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## Appeal Decision

Site visit made on 6 February 2018

by **S J Buckingham BA (Hons) DipTP MSc MRTPI FSA**

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

Decision date: 28 February 2018

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**Appeal Ref: APP/Q1445/W/17/3189052**

**3 Shirley Road, Hove BN3 6NN**

- 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 Keith Biddlestone against the decision of Brighton & Hove City Council.
  - The application Ref BH2017/01443, dated 27 April 2017, was refused by notice dated 12 September 2017.
  - The development proposed is demolition of garage and erection of a 3 bedroom residential dwelling (C3) to the rear of 3 Shirley Road fronting Lloyd Road.
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### Decision

1. The appeal is allowed and planning permission is granted for demolition of garage and erection of a 3 bedroom residential dwelling (C3) to the rear of 3 Shirley Road fronting Lloyd Road at 3 Shirley Road, Hove BN3 6NN in accordance with the terms of the application, Ref BH2017/01443, dated 27 April 2017, subject to the conditions set out in the Schedule to this Decision.

### Main Issues

2. The main issues are:-
  - the effect of the development on the character and appearance of the area; and
  - the effect on the living conditions of neighbouring occupiers with respect to outlook.

### Reasons

#### *Character and Appearance*

3. The appeal site is a section of the rear garden of No. 3 Shirley Road, a large detached corner house. The site faces onto Lloyd Road, and currently contains a single storey garage building with steeply pitched roof and behind it a garden room running back into the site. The garage is set behind an area of hardstanding and crossover.
  4. The Hove Park area is one of generally substantial, detached and semi-detached houses. The character is a green and suburban one, arising from the presence of generous front gardens and grassed verges and street trees.
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5. The appeal proposal is for a two storey, three bedroom detached house, with a parking space to the front, separated with a gap from Nos 2 & 4 Lloyd Road.
6. Although the plot is a relatively small one, the proposed house would have a compact design and only a slightly larger footprint than the existing structures. It would retain space around it, including a modest rear garden and space for landscaping at the front. As a result, it would not appear cramped or over-developed, nor, in an area where the houses are relatively closely spaced along the road frontages would it appear squeezed in.
7. The appeal dwelling would have a small projection sitting a short distance beyond the front building line of the adjacent houses in Lloyd Road. As however, most of the frontage would be set back behind this line, and as many houses in the area have front bays or other projections, I conclude that this would not make it unduly prominent or incongruous in the street scene. Due to the slope of the land, while it would sit above No. 3 Shirley Road, it would also sit below Nos. 2 & 4 Lloyd Road, and thus although of a greater height and bulk than the existing buildings, the proposed structure would not appear unduly conspicuous.
8. The appellant has drawn my attention to a number of similar developments in streets in the area, where new dwellings have been inserted into rear gardens. While there is variation in the size of the dwellings and plots created, the appeal proposal would create a similar ratio of building to open space, and would retain a large garden to No. 3 Shirley Road, and would not therefore create a subdivision of the plot that would be uncharacteristic of the area.
9. Many houses in the area are in an Arts and Crafts style, referencing vernacular buildings through the use of a variety of materials such as applied timber framing, tile hanging and rough case render. There are, in addition, a number of more recently constructed dwellings in the vicinity of the appeal site featuring unpainted timber cladding. In this context therefore, the proposed timber cladding to the appeal dwelling would not appear out of context.
10. The proposed rooflights on the north-east roof slope and bay window on the north-west flank would avoid overlooking of adjacent properties, and would as a result appear as a response to the constraints of the site and not therefore particularly contrived. They would, in any event, not be located in prominent positions, and would not therefore be unacceptably dominant.
11. The development would not as a result conflict with policy CP12 of the Brighton and Hove City Plan Part 1 2016 (LP), which seeks development which respects the diverse character and urban grain of the city's identified neighbourhoods.

#### *Living Conditions*

12. The new dwelling would sit next to the rear garden of No. 3 Shirley Road. Although it would be a two storey building where there had previously been single storey buildings, there would be around 15 metres of separation between the two dwellings. Because of this, and because it would be seen with the backdrop of No. 2 Lloyd Road behind it, I conclude that it would not have an overbearing effect on the outlook from No. 3.

13. The flanking elevation of No. 2 Lloyd Road has a lean-to structure on the ground floor, and a number of small windows on the first floor. As the appeal dwelling would be set down the slope, and the windows are to non-habitable rooms or are secondary, it would not harmfully affect the outlook from that house.
14. The development would not therefore conflict with policy QD27 of the LP, which seeks to avoid development which would cause material nuisance and loss of amenity to existing occupiers.

