



Appeal Decision

Site visit made on 14 August 2013

by **Ray Wright** BA(Hons) DipTP MRTPI

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

Decision date: 9 September 2013

Appeal Ref: APP/Q1445/A/13/2196206

Land to the west of 42 Falmer Gardens, Woodingdean, Brighton BN2 6NE

- 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 Clive Stillman against the decision of Brighton and Hove City Council.
 - The application Ref BH2012/00736, dated 8 March 2012, was refused by notice dated 16 October 2012.
 - The development proposed is a 'new detached house with off road parking'.
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Application for Costs

1. An application for costs was made by Mr Clive Stillman against Brighton and Hove City Council. This application is the subject of a separate decision.

Decision

2. The appeal is allowed and planning permission is granted for a new detached house with off road parking on land to the west of 42 Falmer Gardens, Woodingdean, Brighton BN2 6NE in accordance with the terms of the application, Ref BH2012/00736, dated 8 March 2012, subject to the conditions set out in Schedule A.

Main Issue

3. The main issue in this case is the effect on the character and appearance of the area.

Reasons

4. The appeal property has a road frontage to Falmer Gardens and a lower rear garden which adjoins a bungalow at no 52. The proposal is for the erection of a new dwelling in this rear garden area. There is a significant difference in ground levels between the adjoining highway and the appeal site. The proposed dwelling would be seen as single storey from the road frontage while becoming two-storey to the rear, taking advantage of this change in levels.
 5. The National Planning Policy Framework (Framework) indicates that there should be a presumption in favour of sustainable development, but confirms that good design is a key aspect of sustainable development. The Framework
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indicates that planning policies and decisions should not attempt to impose architectural styles or particular tastes.

6. Policies QD1 and QD2 of the Brighton and Hove Local Plan 2005 (LP) require a high standard of design in accordance with key design principles and indicate new development should make a positive contribution to the visual quality of the environment.
7. The Council have put forward no objection in principle to the erection of a house on this garden area and infill developments appear to have taken place on other similar sites in this part of the road. I also note that planning permission has been granted for a dwelling on the appeal site with the proposal having the same siting but with an alternative design to the appeal scheme.
8. In this appeal the dwelling would have a contemporary design. It would have a shallow sloping mono-pitched roof consisting of profiled powder coated steel. Externally, at first floor level cedar cladding is proposed with render finish at lower levels. This roof form and the proposed materials would contrast with the general pattern of the area which consists of single and two storey dwellings with main elevations of brick, with pitched, tiled roofs.
9. However, Policy QD1 indicates replication of existing styles is not essential and that innovative and distinctive design is encouraged. The site is to the rear of the main frontage and the roof, as proposed, would reduce the overall bulk of the dwelling and allow the building to represent a relatively low key element within the street scene. The roof would be visible from higher levels and the rear of nearby houses, but any visual impact would be reduced by a subdued colour which could enable it to blend in with the remainder of this rear garden site. This element could be controlled by condition. The proposed timber cladding would enable the building to take account of its location and would lend itself to the appearance of an outbuilding. To my mind it would, consequently, not be prominent or dominant in its setting.
10. Policy QD5 of the LP indicates that development should present an interesting and attractive street frontage. A number of the existing main frontages to houses in the area are relatively open, with low boundary treatments and planting behind. However, the boundary treatments of side returns on corner houses, in the vicinity of the appeal site, are much more in the form of higher timber fencing, walls and hedge planting, giving more security and privacy to their rear garden areas. The proposed timber frontage would be of comparable form and height to other existing boundary treatments of properties along this part of Falmer Gardens. In the circumstances, I do not consider the proposed fence or associated gates would be incongruous or out of keeping on this particular site.
11. Overall the development would not harm the character and appearance of the area and, as such, is not contrary to the Framework, or Policies QD1, QD2 or QD5 of the LP.

Conclusion

12. For the reasons given above, I conclude that the appeal should be allowed.

Conditions

13. I have considered the proposed conditions put forward by the Council should the appeal succeed, against the advice in Circular 11/95 and for clarity. The standard commencement condition is required, as is a condition referring to the relevant plans, for the avoidance of doubt and in the interests of proper planning.
14. I consider that future extensions on this house could have a significant effect on the overall design of the property and could also have a harmful effect on adjoining occupiers. In the circumstances, a limitation on the further extension/enlargement of the house is reasonable, in this particular case.
15. The house appears to be designed with a layout to meet the requirements of Lifetime Homes, therefore a condition to re-state this is unnecessary. For reasons of sustainability, a condition requiring hard surfaces to be porous is reasonable.
16. Although general materials are indicated for the proposed house I consider it necessary for these to be presented in more detail to the local planning authority to allow the specific colour and tone of external facings to be further considered. Similarly, exact details of the fencing and gates proposed are also required. Any nuisance from a wood burning stove could be controlled by other legislation therefore a condition requiring further details is unnecessary.
17. In respect of the Code for Sustainable Homes, two conditions have been put forward by the Council. I consider a requirement for level 4 is appropriate and reasonable, but only a single simpler condition is necessary. Two conditions relating to landscaping have also been put forward; one combined condition would cover the required details. In addition, this could include tree protection requirements which, again, do not need to be a separate condition.
18. Finally conditions relating to on-site vehicle and cycle parking are reasonable in the interests of highway safety and sustainability respectively. The implementation of the vehicle access to the parking area is under the control of the highway authority and a condition specifically related to this is unnecessary.

Ray Wright

INSPECTOR

Schedule A : Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: unnumbered location and block plan, 1207-001, 1207-002A, 1207-003, 1207-004A, 1207-005A, 1207-006A, 1207-007A, 1207-014, 1207-015 and sections 12/02/01/12 and 13.
- 3) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking, re-enacting or modifying that Order), no extensions, additions or enlargements of the house, as hereby permitted, shall be made or erected.

- 4) The hard surfaces shown on the approved plans shall be made of porous materials and retained thereafter, or provision shall be made, and retained thereafter to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the property.
- 5) No development shall take place until details of the materials to be used in construction of the external surfaces of the development hereby permitted have been submitted to, and approved in writing by, the local planning authority. Development shall be carried out in accordance with the approved details.
- 6) No development shall take place until exact details of the proposed front boundary fence and gates hereby permitted have been submitted to, and approved in writing by, the local planning authority. Development shall be carried out in accordance with the approved details.
- 7) The dwelling shall achieve Level 4 of the Code for Sustainable Homes. The dwelling shall not be occupied until a final Code Certificate has been issued for it certifying that Code Level 4 has been achieved.
- 8) No development shall take place until full details of both hard and soft landscaping works have been submitted to, and approved in writing by, the local planning authority. These details shall include hard surfacing materials, boundary treatment, retaining walls and specify the number, species, heights and position of all proposed plants, trees and hedges, together with those to be retained and their protection during construction, and a planting timetable. All landscape works shall be carried out in accordance with the approved details, including the timetable. If, within a period of 5 years from the date of planting, any tree or plant becomes diseased or is removed, uprooted, destroyed or dies, another of the same species and size shall be planted at the same place.
- 9) No development shall commence until details of secure cycle parking facilities, for the occupants of, and visitors to the development, have been submitted to, and approved in writing by, the local planning authority. The approved facilities shall be fully implemented and made available for use prior to the first occupation of the dwelling and, thereafter, permanently retained.
- 10) The dwelling, hereby approved, shall not be occupied until the vehicular parking area shown on the approved plans has been implemented. The vehicle parking area shall not be used otherwise than for parking of private motor vehicles belonging to the occupants of and visitors to the development hereby approved.