



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: 16 July 2013

Appeal Ref: APP/Q1445/A/13/2191882

St Andrew's Day Centre, St Andrew's Road, Brighton, BN1 6EN.

- 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 Stonerix Ltd against the decision of Brighton and Hove City Council.
 - The application Ref BH2012/02831, dated 10 September 2012, was refused by notice dated 30 November 2012.
 - The development proposed is demolition of single storey building and rear garages and erection of four three-bedroom houses and three two-bedroom houses with associated car and cycle parking and landscaping.
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Conservation area consent:- This appeal is accompanied by an appeal against the Council's refusal to grant conservation area consent. A separate decision has been issued for that appeal.

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues area:-1) Whether the day centre building is needed for community facilities; 2) The effect of the proposal on the character and appearance of the Preston Park Conservation Area (CA); 3) The effect of the proposal on the living conditions of neighbouring residents as regards outlook and 4) The quality of the living conditions of the occupiers of the proposed dwellings as regards noise and disturbance.

Reasons

Need for facilities

3. The building formerly used as a day centre appeared to be well maintained and the spaces within it suggested that it would be suitable for a range of community uses. Policy HO20 of the Brighton and Hove Local Plan 2005 (LP) indicates that planning permission will not normally be given for development proposals that would result in the loss of community facilities. The appellant argues that as the use ceased some years ago the development would not in itself result in the loss of the "facility" and Policy HO20 does not apply.
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However to my mind the objectives of that policy are clear and I consider that it is a material consideration in the determination of this appeal.

4. Policy HO20 indicates that exceptions may apply when the community use is to be replaced, relocated or existing nearby facilities are to be improved (exceptions a, b and c) or where it can be demonstrated that the site is not needed either for its existing use or for any other types of community use (exception d). The policy goes on to indicate that where an exception occurs priority will be given to the development of residential and mixed use schemes that may provide "live work" or starter business units to meet identified local needs. The objective of safeguarding facilities that are needed by the community is consistent with the National Planning Policy Framework (The Framework) which indicates in section 8 (Promoting healthy communities) that planning decisions should, amongst other things, guard against the unnecessary loss of valued facilities and services; particularly where this would reduce the community's ability to meet its day to day needs.
5. The appellant indicates that the use of the building as a community centre ceased over three years ago. However neither the appellant nor the Council provides any indication of whether exceptions a to d of Policy HO20 apply. The Council indicates that the responsibility to demonstrate that any of the exceptions apply to the proposal lies with the appellant; however I would expect the Council to be aware of any specific need for community facilities in the area that could be met by the appeal site. The Council has given no indication of community need for the appeal property and taking account of the length of time during which the facility has been unused I conclude that there is no justification for seeking to retain the site for community purposes.
6. The proposal does not include any employment element and therefore it would not be a "priority" alternative use. However the Council has given no indication of need for small business or live work units and taking account of the absence of a five year supply of housing land I consider that redevelopment for residential purposes would be most appropriate.

Character and appearance

7. Preston Park Conservation Area is a predominantly residential area lying to the north and east of Preston Park. The eastern area, containing the appeal site, has an underlying north-south and east-west rectilinear street pattern that is crossed by a diagonal road. In the vicinity of the appeal site the north-south streets (Southdown Avenue, Edburton Avenue and Ditchling Road) are fronted by terraces of principally two-storey dwellings. The dwellings have characteristic turn of the C20 front bay windows and the front walls of the terraces are finished in red brick or render depending upon the date of their construction. Whilst there is an outward uniformity of scale and design the individual phases of development may be distinguished by the use of materials such as tile hanging and the relative exuberance of decoration of timber and metal work and applied wall mouldings.
8. St Andrews Road runs east to west and climbs the fairly steep hill between Southdown Avenue and Ditchling Road crossing Edburton Avenue. Towards the Ditchling Road end it is fronted by short terraces of mainly red brick houses of a similar character to the north south streets; however the section from

Southdown Avenue to beyond Edburton Avenue (including the appeal site) is fronted by the more mundane side elevations at the ends of the terraces. The appeal site and the land on the opposite side of St Andrews Road are occupied by lower buildings and this, combined with the rear gardens of the return frontage houses enables the plainer gabled rear out shots of the frontage houses to be seen from the street. The main building on the appeal site has the appearance and proportions of a small industrial unit with a corrugated sheet roof. The gardens on each side of the appeal site are bounded by white painted walls and there are similar walls on each side of the entrance to the lock up garage court on the opposite side of the Road. The character of this part of St Andrew's Road has very little in common with attractive and well ordered frontages around it.

