



Appeal Decision

Site visit made on 30 September 2014

by Diane Fleming BA (Hons) MRTPI

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

Decision date: 28 October 2014

Appeal Ref: APP/Q1445/A/14/2221244

Halstead Scaffolding Ltd, Kingsthorpe Road, Hove, East Sussex BN3 5HR

- 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 Damian Sablon, Danworth Holdings Ltd, against the decision of Brighton & Hove City Council.
 - The application, Ref BH2013/01646, dated 21 May 2013, was refused by notice dated 9 June 2014.
 - The development proposed is a mixed use development including 440 sq m of commercial and 26 residential units.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The application was submitted in outline and the decision notice makes it clear that approval is also sought, at this stage, for the scale of the development, as accepted by the appellant, but not for access, appearance, layout and landscaping. The officer's report to committee and the decision notice also make it clear that all the submitted drawings are illustrative only. I have therefore dealt with the appeal on that basis.

Main Issues

3. The main issues are the effect of the development on i) the character and appearance of the area; and ii) the living conditions of the occupants of Kingsthorpe Road, having regard to outlook.

Reasons

Character and appearance

4. The appeal site comprises a roughly rectangular piece of land currently used as a scaffolding storage yard. It has a long frontage to Kingsthorpe Road and is mainly open except for a two storey building at one end of the site and a tall, single storey building at the other end of the site. The rear of the site backs onto a railway line embankment which has many mature trees. The site is not entirely level there being a slight dip in the middle. The appeal site abuts a dwelling house on one side and a single storey building on the other. However adjacent to the single storey building there is a five storey office building known as Rayford House. This sits in an elevated position overlooking the surrounding area.

5. Opposite the site there are two storey houses. The immediate area is largely residential in character comprising mainly two storey, terraced housing. Kingsthorpe Road leads into School Road. There are a number of two storey commercial units along one side of this road and two schools opposite.
6. The illustrative plans show a proposal for a single building, three to four storeys in height. It would be set back from the road and set in slightly from the side boundaries. The four storey element would occupy the middle portion of the site and would extend over about half the frontage length. The plans show the height of the building to vary between 8 – 14m. Kingsthorpe Road is not particularly wide and it slopes gently down from west to east.
7. I consider a three to four storey building would have a dramatic effect on the surrounding area. This is because, other than Rayford House, which is not typical for the area, development in the area is domestic in scale. Commercial buildings in School Road maintain this character and even the two schools with their modern additions are two storeys in height. Also immediately adjoining the site on one side is a modest, Victorian dwelling and at the other end of the site there is a flat roof, single storey commercial building.
8. Across the road some of the dwellings are marginally set below the level of the pavement. This has the effect of reducing their height. I therefore consider in this context a three to four storey building would appear significantly out of place. This would be even more so as from a distance the proposed scale would not be seen against a backdrop of similar buildings but against an open skyline across the cemetery which lies beyond the railway line.
9. The appellant has referred to Rayford House in support of his proposals. However this is not appropriate as there is nothing similar in height in the immediate area and it is not sited next to the appeal site. Furthermore I find it would not have the same effect on the character and appearance of the area as the proposed development. This is because it is situated on a much larger site and it does not have a long frontage to the road in fact, it is set back from the road. Although its slab level is well above the height of the road there is plenty of space around the building to reduce its impact on the residential development diagonally opposite.
10. I therefore conclude that the proposed development would have an adverse effect on the character and appearance of the area. The development would not accord with Policies QD1 and QD2 of the Brighton & Hove Local Plan 2005 (saved policies post 2007) (LP). These seek to ensure that development is of a high standard of design that takes into account and emphasises the positive qualities of the local neighbourhood and local characteristics such as height and scale. I find these policies do not conflict with the objectives of the National Planning Policy Framework (the Framework) which requires good design that reflects the identity of local surroundings (Part 7). I therefore give them significant weight.

Living conditions

11. The appeal site lies on the north side of Kingsthorpe Road. There are nine houses that directly overlook the site, one house that flanks the site and another house on the south side of Kingsthorpe Road that is side on to the development. Adjacent to the nine houses there is a block of four, purpose built, two storey flats that would also be affected by the development.

12. The design of all of these dwellings is modest in terms of height and proportion. The dwellings are sited close to the back edge of the pavement and the majority have large windows that serve habitable rooms which overlook the appeal site. In this context, given the width of Kingsthorpe Road which is not unduly wide, and the limited depth of the appeal site, I consider a three to four storey development would appear excessively large. It would dominate and seriously erode the outlook for the occupiers of these dwellings especially as four of the houses are set partially below the height of the pavement.
13. The appellant is of the view that there is sufficient distance between the edge of his site and the front elevation of the houses opposite. However he also suggests that the proposed balconies would be screened to prevent overlooking. I find that this indicates that the scale of the development would not be acceptable as it implies that the distance between the site and the neighbouring houses is insufficient if balconies have to be screened.
14. Overall I conclude that the scale of the proposal would result in an unneighbourly development and for these reasons it would have an adverse effect on the living conditions of the occupants of Kingsthorpe Road, having regard to outlook. I find it would not accord with Policies QD2 and QD27 of the LP. These seek amongst other matters to protect residential amenity. It would also not accord with one of the Core Principles of the Framework, that planning should always seek to ensure a good standard of amenity for all existing and future occupants of land and buildings.

Other Matters

15. I have seen a copy of a signed and dated S106 Unilateral Undertaking which would provide for contributions towards recreational open space, education and sustainable transport in connection with the proposal. However the agreement would not address my fundamental concerns about the scale of the scheme and has thus not had a significant bearing on my decision.

Conclusion

16. For the above reasons, and having regard to all other matters raised, including those in the letters in opposition to the scheme, I conclude that the appeal should be dismissed.

D Fleming

INSPECTOR

