



Appeal Decision

Site visit made on 11 February 2015

by R W Allen B.Sc (Hons) PGDip MRTPI

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

Decision date: 24 February 2015

Appeal Ref: APP/Q1445/A/14/2221272

112 Carden Avenue, Brighton, BN1 8NE

- 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 Paul Williams against the decision of Brighton and Hove City Council.
 - The application Ref BH2013/03400, dated 5 October 2013, was refused by notice dated 9 June 2014.
 - The development proposed is demolition of existing garages and construction of new three bedroom dwelling with lower ground floor partially sunk into the ground with access from existing driveway off Carden Avenue. Associated external alterations.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of existing garages and construction of new three bedroom dwelling with lower ground floor partially sunk into the ground with access from existing driveway off Carden Avenue and associated external alterations at 112 Carden Avenue in accordance with the terms of the application, Ref BH2013/03400, dated 5 October 2013, subject to the 9 conditions set out in the attached schedule.

Main Issues

2. The main issues are:
 - The effect of the proposed development on the character and appearance of the area; and
 - The effect of the proposed development on the living conditions of Nos 112 and 110 Carden Avenue.

Reasons

Character and appearance

3. The appeal site relates to the end part of the rear garden of No 112 Carden Avenue, which is a semi-detached two-storey dwelling located at the end of a row of similarly-designed road frontage properties with long, narrow rear gardens. The site is occupied in part by two single-storey detached garages which are separately accessed via an unmade road from the north, located between the rears of Nos 114 to 128 Carden Avenue and to the side of No 130 Carden Avenue. The garden gently inclines in level from the rear elevation to the garages. The wider area comprises a mix of property styles and ages, the north of the appeal site comprising smaller properties and plot sizes.

4. I saw from my site visit that the appeal site fell at a transition point between the two distinct character areas either side of it. In its current form, the appeal site clearly reads as part of the area to the south, and the appeal proposal would have the effect of altering the character of the site such that it would align more closely with the area to the north. However, as the appeal site would also be accessed from within this area, I do not find this would be inappropriate or that it would undermine the character and appearance of the wider area.
5. The street scene is varied with no particular uniformity in either design or height. Aside from some glimpsed views between No 114 and 112, and No 110 and 108 Carden Avenue, the proposed development would not be seen from public vantage points in the street. The proposed design is unassuming nonetheless it would integrate and assimilate well with its surroundings.
6. I find the proposed development would not harm the character and appearance of the area, and that it would accord with Policies QD1, QD2 and QD3 of the Brighton and Hove Local Plan 2005 (with saved policies 2008) (LP) which say, amongst other things, that development must demonstrate a high standard of design and make a positive contribution to the visual quality of the environment, that it should be designed to emphasise and enhance the positive qualities of the local neighbourhood taking into consideration height, scale, bulk, design, topography, and should make effective and efficient use of land incorporating an intensity appropriate to the locality.

Living conditions

7. I note the proposed development would be on raised ground and be sited closer towards the occupiers of the neighbouring properties at Nos 112 and 110 Carden Avenue. However, I find sufficient distance would exist between the two so as not to cause harm to outlook and dominance. The introduction of a boundary fence would have the desired effect of screening much of the proposed development thereby would reduce any potential impact on privacy to the occupiers of the adjoining properties caused from the proposed habitable room windows on the western elevation.
8. I therefore find the proposed development would not harm the living conditions of Nos 112 and 110 Carden Avenue, that it would accord with LP Policy QD27 which says planning permission not be permitted where it would cause material nuisance or loss of amenity to existing and/or proposed users, residents or occupiers.

Other Matters

9. I note concerns regarding the condition of the unmade access road, that the any condition of approval should require it to be resurfaced. However no evidence is before me that such a condition would meet the tests of Paragraph 206 of the National Planning Policy Framework (the Framework), such that I have given this matter little weight in my decision. Equally, no evidence is before me as to the implications of the proposed development on parking displacement. In both case, the Council has not raised them as an issue and based on the evidence before me I have no reason to disagree.

Conditions

10. I have considered the conditions suggested by the Council against paragraph 206 of the Framework, and made changes necessary to comply with those requirements. I have specified the approved plans for the avoidance of doubt and in the interests of proper planning, and conditions relating to materials, site levels and storage of waste are necessary to ensure the appearance of the development is satisfactory. I have added a boundary condition, and removed permitted development rights to the property, in the interests of protecting the living conditions of occupiers of adjoining neighbours, although Class D (porches) restriction recommended by the Council is onerous and unnecessary. A condition requiring the development to accord with the principles of Lifetime Homes is necessary to accord with the requirements of LP Policy H013.
11. A condition requiring the proposed development to adopt the principles of sustainable development and design is necessary in accordance with the Framework, LP Policy SU2 and the Council's Sustainable Building Design Supplementary Planning Document (SPD). However I found no evidence in the Council's submissions requiring development of this scale to achieve Code Level 5 of the Code for Sustainable Homes. I have therefore imposed a suitably worded condition which I find reasonable for this scale of development, and which would have the same desired effect of meeting the tests of the LP Policy SU2 and the SPD.
12. No evidence is before as to the appeal site's sensitivity to nature conservation interest, such that I the location and scale of the development does not warrant such a condition. Equally, no evidence is before me for the need for a porous substance condition. Conditions relating to landscaping and cycle storage are unnecessary having regard to the scale of the development proposed.

Conclusion

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

R Allen

INSPECTOR

SCHEDULE OF 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 drawings: Location and Block Plan; 01A; 02A; 03B; 04A and 05.
- 3) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the building 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.
- 4) No development shall take place until full details of existing and proposed ground levels within the site, and on land adjoining, showing spot heights, cross-sections, and finished floor levels of the building hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with those approved details.
- 5) No development shall take place until details of the facilities for the storage of household waste and recycled materials has been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with those approved details and shall thereafter be retained.
- 6) No development shall take place until details of the boundary treatment have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with those approved details and thereafter be retained.
- 7) The dwelling hereby approved shall be constructed to Lifetime Homes standard prior to its first occupation and shall thereafter be retained.
- 8) No development within Classes A, B, C and E of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) or any Order revoking or re-enacting that Order shall be carried out on the site without the prior written approval of the Local Planning Authority.
- 9) No development shall take place until a sustainable building statement, setting out how the building hereby approved will contribute to energy efficiency, water conservation and carbon savings has been submitted to and approved in writing by the Local Planning Authority. The approved measures shall be carried in accordance and thereafter shall be retained.