



Appeal Decision

Site visit made on 8 February 2018

by **Timothy C King BA(Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 15 March 2018

Appeal Ref: APP/Q1445/W/17/3188136

Land to rear of 1 and 3 Orchard Avenue, Hove BN3 7BH

- 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 I Guile against the decision of Brighton & Hove City Council.
 - The application Ref BH2017/01589, dated 24 April 2017, was refused by notice dated 4 July 2017.
 - The development proposed is described as '*single storey garage to be demolished with a single storey eco dwelling erected.*'
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are:
 - 1) the effect of the proposal on the character and appearance of the surrounding area;
 - 2) whether the proposal would provide for a satisfactory standard of living conditions for the development's future occupiers, with particular regard to outlook and spaciousness; and
 - 3) the effect of the proposal on the site's biodiversity, with particular regard to whether or not there is a presence of badgers.

Reasons

Character and appearance

3. The general character of the area is one of two-storey, suburban dwellings set back from the Orchard Gardens footway, and within linear plots, allowing for generous rear gardens. The adjoining site, No 30 and also No 32, further along the street, both of which comprise bungalows, are the exception but, even so, both these dwellings are set back from their respective footway boundaries to accord with the local pattern of development.
4. The proposal would involve building on a small L-shaped piece of land lying to the side of No 30 and immediately beyond the rear gardens of Nos 1 and 3 Orchard Avenue. A small garage on the site would be demolished and a single storey building would be erected on the lower section of the site, with its south facing elevation positioned very close to the footway boundary. The building's west and north elevations would largely abut the common boundaries with the

- Orchard Avenue properties and the east facing façade would be the only elevation with any significant and usable threshold space fronting it.
5. The proposed building would have an internal floorspace of only 39 sqm and its restricted width combined with the narrowness of this section of the site would accentuate its elongated form. Moreover, attempting to accommodate such a building on this irregularly shaped piece of land necessitates that it be sited to the front of the plot towards the footway boundary as the far section of the site, annotated on the layout plan as garden space, is even narrower.
 6. The submitted plans clearly illustrate the site's constraints in terms of its shape and narrowness of width and a front building line within pulled so far forward is uncharacteristic of the streetscene. However, the appellant comments that the site would be screened by close boarded fencing that would be continued along Orchard Gardens, and this would hide the building.
 7. It is usual that new dwellings with a road frontage exhibit themselves in order to show how their setting and design features integrate satisfactorily within the streetscene. In this particular instance, despite the building being described as an eco-dwelling, indicating one of visual interest, the appellant's approach would instead suggest that the building's concealment mitigates in favour of the development. I consider this to be indicative of the building's form and size which would be markedly at odds with the local vernacular. Although the front fence would restrict the building's visibility from the street there would be an entrance to the site and the building would be readily visible from the upper floors of the nearby houses. In the circumstances the fence would merely mask what would amount to an incongruous and cramped form of development dictated by the site's limitations.
 8. I conclude that the proposal would be harmful to the character and appearance of the area, and this would materially conflict with the design objectives of Policy CP12 of the Brighton and Hove City Plan Part One (CP).

Living conditions

9. The building is referred to by the appellant as a studio flat. Its positioning and proximity to the site's boundaries would have clear implications for its future occupiers as the intended dwelling's positioning relative to its boundaries means that the only aspect would be that of the east facing entrance and the proposed bi-folding glazed doors.
10. The proposed line of eaves height windows facing directly onto the front boundary fence along with the use of rooflights would not serve to provide the dwelling's occupiers with any additional outlook of significance. As such, I find that the outlook available would be unduly limited.
11. The situation would be compounded by the expanse of unbroken internal walls and the dwelling's internal width restriction, which would result in an unwelcome sense of enclosure. As such, the accommodation would be less than convivial, adversely impacting upon the occupiers' enjoyment of the property. The external garden would not mitigate in this regard. This is further evidence of the site being unsuitable for the type of development proposed.
12. I conclude that the proposal would not provide for a satisfactory standard of living conditions for future occupiers and this would materially conflict with the

aims and requirements of Policy QD27 of the Brighton and Hove Local Plan (LP).

Biodiversity

13. The County Ecologist considers that photographic evidence produced by interested parties suggests a local presence of badgers. LP Policy QD18 indicates that where it is evident that a proposal could affect a protected species, such as badgers, a development proposal should demonstrate that an appropriate site investigation has been undertaken to this end.
14. The appellant, in response, mentions that a Biodiversity Indicator Checklist was completed as part of the application and this suggested that there is no evidence that the site houses badgers. However, I have no evidence to show how this information was collected. Given that the policy goes on to say that planning permission will not be granted for development that would be liable to cause demonstrable harm in the protection of species it was necessary to carry out a more appropriate level of investigation in order to properly ascertain the situation in this regard.
15. The appellant mentions that this matter could have been the subject of a planning condition. However, I consider that a full and proper investigation at the application stage, given its importance, would be preferable to leaving it to be addressed at some future point.
16. Due to the ecologist's views, and in the absence of any comprehensive survey undertaken and findings to suggest otherwise, I conclude that the proposal would likely be harmful to the site's biodiversity. This would be in conflict with the aims and requirements of both LP Policy QD18 and CP Policy CP10.

Other considerations

17. I have had regard to the appellant's points that the proposed eco-dwelling would be of sustainable construction and would have a green sedum roof feature. It is also mentioned that this is a sustainable and accessible location and the dwelling could partake in a local car club arrangement. I have had similar regard to the appellant's claims that the development would provide for an affordable dwelling in an area with a shortage of affordable housing, but I consider that the word 'affordable' is more to do with the proposed house being small in size. I have given these factors due weight but they do not, either individually or cumulatively, outweigh the harm that I have identified would result from the proposal.

Conclusion

18. I have found harm on all the main issues, which is compelling. For the above reasons, and having had regard to all matters raised, the appeal does not succeed.

Timothy C King

INSPECTOR