9. The proposed buildings would share none of the defining characteristics of the frontages of the surrounding residential area. However in their size and scale the dwellings would appear subservient to the main frontage houses and their relative simplicity of design, slated gabled roofs and white rendered wall finishes would respond to the character at the rear of the houses. Whilst the nearby houses do not have the eccentric gables of the proposal I consider that the proposed frontage units to St Andrews Road would not appear out of place in this part of the street which is primarily fronted by end gables and white painted walls. I share the Heritage Team's concern about the hipped roofs which to my mind are not appropriate here but I consider that the bay windows and porches are a simple modern reworking of the features found on the surrounding houses and overall I consider that the design approach is acceptable.
10. The narrow linear nature of the site together with the differences in level on each side limit the scope for the layout of buildings. The proposal would create a succession of small spaces bounded by a retaining wall to the east and a combination of walls and fences to the west and the three units at the southern end would close the view along the access way. The spaces would provide an opportunity for tree planting to provide shade and soften what would otherwise be a harsh environment; I consider that with careful use of planting and surface treatments an acceptable living environment could be created. Whilst the proposed gardens would be smaller than those of the surrounding development they would not be perceived in the context of the wider CA and in my view would not detract from its character or appearance.
11. I consider that as regards both the layout and design of buildings the proposal has successfully responded to its context at the rear of the more flamboyant frontages. I consider that the proposal would at least preserve the character and appearance of the CA and would accord with the objectives of LP Policies QD1, QD2 and HE6.

Living conditions of neighbouring residents

12. The front of the appeal site is mostly occupied by the former community building with a narrow vehicular access along its western side. The site then opens out into a hard surfaced area across its full width beyond which are two parallel rows of unused lock up garages with an access way between them. As a result of the rising land the existing ground level within the site is higher than the rear gardens of Southdown Avenue (to the west) and lower than those in

Edburton Avenue (to the east). The appeal site itself has very little lateral slope but it slopes gently down from St Andrew's Road towards the rear of houses beyond the garage blocks in Grantham Road. The east flank wall of the frontage building lies on or close to the eastern boundary of the site and this is continued by a wall of about 3.5 m in height (as derived from the survey information) which extends to the lock up garages. The front of the western side of the site is bounded by a domestic garage beyond which is wall of about 1.5m. Towards the rear of the site both side boundaries are marked by the rear walls of the garages which have parapets extending above the mono-pitch garage roofs to a height of 3m and more above the site level.

13. The cross sections submitted by the appellant give a snap shot of the relationships between the site and the houses to the east and west. They are not referenced on the plans but I have taken them to represent cross sections on the approximate line of the front walls of the proposed dwellings. I was able to visit one property on each side which allowed me to gain an impression of the relationships in the vicinity of proposed plots 5 to 7. I was also able to see above the boundary wall into some of the rear gardens of the Southdown Avenue houses backing onto the northern half of the site.
14. The rear walls of the garages are the most dominant aspects of the outlook at the rear of houses backing onto the southern half of the site. Further north, the outlook from Edburton Avenue is towards the flank wall of the building and the high wall behind it whereas from Southdown Avenue the view is towards the lower boundary wall.
15. My impression was that the cross sections provide a reasonably accurate indication of the relative levels of the higher Edburton Avenue houses as compared with the appeal site; however as I saw at the appeal site the actual profile of the gardens varies. Observations and a measurement taken in the rear garden of No 15 indicate that the garden level next to the boundary with the appeal site is higher than illustrated on the cross sections.
16. I also saw that the ground/garden levels of the Southdown Avenue properties are, in reality, significantly and consistently lower than illustrated. From the ground floor and gardens of the Southdown Avenue side the rear wall of the garage block forms the skyline. Even from the upper floors only the tops of the higher houses in Edburton Avenue can be seen above the garages. If the garage wall was retained at its current height I estimate that it would allow only the shallow pitched roof of the Plot 7 house (closest to Southdown Avenue) to be seen from the rear gardens of the adjacent dwellings. The changed angle of view from the first floors of those houses would bring the roof of Plot 7 more squarely into view; however I consider that if the wall was retained at its present height the proposal would have a limited effect on the outlook at the rear of the Southdown Avenue houses.
17. However the application indicates a 2m wall on the western boundary which would be significantly lower than the existing wall. It is not clear whether this would be achieved by reducing the height of the garage wall or replacing it with a garden wall. A lower wall would be less dominating than the existing; however it would result in a significant change to the skyline and would enable the upper parts of the flank walls of the proposed houses to be seen from the Southdown Avenue properties. Although dominant the existing wall is a long-established

familiar feature at the rear of the Southdown Avenue houses that has been softened by vegetation and put to use for other purposes, such as supporting garden buildings. I consider that replacing the wall with a lower structure would detract from that familiar outlook and result in an unacceptably over-dominant relationship between the Plot 7 house and the houses in Southdown Avenue. The proposed houses at the northern end and centre of the site would be positioned further from the western boundary and I consider that they would not appear as dominant as Plot 7.

