



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: 26 September 2012

Appeal Ref: APP/Q1445/A/12/2172338
6 Cliff Approach, Brighton BN2 5RB

- 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 Ms Phoebe Oliver against the decision of Brighton & Hove City Council.
 - The application Ref BH2011/02251, dated 12 August 2011, was refused by notice dated 7 December 2011.
 - The development proposed is demolition of existing property and erection of apartment building containing six flats (amended scale and design to BH2010/01893).
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by the appellant against the Council. This application is the subject of a separate decision.

Main Issues

3. The main issues are:
 - the impact on the character and appearance of the area;
 - the adequacy of the amenity space to be provided; and
 - the effect of the development on parking demand in the area.

Reasons

4. The appeal site is at the corner of Cliff Road and Cliff Approach, on the clifftop to the north of Brighton Marina. It has been the subject of a series of planning refusals for its redevelopment including the dismissal on appeal in 2009 for the erection of an apartment building of 7 self contained flats. The scheme, subject of the current appeal, seeks to address the concerns of that Inspector.

Impact upon the character and appearance of the area

5. This corner site is important as a high point in the surrounding development and as a terminal feature in the westward view along The Cliff. The building at No. 6 is of no particular architectural or townscape merit. I find no objection in principle to the redevelopment of the site which would create an opportunity to provide a building that would make a more positive contribution to the

character and quality of the area. In that regard I noted that a new terrace of houses of modern design has recently been built on the opposite side of Cliff Approach and to the east a cleared site has permission for 3 houses. There are also proposals for residential development to the south of Cliff Approach.

6. The formal development plan includes the saved policies of the Brighton and Hove Local Plan, adopted in 2005 (LP). Policies QD1 and QD2 require all new buildings to demonstrate a high standard of design and make a positive contribution to the visual quality of the environment. The National Planning Policy Framework was published in March 2012 and refers to good design as a key aspect of sustainable development and the importance of planning positively for the achievement of high quality and inclusive design for all development. In that the LP design policies are consistent with the Framework's requirement for good design, they can be given due weight in accord with paragraph 215.
7. The LP seeks to raise the overall standard of design and to encourage more innovative and distinctive design and there is no objection to a building on the site of a contemporary design that would function as a landmark. However as noted in the 2009 decision that does not necessarily require a large structure. In respond to that dismissal and to the Council's refusal of an amended scheme in 2010, further revisions have been made to reduce the mass of the building by reducing its westward projection and further setting-in the top floor.
8. The current scheme is smaller than that previously dismissed on appeal. The height of the building has been reduced and would be in line with the increase in roof heights stepping up Cliff Road. However in order to provide 4 storeys, there would have to be considerable ground excavation with lower terraced areas projecting forward of the building. With little scope for boundary planting at the front of the site, I have concerns that the overall impression would be of a 4 storey building set at a lower level than the adjoining houses.
9. The building's width has also been reduced. However the eastern elevation would still project forward of Nos. 2 and 4 Cliff Approach. The appellant has made much of the fact that the new terrace opposite extends even further to the east. However the main elevation of the terrace fronts Cliff Road whereas the appeal site is a corner plot where development needs to respect both street frontages. From what I saw on my visit, particularly when looking up the hill from the north along Cliff Approach, I consider that the building as a result of its forward projection, elevated position and mass would appear as a prominent and intrusive feature in the street and would not contribute positively to the surrounding area. Notwithstanding that the building is offset from The Cliff and the proposal includes a '*green wall*' on the east elevation, it would still be prominent in westerly views from The Cliff and would appear as a bulky intrusion into the wider streetscene, rather than functioning as a landmark.
10. Accordingly the current scheme does not achieve the high standard of design advocated in the Framework and which the LP policies QD1 and QD2 seek to encourage. I conclude on this issue that, having regard to its scale, bulk and appearance, the building would be overly dominant, out of keeping with and harmful to the local streetscene and character and appearance of the area.

