



## Appeal Decision

Site visit made on 4 February 2019

by **David Fitzsimon MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 22<sup>nd</sup> March 2019

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### **Appeal Ref: APP/Q1445/W/18/3209645**

### **Beacon Mill, Nevill Road, Rottingdean, Brighton BN2 7HG**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
  - The appeal is made by Ms Helen Byrne against the decision of Brighton & Hove City Council.
  - The application Ref BH2018/00114 is dated 13 January 2018.
  - The development proposed is the 'demolition of the existing house and construction of a new 4-Bedroom two storey dwelling with existing extended basement'.
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### **Decision**

1. The appeal is dismissed and planning permission is refused.

### **Procedural Matter**

2. The Council failed to determine the application within the appropriate timescale. The Council has confirmed, however, that had it been in a position to do so, the application would have been refused for reasons of scale and massing and consequent impact on the Sheep Walk and Nevill Road streetscenes and the wider area, particularly the setting of the Rottingdean Conservation Area, the setting of the Beacon Listed Windmill and the setting of the South Downs National Park.

### **Main Issue**

3. In light of the above, I consider the main issue in this case to be the effect of the proposal on the character and appearance of the surrounding area, including the South Downs National Park (NP), the setting of the Grade II Listed Rottingdean Windmill and the setting of the nearby Rottingdean Conservation Area (CA).

### **Reasons**

4. The appeal relates to a detached bungalow which sits behind No. 50 Nevill Road. It is a simple dwelling and it is noticeably smaller than the two storey houses on Nevill Road.
  5. Although of limited height, the bungalow is quite prominent in the landscape due to its position at the top of a hill and it is visible from the adjacent NP. It is
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also readily visible within Sheep Walk, which provides public access to the NP. Sheep Walk separates the appeal property from the CA which, within the vicinity of the appeal site, is very open and consists of allotments and the rear gardens of properties.

6. The bungalow occupies a large proportion of the plot but it is of limited height. Although the proposed replacement dwelling would include dormer windows, it would be noticeably taller with a much greater roof mass and it would sit further forward on the plot. As a result, the replacement dwelling would be much bulkier and far more prominent, particularly when viewed from the south on Sheep Walk looking towards the NP and also from within the NP itself. This would be harmful to the setting of the NP and the National Planning Policy Framework (the Framework) directs that great weight should be given to conserving landscape and scenic beauty in National Parks.
7. The Council has suggested that the proposed dwelling would affect the setting of the Grade II Listed Rottingdean Windmill. It would, however, sit a considerable distance from this listed building and I consider that the proposed replacement dwelling would have no greater impact on its setting than the several large dwellings nearby.
8. Although the existing dwelling is noticeable from the CA, it does not dominate the view due to its modest size. The materially greater scale and bulk of the replacement dwelling would be much more visible and overly prominent when viewed across the open allotments and gardens in this part of the CA. It would also appear overly prominent when viewed from the north end of Sheep Walk, where the views open out to the CA to the east. This harm would be '*less than substantial*' as directed by the Planning Practice Guidance, but I attach considerable importance and weight to the statutory duty imposed by section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 that special attention should be paid to the desirability of preserving or enhancing the character or appearance of a Conservation Area.
9. The National Planning Policy Framework explains that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. It goes on to say that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. The appellant has not suggested there are any in this case.
10. In reaching my decision, I am mindful that planning permission has been granted to alter the existing bungalow, which includes an increase in its ridge height (Ref. BH/2015/03600). It is my understanding, however, that the approved scheme would have a hipped roof and low eaves and would retain the appearance of a traditional dormer bungalow. Whilst the scheme before me would have a similar ridge height, its overall scale and massing would be much greater than the approved scheme. As a consequence, its impact on the surrounding area would be much more harmful.
11. I am also mindful of the presence of some large properties along Nevill Road, including the dwelling currently being built at No. 48. I do not know the precise planning circumstances behind these dwellings, but in any event, they relate

more closely to Nevill Road itself and they are set further away from the more open area to the north adjacent to the NP than the appeal property.

*Other considerations*

12. In reaching my decision, I have considered the additional concerns raised by third parties which centre around the effect of the proposal upon their living conditions. The dwelling would be set a comfortable distance from No. 52 and its roof would rise away from the shared boundary. For these reasons, I am satisfied that it would not appear overbearing or cast undue shadow over the rear garden of this property. The use of rooflights would restrict overlooking and although a set of first floor French doors would sit towards the northern end of the dwelling, they would overlook only the very bottom of this garden. As a result, I am satisfied that the level of overlooking would not exceed that which should be reasonably expected within a residential area.
13. The proposed dwelling would be set off the boundary shared with the rear garden of No. 50 Nevill Road with its hipped roof rising away. I am satisfied that this arrangement would safeguard a reasonable outlook for the occupier(s) of this property and would ensure the levels of natural light available to it remained adequate. The first floor window on the side elevation of the proposed dwelling which would face No. 50 would serve a walk-in wardrobe and could be fitted with obscure glazing to prevent overlooking.
14. The appellant asserts that the bungalow has fallen into a condition beyond economic repair. However, no evidence has been advanced to support this claim and in any case, I see no reason why a more appropriately scaled dwelling could not replace it. I am also mindful that the proposed dwelling would incorporate energy efficient technology, it would be built to Lifetime Homes standards and it would provide a guest suite for the appellant's elderly father. Likewise, nothing I have seen or read would suggest that these positive elements could not be achieved via a dwelling that responds more positively to its surroundings.

**Overall Conclusion**

15. Although I am satisfied that the proposal would not unduly impact on the living conditions of the occupiers of nearby dwellings or the setting of the Rottingdean Windmill, it would harm the character and appearance of the local area, including the NP and CA. As such, the proposal conflicts with the Framework, policies CP12, CP15 and SA5 of the adopted Brighton & Hove City Plan Part One and policy HE6 of the Brighton & Hove Local Plan, which all promote a high standard of design that responds positively to its surroundings, including the setting of protected landscapes and Conservation Areas.
16. The arguments advanced by the appellant in favour of the scheme do not outweigh this harm and policy conflict therefore the appeal does not succeed.

*David Fitzsimon*

INSPECTOR

