



Appeal Decision

Site visit made on 7 August 2008

by **Alison Lea MA(Cantab) Solicitor**

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

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Decision date:
26 August 2008

Appeal Ref: APP/Q1445/A/08/2067582

Land at and to the rear of 3 The Ridgway, Woodingdean, Nr Brighton

- 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 D Sheridan against the decision of Brighton & Hove City Council.
- The application Ref BH2007/00652, dated 10 February 2007, was refused by notice dated 4 December 2007.
- The development proposed is the construction of 8 houses comprising a mix of 3 and 4 bedroom units, with ground, first and roof space accommodation and parking spaces and new accesses to The Ridgway and Balsdean Road.

Procedural Matter

1. Following the determination of the planning application, the appellant submitted three alternative plans showing revised siting of 3 of the proposed houses and changes to the fenestration in one elevation of each of those houses. Although I accept that the orientation of the houses would not be changed I consider that the appearance of the proposed houses would be materially altered. The plans have not been formally submitted to the Council for consideration and have not been subject to public consultation and accordingly I have made my decision on the basis of the original plans.

Decision

2. I dismiss the appeal.

Main issues

3. The main issues in this case are the effect of the proposal on
 - (a) the character and appearance of the area; and
 - (b) the living conditions of future occupiers of the development and of occupiers of neighbouring properties, with particular regard to overlooking, sunlight and daylight.

Reasons

4. The appeal site comprises an irregular shaped parcel of vacant land with a gated access from The Ridgway and a long fenced frontage to Balsdean Road. The land rises steeply from The Ridgway to the site, and then continues to slope upwards across the site from the boundary with the rear gardens of dwellings on The Ridgway. It is located within a predominantly residential area

close to the centre of Woodingdean in an area characterised by detached and semi-detached properties of a variety of designs. The Council accepts that the site constitutes previously developed land and that its development for housing is in principle acceptable and I agree. The proposal would introduce a development of 8 houses, 2 of which would face The Ridgway and 6 of which would form a close accessed from Balsdean Road.

Character and Appearance

5. The houses would be 2.5 storeys with traditional pitched roofs with dormer windows. Although many of the properties in the area are bungalows, there are nevertheless a number of 2 storey houses in the vicinity of the site. Given the mixed character of the area, I consider that in general terms dwellings of the height proposed would not look out of keeping with the street scene. The Council considers that individually the dwellings would be acceptable in terms of design, and although some of the modern materials proposed are not found on neighbouring dwellings I agree with the Council that the materials would be complementary to the form of the buildings and would not harm the character or appearance of the area.
6. The 2 houses facing The Ridgway would maintain the building line and, although higher than the adjacent dormer bungalows, I agree with the Council that their height and bulk would follow the broad pattern of the street which is of mixed styles and heights. However, Balsdean Road is characterised by frontage development and the proposal, with only one unit with a road frontage, and another with its side elevation addressing Balsdean Road, would not reflect the established pattern of properties on that road. I accept that the appellant has intended the creation of a "home zone" area, with properties in the close facing that area to provide surveillance and a sense of enclosure. I also accept that in order to fully develop the site it would not be possible for all properties to have a road frontage. Nevertheless, in my opinion, the layout and orientation of houses proposed would appear out of keeping with development on Balsdean Road, and my view is reinforced by the contextual elevations drawing submitted. I conclude therefore that the proposal would cause significant harm to the character and appearance of the surrounding area. It would be contrary to Policy QD2 of the Brighton & Hove Local Plan (LP) which provides that all new developments should be designed to emphasise and enhance the positive qualities of the local neighbourhood by taking into account the local characteristics including the layout of streets and spaces.
7. The Council has expressed concern about the density of the development, which would be 43 dwellings per hectare, in an area of considerably less than 30 dwellings per hectare. LP Policy QD3 of the Brighton & Hove Local Plan 2005 (LP) provides that new development will be required to make efficient and effective use of a site and that higher development densities will be particularly appropriate where the site has good public transport accessibility, pedestrian and cycle networks and is close to a range of services and facilities. In addition LP Policy HO4 provides that residential development will be permitted at higher densities than those typically found in the locality where it can be adequately demonstrated that the proposal exhibits high standards of design and architecture; includes a mix of dwelling types and sizes which reflect local needs; is well served by public transport, walking and cycling