Amenity space

11. The scheme provides for amenity space in the form of private terraces and balconies along with a communal garden area. LP policy HO5 requires the provision of private usable amenity space in new residential development where appropriate to the scale and character of the development. Whilst the Council's decision refers to the amenity space being insufficient particularly as the proposed development comprises 2 and 3 bedroom apartments which could be occupied by families, there is nothing in the minutes which set out the committee debate to understand why that decision was reached.
12. When considering the earlier scheme for 7 flats, the previous Inspector had concerns over the level and quality of the amenity space. Changes have been made in the current appeal scheme. The two 3 bedroom duplex units would have balconies and terraces on both floor levels and the lower ground floor flats would have front and rear terraces with a deep set-back to the car park and communal garden, which has been widened.
13. The Council does not have amenity space standards and the extent of provision is to some extent a matter for the developer. Having said that the provision of adequate and well located useable private amenity space contributes to the achievement of good design. All of the flats could potentially be occupied by families. The two lower ground floor units would have the largest areas of amenity space, though it would, because of the way the building is set into the site, be at a lower level than the pavement. Access to the communal garden for those living in the two duplex units would be down the stairs and round the outside of the building, limiting its use by young children unless accompanied.
14. Cliff Approach is in an out of city centre location where I agree with my colleague space standards are characteristically more generous. Whilst the proposed amenity space provision is not so unacceptable in terms of its size and nature as to warrant dismissal of the appeal on this ground alone, it does add to concerns already set out about the scale and character of the development.

Car parking

15. The proposal provides for 3 car parking spaces between the new building and 4 Cliff Approach. The car parking area has been moved with the spaces now shown broadside to the back of the building and it would not give rise to the same potential for disturbance and noise that were a concern to the previous Inspector. He was satisfied that the proposed parking provision would comply with LP policy and noted a number of available spaces at the time of his visit. In that the previous appeal scheme provided for 4 spaces to serve the 7 flats and the current scheme shows 3 spaces for 6 flats, there would be the same displacement of parking associated with 3 of the units on to the street.
16. However since that decision there has been a material change in circumstances with the introduction of controlled parking in Wilson Avenue and Arundel Road to the west. Letters from local residents and submissions by the Roedean Residents Association refer to the significant increase in the number of vehicles now being parked in Cliff Road and Cliff Approach which are outside the controlled parking zone. The officer's report also noted that the area experiences very high levels of on-street parking stress.

17. Notwithstanding those concerns, the Council's Sustainable Transport team did not object to the development, despite there being a shortfall of parking provision when considered against the Council's standards which require outside control zones one space per dwelling plus visitor parking. The consultation response referred to the then extant advice in Planning Policy Guidance note 13 that developers should not be asked to provide more parking than they themselves wish. PPG13 has now been replaced by the Framework which sets out at paragraph 39 five criteria for local planning authorities when setting local parking standards. None refer to the provision of a maximum number of spaces or to developers having flexibility to determine the number of spaces to be provided.
18. The Framework advises in the 3rd bullet point of paragraph 32 that development should only be prevented or refused on transport grounds where the residual cumulative impacts of the development are severe. LP policy TR2 is compatible with that approach requiring that where parking levels are below the standard, there is monitoring to ensure that parking problems are not being caused elsewhere. In this case no assessment has been made by the appellant of the effect of the increased on-street parking demand likely to arise as a result of the development and whether it would cause additional parking stress. This is a further factor that adds to my concern that the proposal would have an adverse impact on the surrounding area.
19. The submitted Unilateral Undertaking provides for a contribution towards sustainable transport. However I am not satisfied that would overcome the concerns I have about the impacts of the proposal and I give it little weight.

Conclusion

20. In conclusion, there is no objection in principle to the redevelopment of the appeal site and I accept that the appellant has endeavoured in the appeal scheme to overcome previous objections, and in that regard had satisfied the concerns of the Council's officers. Nevertheless I consider that the current scheme would have adverse impacts that when taken together indicate that it would be an overdevelopment of the site and that it would be unacceptable and contrary to national and local policies.
21. I have taken into account all other matters raised but none alter my conclusions, for the reasons given above, that the appeal should be dismissed.

Mary O'Rourke

Inspector