



Appeal Decision

Site visit made on 21 August 2012

by M T O'Rourke BA(Hons) DipTP MRTPI

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

Decision date: 25 September 2012

Appeal Ref: APP/Q1445/A/12/2174009
94 Preston Drive, Brighton BN1 6LB

- 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 Waremass Group against the decision of Brighton & Hove City Council.
 - The application Ref BH2011/02721, dated 12 September 2011, was refused by notice dated 11 November 2011.
 - The development proposed is refurbishment of existing shop with flat over, and with new build element to provide small commercial retail premises and 3 no. 1 bed dwellings and 2 no. 2 bed dwellings.
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Preliminary Matters

1. The above description of the development is taken from the application. The appeal copies the description used by the Council in its decision – *'conversion of existing residential unit and part of existing retail unit (A1) into 5 no. one and two bedroom flats including demolition of existing garage and erection of two storey extension'*. This is a fuller and more accurate description of the development and I have determined the appeal on that basis.
2. Amended drawings (5594/001A, 002A and 004A) and a supporting daylight analysis dated 10 November 2011 were submitted with the appeal. They make only minor changes to the scheme, and having regard to the advice in The Planning Inspectorate's Good Practice Advice Note 9, I am satisfied that no one would be prejudiced by my considering them as part of this appeal.
3. The appellants have signed a planning obligation by way of a unilateral undertaking (UU) under Section 106 of the 1990 Act that provides for financial contributions towards the cost of sustainable transport infrastructures and the cost of open spaces. I consider the weight it should be given in my reasoning set out below.

Decision

4. The appeal is dismissed.

Main Issues

5. The main issues are:
 - (a) the impact on the character and appearance of the area;
 - (b) the impact on those living in the adjoining properties; and

- (c) whether the appeal scheme makes suitable provision for future occupants in terms of internal levels of daylight and sunlight, on-site amenity space, cycle parking and other travel demands.

Reasons

6. No. 94 is a two storey Victorian property (with attic and basement levels) that is on the corner of Preston Drove and Beaconsfield Villas. The ground floor is occupied by a chemist's shop and there is a garage on the return frontage next to 115 Beaconsfield Villas. Other than the shops in Preston Drove, the area is generally residential in character with predominantly late Victorian and Edwardian semi-detached and terraced housing. The property is within the Preston Park Conservation Area where Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of the area.
7. The formal development plan includes the Brighton and Hove Local Plan (LP). The LP was adopted in 2005 and predates the National Planning Policy Framework, published in March 2012. However relevant LP policies on design, conservation areas, amenity and transport sustainability are consistent with the general thrust of policies in the Framework and can be given their due weight.
8. No. 94 is part of the Preston Drove Local Parade where LP policy SR7 applies. Whilst there would be a reduction in the amount of retail floorspace, the proposal retains the shop and provides for a lower level retail area and I am satisfied that it would not conflict with the terms of the policy.

Impact on the character and appearance of the area

9. The LP is consistent with paragraph 56 of the Framework in setting out the importance of good design as a key aspect of sustainable development. LP policies QD1, QD2 and QD3 require all proposals for new buildings to demonstrate a high standard of design, to emphasise and enhance the positive qualities of the local neighbourhood, and to make efficient and effective use of a site by incorporating an intensity of development appropriate to the locality and townscape. Extensions should be well designed, sited and detailed in relation to the property and to those adjoining and where it would be detrimental to the character of the area retain an appropriate gap to the joint boundary (LP policy QD14).
10. Conservation Areas are identified in the Framework as designated heritage assets and an irreplaceable resource to be conserved in a manner appropriate to their significance. LP policy HE6 restates that development in Conservation Areas should preserve or enhance the area's character or appearance.
11. Dealing first with the conversion works, they would make more efficient and effective use of the building. The alterations proposed both to the building and to the front garden and basement would not be out of keeping with the character and appearance of the area, subject to the submission of further details which could be dealt with by condition. Reinstatement of the boundary wall and pillars along to Beaconsfield Villas would improve the streetscene.
12. The existing garage is proposed to be demolished and replaced by a new 2 storey with semi-basement infill development of a contemporary appearance and materials. There is only a minimal set back from the frontages of around

300mm, however having regard to its height, appearance and materials the new build element would read as a subservient link between No. 94 and 115 Beaconsfield Villas. Although it would sit no higher than the eaves of No. 94, it would be taller than the existing garage and this would result in an uncomfortable relationship with No. 115 as the flat roof would meet the blank flank wall halfway up its first floor.

