



## Appeal Decision

Site visit made on 17 June 2014

by **D Cramond** BSc MRTPI

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

Decision date: 1 July 2014

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### **Appeal Ref: APP/Q1445/A/14/2216564** **1-3 Richmond Place, Brighton, BN2 9NA**

- 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 Mrs N Blencowe against the decision of Brighton & Hove City Council.
  - The application Ref BH2013/03586, dated 21 October 2013, was refused by notice dated 18 December 2013.
  - The development proposed is a single storey infill building in rear courtyard to form a two bedroom flat.
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### **Decision**

1. The appeal is allowed and planning permission is granted for a single storey infill building in rear courtyard to form a two bedroom flat at 1-3 Richmond Place, Brighton, BN2 9NA in accordance with the terms of the application, Ref BH2013/03586, dated 21 October 2013, subject to the conditions in the attached schedule.

### **Main Issues**

2. The main issues are the effect of the proposal on, firstly, the character and appearance of the locality and, secondly, the living conditions for future residents and neighbours.

### **Reasons**

#### *Character and appearance*

3. The appeal site is the majority of the rear yard area of a four storey converted block of flats and lies alongside two outbuildings that have been converted into residential studios. The area is of established residential character with a considerable mix of scale, age and type of home which come together to form a locality of interesting and largely attractive appearance and generally tight urban grain. The proposal is as described above.
4. The site lies within the Valley Gardens Conservation Area. There is a duty imposed by Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requiring decision makers to have special regard to the desirability of preserving or enhancing the character or appearance of a Conservation Area. Saved Policy HE6 of the adopted Brighton & Hove Local Plan (LP) broadly reflects S72(1) as well as setting out appropriate requirements to achieve suitable design.

5. The Council is concerned that the scheme would represent inappropriate subdivision, design and layout, as well as consuming outside space for the flats and generally being harmful overdevelopment in immediate and Conservation Area terms. However, the former town house arrangement of the main block and gardens has long gone and in my opinion there would be no harm in principle at looking at the land available afresh. The subdivision would only be partial as shared access and communal yard arrangements would continue. The design takes its cue from the adjoining outbuildings and a linked modest grouping such as this would not be out of place as subordinate and subservient structures to the main frontage properties.
6. In an ideal world, or an up to date planning permission, the full extent of the yard area might be reserved for existing flat occupiers and laid out attractively but no evidence is brought that any consent required this and there is no justified suggestion that the owners must make this land available. I do also note that very attractive public open space for amenity purposes is close to hand in any event. The local built form includes a number of diverse properties and unusual juxtapositions of a 'quirky' nature and a close knit relationship and in my opinion rather than being overdevelopment the scheme would sit comfortably in character with the area. It would also not impact upon the visual qualities of the area either from the limited public or wider private vantage points.
7. Having regard to the above I conclude that there would not be conflict with S72(1) of the Act or LP Saved Policy HE6; there would be preservation of the character and appearance of the Conservation Area. The LP also includes Saved Policies QD1 and QD2 which, amongst other matters, seek to ensure development is well designed; being sympathetic to the scale, proportion and character of the neighbourhood. Given the nature of the appeal scheme, I conclude that the proposal would not run contrary to these objectives.

#### *Living conditions*

8. In terms of living conditions for would-be residents the Council is concerned that property would simply be too small, providing cramped accommodation with poor amenity exacerbated by being overlooked and having a poor outlook. The Council cites no specific breach of relevant adopted standards in terms of accommodation sizes. The scheme would appear to me to offer a small but usable home that would provide a reasonable internal arrangement, suitable daylight from three directions and a modest but usable and relatively private outside amenity area. The frontage area would be overlooked but this is not unusual and the main focus for privacy internally and externally would be to the rear. Outlook would be constrained but not unduly so for a tight urban area.
9. The concerns expressed by the Council with regard to the amenity of existing residents is that the planned building would impinge upon outlook from raised ground floor and basement flats, introduce overlooking and add to rear activity. However the proposed building would be of very modest height being single storey and virtually flat roofed, its frontage fenestration in addition to a door would be one bathroom window and one bedroom window and the rear courtyard and shared entrance area clearly already serves numerous properties such that one more would be likely to add little extra perceived or actual activity. The face to face distance would be quite tight but not particularly

unusual for a densely developed urban area and not to a degree which would justify preventing the provision of a further reasonable small home in a highly sustainable location.

10. The Council's LP Saved Policy QD27 seeks, amongst other matters, to ensure suitable living conditions. I conclude that this development would not run contrary to this policy objective for the reasons I have given.

*Conditions*

11. I agree with the Council that the standard commencement condition should apply and there should be a condition that works are to be carried out in accordance with listed, approved, plans; for the avoidance of doubt and in the interests of proper planning. I also agree that there should be conditions relating to the use of matching materials and black painted railings in the interests of visual amenity and that in this unusual case 'permitted development' rights should be restricted in the interests of visual and residential amenity. The adjacent tree has some direct incursion upon the appeal site and in the interests of its wellbeing and visual amenity a construction condition should be applied as suggested. Cycle parking should be provided prior to first occupation to encourage sustainable travel and Code for Sustainable Homes level 3 should be achieved to embody other sustainability credentials.
12. The plans show the layout in detail and seeking any additional Lifetime Homes standards would be excessive in this modest development whilst requiring refuse and recycling storage details would also be unnecessary in the context of all the adjoining flats. I am not provided with sufficient justification to reach the conclusion that would-be residents should be prevented from applying for a resident's parking permit.
13. To aid precision and concision I do not in every condition exactly replicate the wording proposed by the Council.

*Overall conclusion*

14. For the reasons given above I conclude that the appeal proposal would not have an unacceptable adverse effect on the character and appearance of the locality or on the living conditions for future residents and neighbours. Accordingly the appeal is allowed.

*D Cramond*

INSPECTOR

SCHEDULE OF CONDITIONS (8):

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: 1960/7B, 8B, 9A & 10A.
3. The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the adjacent buildings.
4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking, re-enacting or modifying that Order) Schedule 2, Part 1, Classes A - E, no extension, enlargement, roof alteration or provision within the curtilage of the development hereby permitted shall be constructed.
5. The railings shown on the approved plans shall be painted black prior to the first occupation of the development hereby permitted and shall be retained as such.
6. The development hereby permitted shall not be occupied until the cycle parking facilities shown on the approved plans have been fully implemented and made available for use and they shall be retained thereafter for this purpose.
7. The dwelling shall achieve Level 3 of the Code for Sustainable Homes. It shall not be occupied until a final Code Certificate has been issued for it certifying that Code Level 3 has been achieved.
8. No development shall commence until a detailed Construction Specification and Management Statement for the protection and long term retention of the adjacent Broad-leaved Lime tree has been submitted to and approved in writing by the Local Planning Authority and development shall be carried out in accordance with the approved Statement.