



Appeal Decision

Site visit made on 8 June 2011

by **Bill Munday BTP MRTPI MRICS**

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

Decision date: 5 July 2011

Appeal Ref: APP/Q1445/A/11/2145316/NWF

10 Bavant Road and garage block at rear, Brighton, East Sussex BN1 6RD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Paul Corcut against the decision of Brighton and Hove City Council.
 - The application Ref. BH2010/02615, dated 12 August 2010, was refused by notice dated 24 November 2010.
 - The development proposed is one detached house and one pair of semi-detached houses.
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Decision

1. The appeal is dismissed. I have taken account of the views of local residents and other interested parties in reaching this decision.

Preliminary matter

2. The appeal relates to an outline application. The main parties have confirmed that details of access, layout and scale are for consideration at this stage, with appearance and landscaping reserved matters. Accordingly, I have treated indications of the appearance of the dwellings on the submitted elevations and indications of landscaping on the proposed site plan as having been submitted for illustrative purposes only.

Main Issues

3. I consider there are three main issues. These are, firstly, the effect of the proposal on the character and appearance of the area, having regard to the location of the site within the Preston Park Conservation Area; secondly, the impact on the living conditions of the occupiers of neighbouring residential properties, and on the occupiers of the proposed dwellings, with particular regard to privacy, any overbearing impact, noise and disturbance, and the quality of amenity space; and thirdly, the effect on the safety of highway users, including pedestrians.

Reasons

Character and Appearance

4. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 imposes a requirement in relation to the consideration and determination
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of planning applications which affect conservation areas, that special attention should be paid to the desirability that the character or appearance of the conservation area should be preserved or enhanced.

5. The part of the conservation area containing the appeal site is characterised by a well-defined street pattern with mainly substantial, detached and semi-detached houses on regular frontages and building lines. This arrangement provides a clear distinction between the public realm and the essentially private rear gardens. The appeal site, however, has no road frontage other than its access, and is surrounded by the back gardens of properties in neighbouring streets. The proposed development would therefore represent a marked departure from the established pattern of development in the area. Although views of the development from public places would be very limited, the development would nevertheless be very apparent in the outlook from the rear windows of neighbouring properties and their back gardens. The impact of the development would be heightened by the inevitably somewhat cramped arrangement of buildings within the small site area. These factors indicate to me that the proposal would be intrusively out of keeping in the context of surrounding development.
6. In summary on the first main issue, I consider the proposal would detract from the character and appearance of the area in general. This places it in conflict with Policies QD1, QD2, and QD3 of the Brighton and Hove Local Plan 2005. In relation to the requirement of Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, it would fail to either preserve or enhance the character or appearance of the conservation area; this also conflicts with Policy HE6 of the local plan. Policy HE7 of Planning Policy Statement 5: Planning for the Historic Environment (PPS5) indicates the desirability of new development making a positive contribution to local character or distinctiveness in the historic environment, and I consider the proposal also fails in this respect.

Living Conditions

7. The layout of the houses as shown on the application drawings indicates that the windows to habitable rooms would be to the north and south. As such, any overlooking between the proposed houses and the rear windows of neighbouring properties in Bavant Road and Harrington Villas would be angled, and at distances whereby, in my view, privacy within the respective dwellings would not be unacceptably diminished. Notwithstanding this point, there would be little space separating the proposed houses from the gardens of neighbouring properties, and the houses would be readily apparent from the backs of these neighbouring properties and their gardens. This would result in a marked change from the present, essentially private, garden environment. First floor windows would overlook neighbouring gardens at close range, and I consider that the quiet enjoyment of these gardens would be adversely affected by noise and domestic activity, more so than would be normal in a residential area of this kind, because of the restricted space around the new houses.
8. The proposed detached house and the semi-detached pair would be separated from each other by a distance of approximately 9.5 metres, with the windows to habitable rooms facing each other across this space. I consider this would result in unacceptable standards of privacy for the respective occupiers.

