



Appeal Decision

Site visit made on 24 June 2013

by **Clive Tokley MRTPI**

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

Decision date: 10 July 2013

Appeal Ref: APP/Q1445/A/13/2192771
Marche House, Woodland Drive, Hove, BN3 7RA

- 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 M Holland against the decision of Brighton and Hove City Council.
 - The application Ref BH2012/02739, dated 31 August 2012, was refused by notice dated 26 November 2012.
 - The development proposed is a two storey dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for a two storey dwelling at Marche House, Woodland Drive, Hove, BN3 7RA. The permission is in accordance with the terms of the application ref BH2012/02739 dated 31 August 2012 subject to the 13 conditions set out in the schedule at the end of this decision.

Main Issues

2. The main issues are the effect of the proposal on the character and appearance of the area and the adequacy of the private amenity space for the proposed dwelling.

Reasons

Character and appearance

3. The front of Marche House faces Woodland Drive as it rises towards its junction with Nevill Road. As a result of the relative ground levels only the upper part of the walls and the roof of Marche House can be seen above its 2m side boundary fence alongside the Nevill Road footway. This close boarded fence and gates combined with the return boundary wall with the neighbouring dwelling (No 121 Nevill Road) limit views into the rear garden of Marche House from the adjacent footpath with only the top of the garage being seen across the front garden of No 121. Even when seen at a greater distance from the west side of Nevill Road views are limited to the eaves and roof of the house.
 4. The flat roofed design of the proposed building would contrast with the surrounding hipped and gabled roofs. However as a result of its height and set
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back from the pavement, combined with the screen fencing, the dwelling would not be a prominent feature of the street scene with only limited views of the top of the building being available above the fence. The narrow view from the street with the gates open would reveal what would appear to be a single storey domestic building which to my mind would not be out of keeping with the residential character of the area.

5. The garden of the proposed dwelling would be much smaller than its neighbours in both Woodland Drive and Nevill Road and the proposal would result in the length of the garden of Marche House being almost halved. However as a result of the differences in level, boundary screening and the orientation of Marche House there would be limited public perception of the proposal and I consider that it would not unacceptably change the character or appearance of the area.
6. The Council describes a number of aspects of the proposal as "contrived" but in my view these have been introduced in order to create a neighbourly development without compromising the design of the proposed dwelling or the living conditions of its future occupants.
7. The National Planning Policy Framework (the Framework) specifically excludes private gardens in built up areas from the definition of "previously developed land"; however it does not rule out the development of garden land. It indicates that local planning authorities should consider the case for setting out policies to resist inappropriate development of residential gardens, for example, where the development would cause harm to the local area. The Council has no specific policy concerning the development of garden land; however Policies QD1, QD2 and QD3 of the Brighton and Hove Local Plan 2005 (LP) indicate that the Council seeks to ensure the most effective and efficient use of land whilst avoiding "town cramming" and ensuring that new developments are compatible with their surroundings.
8. I consider that whilst the proposed dwelling would occupy a much smaller plot than its neighbours it would not appear out of place and would not detract from the character or appearance of the area.

Amenity Space

9. LP Policy HO5 indicates that private useable amenity space should be provided for new residential development as appropriate to the scale and character of the development. Unlike the neighbouring houses the proposed dwelling would not have a conventional back garden; however the proposal would be a two-bedroom dwelling as compared with the larger family houses in the area.
10. The two terraces would be easily accessible from the dwelling and would have south easterly and south westerly main aspects. The narrow rear terrace would have limited value but it would be sufficient to accommodate a garden table and chairs. The squarer shape of the larger front terrace would enable a greater range of uses and the fencing and cycle/refuse stores at the front of the site would prevent it from being overlooked from the street. The south westerly aspect would enable a pleasant sitting out space to be created and opportunities would exist for the hard edges of the terrace to be softened by planting.

11. On this issue I conclude that overall the provision of amenity space would be adequate and appropriate to the scale and character of the two-bedroom dwelling and that in this respect the proposal would not conflict with Policy HO5.

Other matters

12. Refusal reason 1 refers to Policy QD27 (Protection of Amenity) of the LP; however the Officer report states that the proposal would not have a harmful impact upon the amenities of adjacent residential occupiers and I have seen no evidence from the Council to indicate that the proposal would cause material nuisance or loss of amenity. Neighbouring residents have indicated concern at being overlooked but I consider that this would be prevented by the use of high level windows and obscured glass in the rear and side-facing upper floor windows.

