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## Appeal Decision

Site visit made on 14 April 2015

**by R J Marshall LLB DipTP MRTPI**

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

**Decision date: 06 May 2015**

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**Appeal Ref: APP/Q1445/W/14/3001870**  
**6 Locks Hill, Portslade, Brighton BN41 2LA**

- 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 Caveh Sobhanpanah (J B Howard Properties Ltd.) against the decision of Brighton & Hove City Council.
  - The application Ref BH2013/02772, dated 13 August 2013, was refused by notice dated 24 November 2014.
  - The development proposed is demolition of existing building (D1) and erection of 5 houses fronting Locks Hill with car parking and vehicular access from rear.
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### Decision

1. The appeal is dismissed.

### Background and Policy

2. The appeal site lies within an extensively built up area. It fronts onto Locks Hill at a point not far north of the junction of that road with Old Shoreham Road. Currently on the site is a vacant building which had been erected in 1903 as a school. It is proposed to demolish this building and erect a terrace of 5 houses, fronting Locks Hill, on the site. To the south of the appeal site is a modern commercial building fronting Old Shoreham Road. Directly to the north is No. 8 Locks Hill, a grade II listed building, and it is the alleged harm to the setting of this building that has led to planning permission being refused. To the north of No. 8, and on the same side of Locks Hill, lies extensive 1930's style terraced housing. Opposite the appeal site are school buildings dating from various periods.
3. It is a matter of agreement between the parties that the Council cannot demonstrate a 5 year supply of deliverable housing sites. Thus, in accordance with the *National Planning Policy Framework (the Framework)* relevant Policies for the supply of housing should not be considered up to date. In such cases the Framework requires that planning permission should be granted unless – *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in this Framework taken as a whole; or – specific policies in this Framework indicate development should be restricted.*

## **Main Issue**

4. Given the above the main issue in this appeal is whether there are any adverse impacts of the proposed development that would significantly and demonstrably outweigh its benefits when assessed against the policies in the Framework taken as a whole.

## **Reasons**

### ***Alleged harm***

#### *Harm referred to by the Council*

5. The Council says that by reason of its design and scale the proposed development would detract from the setting of No. 8 Locks Hill, and that this would outweigh the benefits of providing the proposed 5 houses.
6. No. 8 Locks Hill is an 18<sup>th</sup> Century detached house, altered in the late 19<sup>th</sup> and early-mid 20<sup>th</sup> Centuries. It is faced with flint pebbles, brick quoins and string courses and has a steeply pitched clay tile roof. It predates most of the development in the vicinity and has a large and attractive garden. Although located quite close to the side elevation of the nearest terraced house to the north the degree of setback from the road and the substantial garden to the side provides No. 8 with a sense of space about the building. This is a significant and attractive part of its setting. It reinforces the historical context of this house pre-dating much of the surrounding development.
7. The current building on the appeal site does not impinge unduly upon the setting of No.8 even though its northern elevation lies quite close to the curtilage of this house. In part this is due to the lie of the land. Lockshill drops down from north to south towards Old Shoreham Road. Thus the ridge line of the existing building on the site is lower than that of the listed building. It is in part also due to the design of the roof of the old school building, with its varied roof line and low eaves. This reduces the bulk of the building and in particular results in a design in which, in the vicinity of the site's northern boundary, the main pitched roof is located well back from the highway. Thus, in oblique views from the south, the roof of the old school building impinges less upon views of No. 8 than would otherwise be the case.
8. The proposed terrace would have a ridge line only slightly higher than the building to be replaced. However, its higher eaves line and more even ridgeline would result in a building appearing more dominant seen from the roadside. And in particular the roof and first floor would be far further forward on the site than any structure of a similar height and bulk on the existing building. As such, although in views from directly opposite the site there would be no material diminution in the gap to the listed building in oblique views from the south the gap would appear to be seriously eroded. This would be to the detriment of the setting of the listed building.
9. This harm would be compounded by the design of the proposed houses. They would quite closely match the appearance of the 1930's style terraced houses to the north. This would lead to the listed building appearing to be sandwiched between extensive development of a similar character and appearance. This would appear overpowering and diminish the stand alone quality of No. 8.