- Furthermore, the amount of outdoor space available to the occupiers would be very limited, and in the case of the detached house, the amenity space would be largely overshadowed by existing trees outside the site. The internal space within the houses, in particular the semi-detached pair, would also be modest, although I note the appellant's view that such a level of accommodation would add to the mix of dwelling types available to diverse sectors of the community.
9. Local residents have raised concerns that additional traffic using the access would be likely to create an increase in levels of noise and disturbance for the occupiers of nos. 10 and 12 Bavant Road. The positions of these two houses relative to the access are such that, in my view, vehicle movements would be noticeable, and which occupiers would be likely to find intrusive. However, for reasons which are explained in paragraphs 11 to 13 below, I consider that any increase in vehicle movements relative to the potential traffic generation arising from the site in its present use would not be likely to be significant.
 10. I conclude on the second main issue that the proposal would detract unacceptably from the living conditions of neighbouring residential properties as a result of its intrusive and overbearing presence in the outlook from neighbouring properties and their gardens, and detriment to the privacy and quiet enjoyment of adjoining gardens. Furthermore, the occupiers of the proposed houses would be subject to unsatisfactory standards of privacy and amenity space. These aspects of the proposal place it in conflict with Policies QD27 and HO5 of the local plan.

Highway Safety

11. The Council's third reason for refusal refers to a potential uplift in vehicle movements arising from the proposal. The consultation response ("Transport Planning: Development Control") makes reference to TRICS data, which suggests that the development would result in a 21 vehicle movements to and from the site per day. On the supposition that the use of each of the 9 garages on the site at present might generate a minimum of 18 movements, the consultation response indicates that the "worst case scenario" arising from the proposal would be an increase of 3 movements per day. Whilst it is stated in the grounds of appeal that "the garage compound and access driveway is in constant use", the Council and some local residents have suggested that the use of the garages is less intensive. Whatever the current level of usage may be, however, I see no reason why all the garages could not be in regular use. In these circumstances, the minimum level of 18 movements suggested in the transport consultation response does not seem to me to be unrealistic.
12. There are several disadvantages with the existing access. It emerges at the junction of Bavant Road with Knoyle Road. Whilst there is a relatively wide footpath on the Bavant Road frontage, from my observations on site, visibility is limited for vehicles emerging from the access by on-street parking. The access at present is of restricted width, such that vehicles could not pass each other within it, and this has the potential to create situations where a vehicle entering the site might need to be reversed out of the access in order to let an emerging vehicle pass. These circumstances indicate to me that any significant increase in traffic using the access would be likely to increase hazards for drivers leaving the site or passing by. The proposal has the advantage, however, that the widening of the access into the garden of No. 10 would

- provide a passing space and this would assist in avoiding potentially hazardous reversing movements.
13. The "worst case scenario" put forward in the transport consultation response indicates an increase of 3 vehicle movements per day, and allowing that it is the worst case, it could be less. Taking into account the modest benefit of the provision of a passing bay, I consider the use of the access to serve the development would not, on its own, be likely to result in a significant worsening of highway safety conditions, including conditions for pedestrians.
 14. However, if the existing garage compound and access are in constant use, as the appellant has indicated, it follows that it provides a facility for off-street parking. If the proposed development should proceed, this facility would be lost. The transport consultation response points to a lack of information as to how the effects of the lost parking facilities could be accommodated. Local residents have referred to parking congestion in the vicinity, and at the time of my site visit, neighbouring streets were lined with parked vehicles, leaving very few available on-street parking spaces. I also noted that not all properties in the vicinity had the benefit of off-street parking facilities. In these circumstances, I consider it likely that the removal of the garages would add to pressures for on-street parking places and thereby worsen present parking congestion. This would be likely to affect the safety and convenience of highway users, and to this extent I consider the proposal would conflict with Policy TR7 of the local plan.
 15. I have taken all other matters which have been raised into account. For the reasons given above, I conclude that the appeal should be dismissed.

W D Munday

INSPECTOR