



Appeal Decision

Hearing held on 8 October 2008
Site visit made on 8 October 2008

by **R J Marshall** LLB Dip TP MRTPI

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

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Decision date:
5 November 2008

Appeal Ref: APP/Q1445/A/08/2070157

Land to rear of 57 Shirley Drive, Hove

- 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 Windelmist Ltd. against the decision of Brighton & Hove City Council.
- The application Ref BH2007/02609, dated 6 July 2007, was refused by notice dated 4 October 2007.
- The development proposed is for two semi-detached houses, one three-bedroom, one four-bedroom.

Decision

1. I dismiss the appeal.

Main issues

2. The main issues in this appeal are:

first, the effect of the proposed development on the character and appearance of the surrounding area;

second; its effect on neighbours' living conditions with special reference to loss of light, visual impact and privacy;

third, whether satisfactory living conditions would be provided for the scheme's future occupants with reference to outdoor amenity space; and

fourth, whether the proposal would be acceptably energy efficient.

Reasons

Character and appearance

3. The appeal site is in an attractive suburban area. Development here is made up mainly of large detached dwellings on fairly substantial plots. The appeal site is part of the large rear garden of No. 57 Shirley Drive, a house currently being subdivided into 2 dwellings. Onslow Road runs down the side boundary of this property and it is onto this road that the proposed development would face. Many of the dwellings in this road appear to date from the 1930s, though a few in the vicinity of the site are from more recent periods.
4. Policy QD3 of the Brighton and Hove Local Plan 2005 promotes the efficient and effective use of land. To this extent of the Council has no objection to some form of development on the appeal site. Indeed permission has recently granted on it for a single detached house. However, explanatory text to this

Policy says that making more efficient use of land should not lead to "town cramming" and to a deterioration of the environment. Local Plan Policies QD1 and QD2 require positive contributions to the visual quality of the environment.

5. The proposed development is a more contemporary design than most houses in the area, and would in part be 3 storey's high. I have no objection to a contemporary design per se, and the lie of the land should ensure that the 3-storey part of the proposal would not be readily apparent.
6. However, the semi-detached form of the proposed houses would make them appear out of keeping amongst the detached dwellings that front this part of Onslow Road. The proposed development would also, due to its greater plot coverage than the permitted house and its proximity to the lengthy rear elevation of No. 57 Shirley Drive, have an uncharacteristically cramped appearance. This would be most noticeable in oblique views towards the appeal site from Onslow Road. Adding to this cramped appearance would be the fact that 2 car parking spaces would occupy a relatively narrow strip of land between the proposed houses and the highway.
7. There has been some new residential development in the area. However, given the lack of substantial evidence on these schemes, and their distance from the appeal site, they are not greatly material to my decision.
8. I conclude that the proposed development would harm the character and appearance of the surrounding area. As such it would be contrary to Local Plan Policies QD1, QD2 and QD3.

Neighbours' living conditions

9. No. 17 Onslow Road to the east of the site has large windows to habitable rooms in its side elevation facing the appeal site. I am satisfied that there would be no unacceptable loss of light to these windows, and nor would this neighbouring property be unacceptably overlooked. However, the lengthy side elevation of the proposed development would make it appear unacceptably intrusive in views from the rearmost of these windows in particular. On similar grounds harm would arise in views from the rear elevation and garden of No. 57 Shirley Drive. In this case the lie of the land would add to that harm. The permitted house being less deep and further removed from these neighbouring houses does not cause such harm.
10. The proposed development would back onto the rear garden of No.55 Shirley Drive. The Council raised no concerns on the effect of the proposal on this property. However, the top floor bedroom window and balcony in the rear elevation of the house on plot 2 would be quite close to the boundary with No. 55. Although a substantial hedge lies on this boundary its retention is not guaranteed. Indeed, deep excavations required for the house on plot 2 could result in its eventual loss. In those circumstances the rear garden of the neighbouring house would be severely overlooked.
11. I conclude that the proposed development would have a detrimental effect on neighbours' living conditions with special reference to visual impact and privacy. As such it would conflict with Local Plan Policy QD3 which seeks to ensure that new development does not harm the quality of life.

Living conditions for future occupants

12. The Council has no Local Plan requirement or policy guidance on the size of gardens for new development. However, Planning Policy Statement 3 (PPS3): Housing indicates that good access to outside amenity space such as gardens and balconies is important to the achievement of high-quality housing.
13. The proposed houses would have reasonably sized gardens and the provision of balconies would add to the usable area of outdoor amenity space. However, with the rear and side garden of the dwelling on plot 2 being on excavated land outlook from these areas would be limited to an extent that would make them unattractive to use. The tall hedge on the rear boundary and limited garden width proposed at the side would add to this harm.
14. I conclude that satisfactory living conditions would not be provided for future occupants of the proposed development with regard to outdoor amenity space. This would be contrary to Government Guidance seeking high quality development.

Energy efficiency

15. Local Plan Policy SU2 requires new development to have high levels of energy efficiency. The appellant confirmed that the proposed dwellings were designed to meet the rating in the Code for Sustainable Homes sought by the Council.
16. The Council retained a residual concern that the bathrooms in the proposed houses would require internal lighting at all times when in use, thus leading to the use of more energy than would otherwise be the case. However, this one aspect of the scheme should not stand against it given the high overall standards of energy efficiency that would be met.
17. I conclude that the proposed development would be acceptably energy efficient and comply with Local Plan Policy SU2.

Other matters

18. Given Government Guidance on reducing reliance on the car sufficient on site parking would be provided for the proposed development. Adequate space would exist to ensure the usability of the proposed parking spaces. There is no substantial evidence to support concerns on surface water run-off.

Overall conclusions

19. Harm on the first 3 issues outweighs the lack of harm on the fourth issue and lack of harm on the "other matters" referred to above.
20. For the reasons given above I conclude that the appeal should be dismissed.

RJ Marshall

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr S Bareham BSc Hons DipTP Of Lewis and Co. Planning
MRTPI

Mr D Webb RIBA Of Alan Phillips Architects

FOR THE LOCAL PLANNING AUTHORITY:

Mr J Hawkes BA Hons Planning Officer
MRTPI(student)

Mr W Nee BSc Assistant Planner

INTERESTED PERSONS:

Dr J Murdoch 17, Onslow Road, Hove.
Mr and Mrs J Lawn 55, Shirley Drive, Hove.
Mr R Allden (Representing CPRE) 87, New Church Road,
Hove.

DOCUMENTS

- 1 Letter of notification of appeal and those notified.
- 2 Proposed elevations marked up to provide additional information.
- 3 Proposed plans marked up to provide additional information.
- 4 Council's SPG 16 "Renewable Energy and Energy Efficiency in Developments".
- 5 Council's Supplementary Planning Document 08 "Sustainable building design".
- 6 Schedule of Local Plan saved Policies.
- 7 Council's Annual Monitoring Report.
- 8 Council document - Transition from SPG to SPDs.
- 9 Adopted SPDs.
- 10 Written observations of Dr Murdoch.