### **Other Matters**

15. Due to the siting and orientation of the appeal dwelling and others in the vicinity, and the separation distances between them, I conclude that the proposal would not have a harmful effect on the sunlight or daylight reaching neighbouring occupiers, or on their outlook. The appeal dwelling would have no windows on the upper floor facing the rear garden of No. 2 Lloyd Road, and would face No 3 Lloyd Road across the highway, and would not therefore cause harmful overlooking.
16. The appeal dwelling would have an off-street parking space, and thus would not give rise to harmful additional levels of parking on the street. The activity generated by a single dwelling would not give rise to harmful levels of noise and disturbance in a residential setting.
17. The trees to be removed are relatively small in size, with the exception of the eucalyptus, which however, is a non-native specimen of only moderate visual value, with a relatively short lifespan. As a replacement could be required by condition, I conclude that this would not therefore have a harmful effect on the appearance of the area. The root protection area of the street tree located close to the entrance of the site could be protected through a tree protection plan, required by condition.
18. Although the development would potentially affect the operation of a weather station in the vicinity it is privately operated and so, while disappointing for the owner, this is not a matter which would cause me to alter my conclusion on the development.-

### **Conclusion**

19. For the reasons given above therefore, and taking into account all other matters raised, I conclude that the appeal should be allowed.

### **Conditions**

20. The Council has provided a list of suggested conditions on which the appellant has had an opportunity to comment and which I have considered in the light of the tests set out in Paragraph 204 of the National Planning Policy Framework.
21. In the interests of clarity, an appeal is attached requiring implementation of the development in accordance with the approved plans. In the interests of protecting the character and appearance of the area, details of landscaping works are reserved by condition. For the same reason a condition is attached to secure the protection of retained trees on and adjacent to the site. Also in the interests of protecting the character and appearance of the area, I have attached a condition requiring approval of facing materials.

22. To provide adequate facilities and to encourage sustainable patterns of transport, details of secure bicycle parking are required by condition. In the interests of the living conditions of future and neighbouring occupiers, a condition is added requiring the implementation of the approved refuse and recycling facilities.
23. The provision of tactile paving at the corner of Shirley Road and Lloyd Road would be outside the appeal site and at some distance from the proposed dwelling. As therefore it would not be directly related to the development, I conclude that it would not be reasonable to require this by condition, and have not done so.
24. The existing Local Plan contains a policy, GP8, which sets out the need to avoid expansion of the city's ecological footprint and requires compliance with optional national technical standards, provided it would be technically feasible to do so and would not make the scheme unviable. No evidence has been put before me that this would render the scheme non-viable, and so I have attached conditions requiring compliance with optional standards in relation to energy efficiency, water efficiency, and accessible and adaptable dwellings, in the interests of securing a sustainable form of development.
25. Paragraph 200 of the Framework is clear that planning conditions should not be used to restrict national permitted development rights unless there is a clear justification for doing so. As no clear justification demonstrating any exceptional circumstances indicating that I should do so has been put before me, I conclude that it would not be necessary to add such a condition.

*S J Buckingham*

INSPECTOR

### **Schedule of Conditions**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 368/01 Block Plan, 368/04, 368/01 Proposed Elevations, and 368/07.
- 3) No development shall commence until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include planting plans, written specifications (including cultivation and other operations associated with tree, shrub, hedge or grass establishment), and schedules of plants noting species, plant sizes and proposed numbers/densities. The landscaping works shall be carried out in accordance with the approved details before any part of the development is first occupied in accordance with an agreed implementation programme.
- 4) No site clearance, preparatory work or development shall take place until a scheme for the protection of the retained trees and the root protection areas on the site of adjacent trees (the tree protection plan) and the appropriate working methods (the arboricultural method statement) in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced) shall have been submitted to and approved in writing by the local planning authority. The scheme for the protection of the retained trees and root protection areas shall be carried out as approved.
- 5) No development shall commence until details or samples of the materials to be used in the construction of the external surfaces of the dwelling 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 or samples.
- 6) The approved dwelling shall not be occupied until space has been laid out within the site for bicycles to be securely parked, in accordance with details which have first been submitted to and approved in writing by the local planning authority, and that space shall thereafter be kept available for the parking of bicycles.
- 7) The development hereby permitted shall not be occupied until details of refuse and recycling storage facilities shall have been constructed in accordance with details shown on the approved plans.
- 8) The dwelling shall not be occupied until the relevant requirements of level of energy performance equivalent to ENE1 level 4 of the Code for Sustainable Homes have been met and the details of compliance provided to the local planning authority.
- 9) The dwelling shall not be occupied until the Building Regulations Optional requirement set out in Approved Document G, Building Regulations 'Sanitation, hot water safety and water efficiency' March 2015 has been complied with.
- 10) The dwelling shall not be occupied until the Building Regulations Optional requirement M4(2) (accessible and adaptable dwellings) has been complied with and the details of compliance provided to the local planning authority.

