
Appeal Decision

Site visit made on 20 April 2015

by Isobel McCretton BA(Hons) MRTPI

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

Decision date: 30th April 2015

Appeal Ref: APP/Q1445/W/15/3005630

141 New Church Road, Hove BN3 4BE

- 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 and Mrs Heath against the decision of Brighton & Hove City Council.
 - The application Ref. BH2014/03313, dated 10 September 2014, was refused by notice dated 1 December 2014.
 - The development proposed is a 2-storey, 2-bed house to replace single storey garage.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this case are:
 - the effect of the proposed development on the character and appearance of the area;
 - the effect on the living conditions of nearby residential occupiers in terms of loss of light and outlook; and
 - whether adequate amenity space would be provided for future occupiers.

Reasons

3. The appeal property lies on the eastern side of the junction of New Church Road and Portland Avenue. It comprises a detached house with a large, flat-roofed garage/store at the rear which is accessed from Portland Avenue.
4. It is proposed to demolish the garage/store and to erect a 2-storey, 2-bedroom dwelling on a similar foot print. This would be a flat-roofed structure of contemporary design, with 2 bedrooms and a study on the ground floor and an open kitchen/dining/living space on the first floor leading to a small terrace at the front facing Portland Avenue. The building would be a mix of white rendered walls with panels of horizontal or vertical sweet chestnut cladding and the walls facing nos.141 and 139 Church Road would be 'green walls'. There would be off-street parking space for 1 car, a bicycle store and a bin store at the front. To the rear there would be an amenity area between the proposed house and the boundary fence with no.139.

Character and Appearance

5. This is a mainly residential area. The houses in this part of New Church Road, and the roads leading off it vary in design, but are predominantly detached and semi-detached properties of a similar age and character with a mix of brick and rendered walls and hipped or gabled tiled roofs.
6. The existing garage/store is built to the back edge of the pavement and there is a wall continuing along the side boundary of no.141. The ground floor of the proposed dwelling would be in line with the front main wall of no.1 Portland Avenue where it adjoins that property, and then it would project out to just beyond the flank wall of no. 141¹. The first floor would be set back from the main front elevation of no.1 (though forward of its side extension) and a little back from the flank of no.141, though with the louvered screen alongside the first floor front terrace it would appear to be forward of no.1 in the views along the street. The building would have a flat roof level with the top of the parapet to the side extension of no.1, i.e. just above eaves height.
7. There is no policy objection in principle to contemporary design, but the proposed dwelling appears to take little if any design reference from the surrounding houses. Although there would be a more interesting and active frontage to Portland Avenue than is currently the case, I consider that the bulk and mass of the proposed dwelling, generally forward of the Portland Avenue houses with which it would principally be related and be viewed, would be prominent and obtrusive in the street scene. The 'green wall' facing no.141 would soften the southern elevation to some extent, but access would be required from land outside the appeal site for it to be maintained, and there is no indication as to how this would be achieved. Without the 'green wall' detailing this elevation would appear stark and overbearing.
8. The building would be built along the boundary to the garden of no.141 and very close to the side boundary with no.1 (around 900mm). The proximity of the new house to no.1 and its block-like appearance would sit uncomfortably beside the traditionally designed houses which are more widely spaced. Added to this, the parking space would be too short for larger cars so that they would overhang the pavement and, unlike most of the properties in Portland Avenue, there would be little frontage planting. Thus, overall, the house would appear cramped on the plot and a jarring feature in the views along the road.
9. 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 through unsubstantiated requirements to conform to certain development forms or styles. It does however, state that it is proper to seek to promote or reinforce local distinctiveness. In my opinion the proposed development would not reinforce the prevailing distinctive character of this suburban area.
10. In support of the proposal the appellants refer to a contemporary dwelling which has been built at the northern end of Portland Avenue. This scheme was allowed on appeal in 2010². However, there are a number of differences between that scheme and this current proposal. Firstly, it appears from the

¹ The drawing in the Design and Access Statement and Planning Statement show it set back behind the flank wall of no.141, but drawing 0322.PL.001A, on which the Council based its decision, shows the ground floor marginally further forward.