Conditions

13. Taking account of the limited space around the building and the proximity of nearby dwellings I have imposed conditions along the lines suggested by the Council preventing the extension or alteration of the exterior of the dwelling and prohibiting the use of the flat roofs as sitting out areas. Conditions are also imposed requiring the completion of all boundary screening prior to the first occupation of the dwelling and the use of obscure glazing in the south-east facing bathroom window.

14. The submitted drawings indicate that the dwelling would be constructed to lifetime homes standards and I have reinforced that facet of the proposal by a condition requiring the retention of those measures. The relationship between the proposal and the neighbouring dwellings and its appearance from the street are dependent on the finished levels. Whilst the levels as compared with nearby building are illustrated on the section drawings I agree with the Council's suggestion that a condition is imposed requiring its agreement to finished levels. The appellant has supplied limited details of the proposed external materials and the "green wall" and I have imposed conditions requiring that full details are submitted for approval by the Council.

15. The Assistant County Archaeologist draws attention to the location of the site within an Archaeological Notification Area and I have therefore imposed conditions as recommended by him. The proposal seeks to achieve a Level 4 rating as indicated by the Code for Sustainable Homes. This aspect of the proposal enhances the sustainability credentials of the development and with the agreement of the appellant I have imposed conditions requiring the achievement of that level. In order to prevent pressure being placed on on-street parking I have imposed a condition as suggested by the Council limiting the use of the parking space to occupiers of the dwelling and their visitors.

Conclusion

16. The Framework indicates that all housing applications should be considered in the context of the presumption in favour of sustainable development. The appeal site is close to local shops and services and bus routes. Brighton is generally well-served by cycle routes and the provision of a cycle store would encourage non car-based journeys. In my view the site is in a sustainable location. The dwelling has been designed to safeguard the living conditions of

neighbouring residents and in my view provides sufficient amenity space for its occupiers. Whilst the development is of a modest scale it would also make a positive contribution to the building industry in the area.

17. I consider that the proposal would not detract from the character or appearance of the area and would satisfy all three dimensions of sustainability set out in the Framework (economic, social and environmental). Taking account of all matters I have concluded that the appeal should succeed.

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) No development shall take place until details of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 3) No development shall take place until details of the "green wall" have been submitted to and approved in writing by the local planning authority. The details shall include specifications of the species to be planted, density of planting, their method of support and irrigation. It shall also include a programme for planting. The green wall shall be created in accordance with those approved details and thereafter retained.
- 4) No development shall take place until details of a) existing and proposed ground levels both within and adjoining the site and b) finished floor and roof levels of the dwelling have been submitted to and approved in writing by the local planning authority. Those details shall include both spot heights and cross sections that illustrate the levels of the proposal as compared with Marche House and No 121 Nevill Road. The development shall be carried out in accordance with the approved levels.
- 5) The boundary treatment as indicated on the approved drawings shall be completed before the dwelling is occupied and thereafter retained.
- 6) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), the dwelling shall not be enlarged, extended or altered and no windows or doors other than those expressly authorised by this permission shall be constructed.
- 7) No development shall take place until a programme of archaeological work has been implemented in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved scheme and the dwelling shall not be occupied until the archaeological site investigation and post investigation assessments have been completed in accordance with the written scheme.
- 8) The south facing window in the family bathroom shall be fitted with obscured glass and shall be non-openable below 1.7m above the floor level of the bathroom. The window shall be permanently retained in that condition.

- 9) The flat roof areas of the dwelling shall not be used as a balcony, roof garden or similar amenity area.
- 10) The car parking space shall be used solely for the benefit of the occupants of the dwelling and their visitors.
- 11) The dwelling shall achieve Level 4 of the Code for Sustainable Homes. It shall not be occupied until a final Code Certificate certifying that Code Level 4 has been achieved has been submitted to and approved in writing by the local planning authority.
- 12) The development hereby permitted shall be carried out in accordance with the lifetime home standards as set out on drawing no 0223.PL.003 and the measures taken to comply with those standards shall thereafter be retained.
- 13) The development shall be carried out in accordance with the following approved drawings: 0223.EXG.001, 0223.EXG.002, 0223.PL.001, 0223.PL.002, 0223.PL.003

Clive Tokley

INSPECTOR

