
Appeal Decision

Site visit made on 9 February 2016

by Karen Radford BA (Hons), Dip Arch, Dip Arch Cons, IHBC

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

Decision date: 23rd May 2016

Appeal Ref: APP/Q1445/W/15/3134707
40 Holmes Avenue, Hove, Sussex BN3 7LD

- 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 M Morley against the decision of Brighton & Hove City Council.
 - The application Ref BH2015/01481, dated 30 March 2015, was refused by notice dated 30 June 2015.
 - The development proposed is the demolition of the existing garage and the construction of a pair of two bedroom semi-detached houses.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have given consideration to the recently adopted City Plan Part One and note that following the adoption of it on 24 March 2016, the development plan for the City changed and some but not all, of the Brighton & Hove Local Plan 2005 policies were removed and superseded by new policies. Furthermore, the City Plan Part One along with the retained Local Plan Policies form part of the Development Plan for Brighton & Hove, and the retained Local Plan policies will continue to apply until replaced by the City Plan Part Two Development Plan Document at some future date.
 3. In the case of this appeal, former Local Plan Policies QD1 and QD2 have now been replaced with Policy CP12 (Urban Design), former Policy QD3 has been replaced by Policies CP8 (Sustainable Buildings), CP12 (Urban Design) and CP14 (Housing Density) of the City Plan Part One. Former Local Plan Policy HO3 has now been replaced with Policies CP19 (Housing Mix) and CP20 (Affordable Housing) and former Local Plan Policy HO4 has now been replaced with Policy CP14 (Housing Density) of the City Plan Part One. However, Local Plan Policies HO5 and QD27 have been retained.
 4. I have given full weight to the policies in the City Plan Part One and to the retained policies in the Local Plan.
 5. Whilst I acknowledge that this appeal has followed a previous refusal on the site, with the appellant revising the proposals to address some of the previous concerns, I have considered this appeal on the basis of the proposed development before me.
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Main Issues

6. The main issues are the effect of the development on :-
- The character and appearance of the area,
 - The living conditions of the neighbouring residents and,
 - The living conditions of the future occupiers.

Reasons

Character and appearance

7. The appeal site is an area of land which was formerly part of the rear garden to No 40, Holmes Avenue, which is on the corner of Holmes Avenue and Wayfield Avenue. Whilst the surrounding area is predominantly residential, it does have a mixed appearance.
8. Most of the houses on Holmes Avenue are 1930's semi-detached properties with fairly generous long rear gardens. Immediately adjacent to the site in Wayfield Avenue is the Martlets Hospice. This is a large modern building set in generous grounds and has a traditional hipped roof. Opposite the site is a 1930's Church Hall building set in open grounds with lawns, a modern block flats, and further to the west is a modern housing estate.
9. To my mind the character of the immediate area falls into two fairly distinct types, with the appeal site forming the boundary between these two areas. One of these character areas is formed by the larger buildings along Wayfield Avenue which are all set in fairly generous grounds, albeit some of their settings are visually compromised by large expanses of car parking.
10. The other character area is formed by the semi-detached houses and gardens of Holmes Avenue. The layout of these houses has a strong uniform linear form with the road running north to south, houses all aligned on an east-west axis, all having generous long rear gardens with a strong well defined and uniform rear boundary on the west. Generally the layout of this area, the appearance of the houses and their gardens all result in a character, which is attractive and cohesive with a definite spacious quality.
11. The development would be for a pair of two storey semi-detached houses with pitched tiled roofs, timber wall cladding at first floor level and with brickwork at ground floor level. They would be set in mainly paved gardens, which would be located principally to the side of each house and their north elevation would be approximately 1.2 metres away from the north boundary to No 42. There would be an area of rear garden to be retained by No 40.
12. Whilst there is no policy objection in principle to contemporary design, despite the variety of its surroundings the proposed development does not have a direct spatial or visual relationship to any of the nearby buildings and neither does it take a design or materials reference from the surrounding properties. Albeit in terms of scale, private residential use and plot boundaries, it does have a stronger relationship to the houses in Holmes Road than any other of the nearby buildings.
13. However the proposed development would consist of two building plots both being smaller in size when compared to those in the surrounding area. Also it

would be built in close proximity to the rear (north) boundary of the site with each new house having a small side garden. This would be a visual contrast to the prevailing character of the area and make the development appear cramped and the site generally overdeveloped. In addition, the area of garden retained by No 40, whilst more generous in size than the small gardens proposed for the new houses, would still be small compared to the surrounding gardens. Again this factor would add to the cramped appearance of the proposals.

14. The National Planning Policy Framework (the Framework) advises that planning decisions should not attempt to impose architectural styles or particular tastes and should not stifle innovation, originality or initiatives through unsubstantiated requirements to conform to certain development forms or styles. It is, however, proper to seek to promote or reinforce local distinctiveness. To my mind the proposed development would not reinforce the prevailing distinctive character of this suburban area.
15. Therefore, I have found the appeal development does harm the character and appearance of the area and would be contrary to Policy CP12 (Urban Design), of the City Plan Part One, which aims among other things to ensure that new development respects the character and urban grain of an area.
16. In addition, the proposal would conflict with one of the core principles of the Framework, which is to always seek to secure high quality design. Good design is a key aspect of sustainable development and is indivisible from good planning. It goes on to state that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.
17. I have considered the appellant's comments regarding the development being designed to fit in with the smaller scale housing in Wayfield Avenue and that the Council only considered the development in comparison to the properties in Holmes Avenue. However the smaller scale modern housing in Wayfield Avenue is at a much greater distance away from the site than the housing in Holmes Avenue. So I have found that the appeal site relates to the houses in nearby Homes Avenue due to their proximity. However for the reasons given above, the proposals do not relate to the character and urban grain of those nearby existing houses and gardens.