² APP/Q1445/A/10/2130154 dated 15/11/10

Inspector's decision that it comprised an open yard, store and garage connected with the commercial properties fronting Portland Road to the north. It was therefore clearly previously developed land³ whereas this would replace a domestic structure on garden land.

11. Secondly, the Inspector noted that the new dwelling screened the unattractive rear elevations of the 3-storey main road properties. While this appeal proposal would replace a fairly unattractive domestic building, the existing garage/store is only single storey and a low key structure in street views.
12. Thirdly there is a garage which creates a gap between the end house in Portland Avenue and the new dwelling which means that it has a different visual relationship with the more traditional dwellings. There is also a street tree and another in the front garden of the new houses which, to some extent soften its appearance. I therefore do not consider that that development sets a precedent for my consideration of this appeal scheme.
13. I conclude that the proposed development would be detrimental to the character and appearance of the area. It would not accord with saved policies QD1 and QD2 of the Brighton and Hove Local Plan 2005 which, among other things, require all new development to make a positive contribution to the visual quality of the environment and be designed to emphasise and enhance the positive qualities of the local neighbourhood.
14. 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.

Living Conditions – Adjoining Occupiers

15. Given the distance between the properties, intervening street trees and the fact that the proposed dwelling would be offset from both houses, I do not consider that there would be a material loss of light or outlook for the occupiers of no.143 New Church Road and no.2 Portland Avenue on the opposite side of the road. Similarly the proposed house would not extend beyond the rear of no.1 and there would be unlikely to be direct overlooking to habitable room windows from the first floor terrace at the front. I therefore do not find that there would be a material adverse impact on the living conditions of the occupiers of those properties.
16. The shadow diagrams in the appellants' submissions show that there would not be an undue level of overshadowing of the adjoining garden at no.139. Nevertheless, the proposed dwelling would be situated just over 2m from the side boundary of no.139. The side extension to no.1 Portland Avenue already presents a high 2-storey wall across part of the end of the garden of no.139. I consider that the addition of a 2-storey building in close proximity to the side boundary would mean that the views out from the garden of no.139 would be further restricted such that there would be an unacceptable sense of oppressiveness and enclosure for the occupiers of that property which would detract from their living conditions.

³ As defined in Annex 2: Glossary to the National Planning Policy Framework

17. As such the scheme would not accord with Local Plan policy QD27 which seeks to protect the amenity of adjacent residents. It would also be contrary to another of the core principles of the Framework which is to always seek a good standard of amenity for all existing and future occupiers.

Amenity Space

18. Local Plan policy HO5 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.
19. The Council estimates that the rear, east facing amenity space would be of the order of 2.3m x 10.3m and, at the front, there would be a small first floor terrace. The appellants argue that this would provide 2 spaces where occupiers could enjoy the morning or afternoon sun, and that a similar arrangement has been previously allowed on appeal⁴ in Woodland Drive, but again I am not convinced that appeal decision sets a precedent.
20. 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. He noted that the squarer shape of the larger front terrace would enable a greater range of uses and the fencing and cycle/refuse stores at the front of the site would prevent it being overlooked from the street.
21. By contrast, in this current case the narrow rear terrace would be the larger of the two spaces, and the front terrace would not provide for a wider range of uses as in the previous case nor would it be enclosed and private. It would sit at first floor level, close to the pavement and would be only partly enclosed by a louvred screen. I agree with the Council that the proposed amenity spaces would be unsuitable for the needs of a family and so would not be appropriate to the scale and character of the development, contrary to policy HO5.

Conclusion

22. The appellants contend that the Council has a severe shortage of housing land and cannot demonstrate a five year supply as required by the Framework. The emerging City Plan has been examined and the Inspector has required that the Council look again at this matter, but the 2014 housing trajectory shows that the Council is likely to be able to meet only its annual requirement, and not make up for the persistent shortfall in previous years. 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.
23. I have found that the proposals would be detrimental to the character and appearance of the area, harm the living conditions of the adjoining occupiers, provide unsatisfactory amenity space for future occupiers and be contrary to some of the core principles of the Framework. I find that these factors significantly and demonstrably outweigh the benefit of providing one additional small dwelling.

⁴ Ref. APP/Q1455/A/13/2192771 dated 10/7/13

24. For the reasons given above I conclude that the appeal should be dismissed.

Isobel McCretton

INSPECTOR