13. Even more importantly, the infill would remove the gap that exists over and between the garage and No. 94. The regimented street pattern and terraced nature of much of the development in the Conservation Area means that there are few gaps between the houses. The gap here allows views from Beaconsfield Villas and from Preston Drove to the east when looking down the hill of the tops of the trees in Preston Park and the development on the opposite side of the valley. There is another gap on the corner of Preston Drove/Havelock Road where the Council also refused permission for an infill scheme. However I agree with the appellants that there are some design differences and I have considered the appeal scheme on its own merits.
14. The Conservation Area Appraisal describes Beaconsfield Villas as being very tightly knit in layout and with many of the detached or semi-detached houses being '*so closely packed together they create a continuous line*'. However that '*line*' along the western side of Beaconsfield Villas ends with No. 115 and the development would effectively create a terrace around the corner to Preston Drove. The Council's Heritage Team were satisfied that the scheme would still maintain a visual gap at an upper level in the street scene. However because of its height, the view afforded by the gap would be effectively lost. I consider that the loss of the gap in the streetscene and the loss of the view which gives an appreciation, albeit restricted, of the geography of this part of this city would adversely affect the significance of the heritage asset and would have a harmful impact on the character and appearance of the Conservation Area. As such the development conflicts with the objectives of national and local policy, in particular LP policies QD1, QD2, QD14 and HE6.

Impact on adjoining occupants

15. The Council has referred to likely nuisance to existing occupants of the area as a result of the number of new residential units. Beaconsfield Villas and Preston Drove are busy urban streets and there is no evidence that the development would be likely to give rise to any particular problems in terms of noise disturbance or loss of privacy to existing residents.
16. LP policies QD14 and QD27 require that developments should not cause a loss of amenity to neighbouring properties. The development would be to the north of 115 Beaconsfield Villas and abut the flank wall. It would not project forward or to the rear of the existing wall and there would be no adverse impact on the occupants in terms of any overlooking, overshadowing or loss of privacy.
17. The adjoining property in Preston Drove has a ground floor shop with residential accommodation above with a staircase and landing at first floor level on the rear projection. Although the nearest part of the roof of the new building has been designed with a slope, it would be some 1.2m higher than the existing garage with the rear brick wall extending across the full width between Nos. 94 and 115. Whilst occupants of the adjoining flat would retain an open aspect to the west, they already look onto the flank wall of No. 115 and further development to the east would unreasonably bear on their outlook,

particularly when regard is had to the change in levels. I conclude that the proposal would have an overbearing impact on the amenity of those living at 92 Preston Drove, contrary to the objectives of LP policies QD14 and QD27.

Whether suitable provision is made for future occupants

18. LP policies QD27, HO13 and HO5 require that new development provides a high standard of living accommodation for future occupants including compliance with lifetime homes criteria and provision of private useable amenity space.
19. The units in the new build would meet the lifetime homes standard of accessibility. Where practicable the criteria have been incorporated in the converted units, in accord with LP policy HO13. As to daylight and sunlight levels in the basement units, the amended drawings show minor physical changes including the introduction of a skylight to the front garden area to provide further light to one bedroom and full height glazing to the living/dining room. The accompanying daylight analysis demonstrates that the scheme as amended would be capable of achieve adequate levels of sunlight/daylight in all the units. As such there would be no conflict with LP policy QD27.
20. The scheme does not provide on site amenity space other than a small paved front garden for unit 3. The introduction of balconies, terraces or other features would not sit easily with the Edwardian character of no. 94 or with the clean and contemporary lines of the extension. The appellants intend through the UU to make a financial contribution towards off site provision, calculated having regard to the Council's guidance on Developers' Contributions and open space ready reckoner. In the absence of any information as to where and on what that money might be spent, it is not possible to assess whether the tests for planning obligations set out at paragraph 204 of the Framework, and the requirements of Regulation 122 of the Community Infrastructure Regulations 2010, would be met. Accordingly it is not something that can be given weight.
21. LP policy TR1 requires that development should provide for the demand for travel that it creates and maximise the use of public transport, walking and cycling. The site is in a sustainable location, on a bus route and close to shops and other services and no objection has been raised to the loss of car parking. There are concerns about the cycle parking to be provided, in particular the number of spaces, their spacing and cover. These are matters that, if permission were to be granted, could be satisfactorily addressed by the imposition of an appropriately worded condition to meet the objectives of LP policy TR14. The UU provides for a financial contribution towards '*sustainable transport infrastructures*'. Again in the absence of information as to what off-site highway improvement schemes are planned in the vicinity of the site on which this money would be spent, and therefore whether the Framework and the CIL Regulation tests would be met, the UU can be given little weight.

Conclusion

22. I have taken into account all other matters raised but none are of such weight as to override my conclusions, for the reasons given above, that the appeal should be dismissed.

Mary O'Rourke

Inspector