18. The Edburton Avenue houses are on higher land than the appeal site and from their rear windows they have open outlooks above the site. Whilst the proposed dwellings would change that outlook I consider that when seen from within the dwellings they would not be unacceptably dominant. The proposal indicates that the wall towards the southern end of the site, in the vicinity of Plot 5, the site boundary with the Edburton Avenue properties would be a wall of about 1.5m whereas in the vicinity of Plot 3 it is indicated to be 2.5m. I consider that the levels of the adjacent gardens as shown on the cross sections cannot be relied upon and based on what I saw at the site visit the 1.5m walls would be unlikely to be high enough to prevent overlooking into the gardens of the proposed houses. In common with the Southdown Avenue properties the reduction in height or replacement of the existing walls at the rear of Edburton Avenue would change a familiar feature of the dwellings. Whilst the relative height of the proposed dwellings as compared with the adjacent gardens would not be as great as at Plot 7 a combination of the height and proximity of the buildings, together with the lower boundary wall would result in the dwellings appearing unacceptably dominant and intrusive when seen from the gardens of the nearest Edburton Avenue houses.
19. At the southern end of the site the dwellings would back onto dwellings in Grantham Road. Taking account of the limited difference in level and the distance between the dwellings I consider that the proposal would not unacceptably detract from the outlook from those dwellings.
20. The main windows of the proposed dwellings would have outlooks along the site and whilst there would be oblique views of the adjacent gardens these could be minimised by careful detailing including the provision of boundary screening. Taking account of the levels and distances between buildings I consider that the proposal would not result in unacceptable loss of light.
21. In assessing this issue I have not been able to rely on the cross section drawings and my indications of relative proposed heights have been based on the survey and scaling from the submitted drawings. Nevertheless, based on what I have read and seen I have concluded that the proposal would unacceptably detract from the outlook of the occupiers of dwellings in both Southdown Avenue and Edburton Avenue. In this respect therefore the proposal would conflict with LP Policy QD27 which indicates that permission will not be granted for development that would cause a material loss of amenity to adjacent occupiers. This objective is consistent with the Framework which indicates that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings and I therefore give that policy substantial weight.

Living conditions of occupiers of the proposal

22. The access within the site would pass alongside the proposed houses and serve the small parking areas between them. This is not an unusual arrangement within housing developments of this size and I consider that taking account of the small number of dwellings the activity associated with the access would not result in material nuisance or loss of amenity to the occupiers of the dwellings and would not conflict with LP Policy QD27.

Other matters

23. I am conscious of the large number of objections from surrounding residents and the most frequently occurring matters are considered within the main issues. The Council and the Highways Authority consider that adequate provision has been made for on site parking in accordance with the adopted policy. I have noted residents concern about overspill parking from the site but there is no evidence to indicate that this would result in a parking deficit in the area or compromise highway safety. The Highways Authority does not raise concern about emergency access to the site. A number of residents have referred to water supply and drainage issues and were planning permission to be granted these would be matters to be resolved with the Council and the appropriate infrastructure bodies. In the event of planning permission being granted issues arising from the demolition and construction processes would be controlled by planning conditions and, in matters such as the removal of asbestos, other legislation.

Policy Framework Balance

24. The Council does not have a five year supply of housing land and therefore in this respect its LP policies are not up to date. Nevertheless I consider that LP Policy QD27 is consistent with the Framework. Paragraph 14 of the Framework indicates that where a relevant policy is out of date planning permission should be granted unless any adverse effects would significantly and demonstrably outweigh the benefits when assessed against the framework as a whole; or where specific policies in the Framework indicate that development should be restricted. The Framework also indicates that all housing applications should be considered in the context of the presumption in favour of sustainable development.

25. The appeal site is in a sustainable location in the City of Brighton. However in order to be "sustainable development" as defined by the Framework the proposal must satisfy all three dimensions of sustainability set out within it (economic, social and environmental). The carrying out of the development would make a positive contribution to the building industry in the area and would satisfy the economic dimension. It would also make a contribution to the housing stock and make use of an unused site. I consider that the development would be appropriate to the CA and would result in the removal of the unattractive buildings on the land thereby enhancing it.

26. However I consider that the relationship between the development and adjacent residential properties has not been fully resolved and based on what I have read and seen I have concluded that the proposal would be unacceptably harmful to the occupiers of nearby dwellings. In my view the harm arising from this aspect of the proposal would outweigh the benefits that I have identified

and that the proposal would fail to satisfactorily address the social dimension of sustainable development.

27. Taking account of all matters I have therefore determined that the appeal should not succeed.

Clive Tokley

INSPECTOR

