



Appeal Decision

Site visit made on 12 May 2010

by **Victor Crumley** DipTP DMS MRTPI

an Inspector appointed by the Secretary of State
for Communities and Local Government

The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

☎ 0117 372 6372
email: enquiries@pins.gsi.gov.uk

Decision date:
26 May 2010

Appeal Ref: APP/Q1445/A/09/2119403 5 Wilbury Gardens, Hove, BN3 6HQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr John Cramer against the decision of Brighton and Hove City Council.
- The application Ref BH2009/01995, dated 13 August 2009, was refused by notice dated 28 October 2009.
- The development proposed is construction of crossover and vehicle hardstanding.

Decision

1. I dismiss the appeal.

Main issues

2. I consider the main issues in this appeal to be:
 - a) the effect of the proposal upon the nearby elm tree;
 - b) the effect upon the character and appearance of the street scene.

Reasons

Effect on street tree

3. The appeal proposal envisages the removal of a length of boundary wall in front of the appeal property and the construction of a vehicle crossing and hardstanding, comprising 2 strips of block paving within a shingle surface. A mature elm tree stands in the footpath outside the corner of the site and about 3m from it. The tree is part of the National Elm collection, which is dispersed throughout the City and maintained by the Council. Its protection and preservation are clearly important. The effect of the roots of the tree on the surface of the footpath are apparent from the substantial swelling of the surface around the base of the tree, and it is clear that the roots must reach well under the appeal site. The Council's arboriculturist advises that two structural roots lie beneath the site, and that the work of constructing the proposal would be likely to damage the roots, and potentially jeopardise the health of the tree.
4. The appellant has not commissioned his own arboricultural advice, but points out that a similar hardstanding with a comparable relationship to a mature elm has been allowed at No. 26 Wilbury Gardens, which he argues demonstrates that such a crossover can be constructed without damage to the root system. I understand that this scheme has only recently been completed, and I consider

it too early to judge whether or not harm has been done. Further, I consider that in assessing the impact of development on trees, the particular arboricultural features of each case are important. My own observation of this site leads me to concur with the views of the Council's arboriculturist, and in the absence of qualified advice to the contrary, I conclude that the proposal would be harmful to the health of the elm tree outside the site, contrary to Policies QD2 and QD16.

Street scene

5. The proposal envisages the removal of some 5m of low wall along the front of the property. Clearly, many of the existing shrubs and plants within the garden would also have to be removed. The appearance of frontages along Wilbury Gardens varies considerably, but it is not unduly dominated by front garden parking areas, and is assisted by a good proportion of retained boundary walls and cultivated gardens. The existing arrangement at the appeal site contributes positively to the generally attractive appearance of the area. I consider that the removal of the wall at the appeal site and the creation of an open fronted plot laid out mainly with shingle would have an adverse effect on the appearance of the street scene.
6. The appellant argues that the final appearance of the scheme at No. 26 adds 'visual relief' to the street scene, and that in this respect it is a success. I cannot agree. I find the unrelieved shingle finish and the absence of a side boundary and garden planting to result in a hard unsympathetic appearance which contributes little to the street scene, and I do not accept the result there as justification for the appeal proposal. I conclude that the proposal would harm the appearance of the street scene, contrary to local Plan Policies QD1 and QD2.

Victor Crumley

INSPECTOR