Living conditions of the neighbouring residents

18. The development would be approximately 1.2 metres away from the north boundary to No 42, with the proposed elevation facing this boundary being approximately 4.7 metres high at the eaves, 6.3 metres at the ridge and total width of 10.3 metres. This elevation would include one first floor window which would be obscured with timber louvres restricting overlooking of the rear garden to No 42. There would be no windows in the east elevation of the development facing towards the rear of the No 40.
19. I have concluded that the mass and bulk of the development in close proximity to the boundary with No 42, would result in it being overbearing and oppressive when viewed from the garden of No 42 and also have an adverse impact on the outlook from that garden. Albeit that I accept that there would not be an overlooking issue into this garden.

20. In addition, the development would be located approximately 14 metres away from the rear elevation of No 40 and approximately 3.3 metres away from the boundary to No 40. I have concluded that the development being close to the boundary with No 40, and fairly close to the rear of this property would also result in a significant loss of outlook for the existing residents in No 40 and from its rear garden.
21. Therefore, I have found the appeal development would harm the outlook of and would also be overbearing to the residents of the adjacent properties and would be contrary to Policy QD27 (retained policy) of the Brighton and Hove Local Plan, which aims among other things to ensure that new development would not cause a loss of amenity to existing residents including loss of outlook.
22. I acknowledge that the separation of the rear garden area to No 40 to create the appeal site, has already taken place and also No 40 has recently been sold with the new owners having knowledge of the appeal development. I have also noted that there is no loss of daylight or privacy to the existing houses. However these facts do not alter my findings in relation to harm to the living conditions of existing residents in Nos 40 and 42.

Living conditions of the future residents

23. Policy HO5 (retained policy) of the Brighton and Hove Local Plan, requires the provision of private, usable amenity space in new residential development appropriate to the scale and character of the development. No specific size for this amenity space is given, but the supporting text indicates that front gardens, back gardens and balconies will be taken into account.
24. The proposed houses would be for single family residential use and the size of the external garden for each new house would be 50 sq. metres. However this would be a total area of external space including the small space at the front and rear of each house, with the usable side area of garden being approximately 36 sq. metres. The existing brick front boundary wall would be retained and made good at a reduced height of approximately 1.2 metres in height.
25. The appellant argues that a similarly sized external amenity space has been previously allowed on appeal ¹(see footnote 1) in Woodland Drive, Hove, but I am not convinced that this appeal decision sets a precedent. The Inspector in that case found that the narrow rear terrace would have limited value but would be sufficient to accommodate a garden table and chairs and that the larger front terrace would enable a greater range of uses, with privacy from the street being provided by the location of fencing and cycle stores at the front of the site.
26. However in the case of the current appeal, the private rear area to each house would be too narrow to be more than an access way, with the very small front area being too small and lacking any privacy, to be a useful external space. Although each side garden would be the largest of the three spaces, to my mind the proposed size of it would not be sufficiently generous to make it suitable for the needs of a family. In addition, it would be close to the front

¹ Footnote 1 – appeal APP/Q1445/A/13/2192771

- pavement and would be enclosed along the front boundary by a low brick wall of an approximate height of 1.2 metres, resulting in a lack of privacy to it.
27. Consequently I agree with the Council that the size of the proposed gardens would not be commensurate with the size of proposed dwellings, and would be harmful to the amenity of the future occupiers, and therefore be contrary to Policy HO5 (retained policy) of the Brighton & Hove Local Plan.
28. I acknowledge that the appellant has compared external space standards of the other Planning Authorities such as Worthing and London to the proposals, but such comparisons have not altered my findings in relation to this development and its particular site circumstances.
29. I also note that the Council consider that the area of rear garden which would be retained by No 40 would be significantly smaller than those of neighbouring dwellings, and I agree with this statement. However, although certainly this small area of retained garden would have an impact in conjunction with the other factors outlined above, on the character and appearance of the area, I am not persuaded that the size of retained area of rear garden would have a harmful impact on the living conditions of the existing residents of No 40.

Other Matters

30. I acknowledge that the development would be designed as "Lifetime Homes" and would also incorporate energy reducing and CO2 reducing features into the design. Such features would include orientation of dwellings for passive solar gain, solar thermal panels, PV panels, solid flue wood burning stove, heat recovery system, and triple glazing.
31. Both parties acknowledge that there is a shortfall in the Council's five year housing land supply, and the two proposed dwellings would contribute to reducing the identified shortfall in housing. The Framework requires that housing proposals are considered in the context of the presumption in favour of sustainable development and that they should be granted unless the adverse effects of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
32. In terms of the Framework the provision of two additional dwellings could be considered to be a social benefit and the energy reducing features could be considered to an environmental benefit.

Conclusion

33. However I have found that the proposals would be detrimental to the character and appearance of the area, harm the living conditions of the adjoining residents, provide unsatisfactory amenity space for future occupiers and be contrary to some of the core principles of the Framework.
34. In favour of the proposed development are the minor benefits to social and environmental sustainability that I have identified. However, to my mind, the factors identified as weighing against the proposed development significantly and demonstrably outweigh the minor factors in its favour.
35. For the reasons given above and taking all other matters into consideration, the proposed development cannot therefore be considered to be sustainable development and the appeal is dismissed.

Karen Radford

INSPECTOR