- routes, local services and community facilities; and respects the capacity of the local area to accommodate additional dwellings.
8. These policies broadly reflect advice in Planning Policy Statement 3; Housing which promotes the efficient use of land and states that 30 dwellings per hectare net should be used as a national indicative minimum and that more intensive development, when well designed and built in the right location, can enhance the character and quality of an area. It also states that the density of existing development should not dictate that of new housing by stifling change and if done well, imaginative design and layout of new development can lead to a more efficient use of land without compromising the quality of the local environment.
 9. I acknowledge that the site has good transport accessibility and is close to a range of services and facilities. I also accept that the site could accommodate a higher density than those typically found in the locality. However, in this case, for the reasons given, I consider that the proposal would compromise the quality of the local environment and that the need to make more efficient use of land is outweighed by the harm which would be caused to the character and appearance of the area. Accordingly I conclude that the proposal would be contrary to LP Policies QD2, QD3 and HO4.

Living Conditions

10. The proposed layout of the scheme would result in a number of primary windows in Unit 7 facing primary windows in Unit 6 at a distance of about 8m and primary windows in Units 1 and 2 facing primary windows in Unit 8 at a distance of about 14.6m. In addition there would be a distance of about 15.1m between the windows in the side elevation of Unit 3, which would serve the kitchen/dining room, living room and bedrooms, and primary windows in the rear elevations of Nos 5 and 5a The Ridgway. The raised position of Unit 3 in relation to Nos 5 and 5a as a result of the topography of the site would increase the scope for significant overlooking from the windows in Unit 3.
11. The local plan does not contain any policy which specifies minimum distances, but the Council has referred to The Building Research Establishment Report "Site layout planning for daylight and sunlight: A guide to good practice" which recommends a minimum distance of 18m between facing windows. The Council accepts that smaller distances could be acceptable in some circumstances and I acknowledge that national planning guidance cautions against the application of rigid standards, and makes it clear that careful design can secure privacy better than physical separation alone.
12. However, in this case the layout of the scheme with windows directly facing each other would not secure privacy, and the distances between directly facing windows in habitable rooms are, particularly in some cases, considerably below the minimum distance referred to by the Council. In my opinion, due to the proposed layout of the properties and the distances between some of them, the proposal would lead to an unacceptable degree of overlooking. I note that tree screens are proposed between the relevant units and on the boundary with Nos 5 and 5a The Ridgway. However given the distances involved and the topography of the site, I consider that such planting would be insufficient to address my concerns, and, particularly in relation to the impact on Nos 5 and

- 5a, planting of a sufficient height to provide a significant screen would be likely to have an unacceptable effect on sunlight and daylight.
13. The Council has also expressed concern that levels of sunlight and daylight between some of the proposed units would not be acceptable and also that Unit 3 and the proposed garage block would lead to a loss of light to the occupiers of Nos 5 and 5a. Since determination of the application the appellant has submitted a daylight and sunlight report which concludes that the proposal raises no harmful issues as far as daylight and sunlight are concerned. Although this report has been submitted to the Council I note that the Council has not considered its contents. Nevertheless, I have no reason to doubt its conclusion, although note that the effect of the introduction of tree screens and any consideration of the height such screens would need to be to prevent significant overlooking, does not appear to have been considered.
14. I conclude therefore that the proposal would lead to significant overlooking and thereby cause significant harm to the living conditions of occupiers of neighbouring dwellings and to future occupiers of the development.

Other Matters

15. A number of concerns have been raised by the occupiers of neighbouring properties, in particular with regard to the proposed access from Balsdean Road and parking problems. However, in accordance with the Council's parking standards, the proposal would provide one parking space per dwelling plus one visitors/disabled parking space. Moreover, the proposal would not result in a loss of off-street parking for the adjacent doctors' surgery, although I acknowledge that a section of on-street parking would be lost where the access would be formed. The Council considers that the proposal would not create an unsafe access or unsafe parking conflict and, although I note the concerns of the occupiers of a number of neighbouring premises with regard to parking, my own observations lead me to agree with the Council.
16. Concern has been expressed about the removal of 3 trees which are the subject of preservation orders. I note the comments of the Council's arboriculturist that 2 of the trees are in poor health and as I have no reason to dispute this view their loss does not weigh heavily against the proposal despite their protected status. The loss of the third tree would be regrettable and weighs against the proposal. However, I agree with the Council that, subject to appropriate replacement landscaping, its loss would be insufficient to lead me to dismiss this appeal.

Conclusion

17. I conclude that the benefits of developing the site do not outweigh the harm which would be caused to the character and appearance of the area and the living conditions of the occupiers of neighbouring properties and future occupiers of the development. Accordingly I dismiss this appeal.

Alison Lea

INSPECTOR