Brighton and Hove future housing supply is insufficient with a significant shortfall in land available for homes. Because of this, paragraph 11 d) of the Framework is engaged.
55. The Government advises that planning decisions should support development that makes efficient use of land, taking into account various factors, including the desirability of maintaining an area's prevailing character and setting and securing well-designed places.
56. The policies in the Framework seek to both deliver a sufficient supply of homes and achieve well-designed places that support health and wellbeing. However, the creation of high quality places and promoting healthy living goes to the heart of what the planning and development process should achieve. In this case the development has not delivered this. Although there is considerable support for new housing in this location and considerable demand for the type of accommodation proposed, the benefits in terms of the overall position in the city would be limited. Taking these matters into account, this is a case where the importance of good design overpowers the provision of an extra windfall unit.
57. Therefore, the adverse impacts of the proposal significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. As a result, the presumption in favour of sustainable development does not apply.

Conclusion

58. The material considerations do not indicate that a decision should be made other than in accordance with the development plan and I therefore dismiss this appeal.

I A Dyer

INSPECTOR