10. There is the potential for a slight improvement to the appearance of the site when seen from the rear by the removal of hardstanding and fencing. There would also be some benefit in the proposed reduction in height of the front boundary wall. However, whilst this would be of some benefit to the character and appearance of the area it would not outweigh the harm referred to above.
11. The degree of harm would, in terms of Planning Policy Guidance (PPG) on Conserving and Enhancing the historic environment be less than substantial. However, considerable weight should be attached to even this level of harm to the setting of a notably attractive listed building which adds greatly to the quality of the local environment.

*Other alleged harm*

12. Third party concerns go well beyond those raised by the Council. A key concern is the loss of the exiting building. This has been identified by the Council as a building of local interest and as such is a non-designated heritage asset.
13. The school building has been identified by the Council as of significance due to it being a good example of a school building of this period in architectural terms, its group value given its location opposite another old school building and its contribution to the street scene particularly in relation to its roofscape.
14. The loss of the building would result in the total loss of its significance. However, detailed reports from the appellant, on which no substantial evidence to the contrary has been provided, show the cost of refurbishment of this property in poor repair internally to be prohibitive for a commercial use of the premises. Moreover, reasonably extensive marketing of the property has shown no interest for the building in a commercial use. A further detailed report shows that the cost of repairs and the awkward layout of the building would make a residential re-use unviable. As such the Council has taken a pragmatic view and considers that the demolition of the building should not be resisted. On the evidence provided, and in the absence of substantial evidence to the contrary, I take a similar view.
15. There is also concern about the loss of the building to serve educational purposes. However, the Council has declared the property surplus to educational needs and the cost of refurbishment has put off any potential interest from nursery school operators.
16. Vehicular access to the site would be rather convoluted. It would lead to the rear of the premises through a housing estate and the garage court of a block of flats. However, whilst I can see this putting of potential commercial operators there is no evidence that it would be unsatisfactory for the proposed residential use. Nor is there any technical evidence that insufficient parking space would be provided.
17. Development of the limited size proposed should not result in additional levels of traffic of a level that would be harmful to highway safety, the free flow of traffic or noise and disturbance to local residents.

***Alleged benefits***

18. The key benefit is the provision of additional housing in an area where there is an absence of a 5 year housing land supply. The appellant's say that the

shortfall is substantial and that the Council is currently in no position to meet objectively assessed needs or adequately address past shortfalls. The Council has provided no substantial evidence to the contrary. However, with the provision of just an additional 5 houses there would be only a limited effect on boosting significantly the supply of housing as required by the Framework.

19. The proposal would bring back into use a brownfield site in a sustainable location and have the potential to improve the quality of an adjoining public footpath. There would be economic, social and environmental benefits in this. However, there is no evidence that this could not be achieved by an alternative scheme.

### **Final balancing**

20. I have found the proposed development to be harmful in relation to its impact on the listed building to the north and not in relation to some of the other harms is alleged. However, I attach substantial weight to this harm alone. Given the limited number of houses proposed the benefits of the proposed development in terms of additional housing provision would be modest and would not outweigh the harm identified. I attach limited weight to the other alleged benefits given that there is no evidence that they could not be achieved by an alternative scheme. I thus find that the degree of harm is such as to significantly and demonstrably outweigh the benefits of the proposal when assessed against the Policies of the Framework taken as a whole.
21. The Framework says that housing applications should be considered in the context of the presumption in favour of sustainable development. It identifies three dimensions to such development, an economic role, a social role and an environmental role. In some respects the development would meet these roles. However, the harm identified to the setting of the listed building means that there would be conflict with the environmental role to a degree which means that, seen in the round, the proposal would not be sustainable development.

### **Conclusions**

22. For the reasons given above it is concluded that the appeal should be dismissed.

*R J Marshall*

INSPECTOR