



Appeal Decisions

Site visit made on 12 January 2015

by S J Papworth DipArch(Glos) RIBA

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

Decision date: 27 January 2015

Appeal A: APP/Q1445/A/14/2229119

409 Ditchling Road, Brighton, East Sussex BN1 6XB

- 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 B Atkinson against the decision of Brighton & Hove City Council.
 - The application Ref BH2014/01920, dated 23 May 2014, was refused by the Council by notice dated 19 August 2014.
 - The development proposed is the demolition of an existing double garage and the provision of a three bed detached house.
-

Appeal B: APP/Q1445/A/14/2229121

409 Ditchling Road, Brighton, East Sussex BN1 6XB

- 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 B Atkinson against the decision of Brighton & Hove City Council.
 - The application Ref BH2014/01921, dated 23 May 2014, was refused by the Council by notice dated 26 August 2014.
 - The development proposed is change of use of existing games room into a single detached dwelling and the formation of an underground garage to the rear.
-

Decision Appeal A

1. I dismiss the appeal.

Decision Appeal B

2. I allow the appeal and grant planning permission for change of use of existing games room into a single detached dwelling and the formation of an underground garage to the rear at 409 Ditchling Road, Brighton, East Sussex BN1 6XB in accordance with the terms of the application, Ref BH2014/01921, dated 23 May 2014, subject to conditions 1) to 14) on the attached schedule.

Main Issues

3. These are;
 - In Appeal A only, the effect of the proposed new building on the character and appearance of the area.
 - In both Appeal A and Appeal B the effect of the proposed sub-division of the plot on the character and appearance of the area.

Reasons

Planning Policy and Preliminary Findings

4. The Council have cited saved policies of the Brighton & Hove Local Plan 2005, and Policy QD1 seeks a high standard of design that makes a positive contribution to the visual quality of the environment. Policy QD2 looks to development to emphasise and enhance the positive qualities of the local neighbourhood and Policy QD3 seeks the efficient and effective use of sites, but appropriate to the locality and the prevailing townscape, with special attention being paid to the design and quality of spaces between buildings. Policy HO4 is referred to only with respect to Appeal A and the effect of the new building and states that in accordance with the aims of Policy QD3 to make full and effective use of land, higher densities than are typical in an area will be permitted where it can be demonstrated that there are high standards in design and architecture, among other things.
5. The two proposals are not mutually exclusive and both could be developed independently. A result of both developments proceeding would be a consequently smaller dwelling at 409 remaining on a smaller plot between two new curtilages. The appellant queries the Council's consideration of a cumulative effect and the linking of the two appeals. Whilst it is the case that each proposal will be considered on its merits, it is also correct to consider the possibility in each case of the other proposal also going ahead and the effect that this would have on the density and grain of development in the area.
6. The site is within the built-up area of Brighton and has a frequent bus service passing to the town centre, and to a suburban shopping centre. Whilst on the urban fringe with open space opposite, the site is in a sustainable location and the provision of additional housing with either or both proposals would assist the stated aim in paragraph 47 of the National Planning Policy Framework to boost significantly the supply of housing. The Council confirm that they are not at present able to demonstrate a five year supply of housing land as defined in the footnote to that paragraph, in which case paragraph 49 says that relevant policies for the supply of housing should not be considered up-to-date, and that housing applications should be considered in the context of the presumption in favour of sustainable development. Paragraph 14 states that this presumption means approving development proposals that accord with the Development Plan without delay, and where the Plan is absent, silent or relevant policies are out-of-date, granting permission unless any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

Character and Appearance, New Building

7. Ditchling Road is a wide highway with the open grass area to the further side, and a built-up western side occupied by sizeable detached houses in spacious plots, particularly from the appeal site northwards. To the south there are smaller plots and smaller dwellings including bungalows, but the open verges at the junction with Surrenden Road impart a spacious feel to the area, as does the grass area opposite so that the appeal property is very much a part of the low density development to the north. Surrenden Road has a different character due to the development being closer together and on both sides of the road, but the wide verge alongside the appeal property extends along the south side of that road also.

8. The existing dwelling is a large building that extends across the plot and to the north end of the main two storey building there is a double garage with a lower eaves level and a dormer window lighting a room in the lowered roof that would be removed to provide the site for Appeal A. The part of the building that is the subject of Appeal B is to the south. The composition along the street frontage is of the main two storey house with bay windows either side of the front entrance, and two balancing but different lower parts at either end. The removal of the double garage and making good of the flush return wall would not however upset the appearance and balance of the front elevation where the bay windows would remain the dominant feature.
9. The proposed new dwelling in Appeal A would occupy a central location within the newly formed plot between a boundary with the truncated 409 and the existing boundary with the verge to Surrenden Road. It would have a fully-hipped roof form that would echo aspects of the existing house design, but it would however be shorter with a lower eaves line and, due to the less deep plan form, a lower roof generally. The result would be a building form that would appear out of place alongside the existing dwelling, and poorly related to the spacious qualities of the streetscene at the junction with Surrenden Road. There would remain some trees and other vegetation to the boundary with the road verge, but the vehicle entry would allow an uninterrupted view of the building and the effect would be of an uncharacteristically small dwelling cramped on its plot and at odds with the dominant character and appearance of large dwellings on generous plots with space around buildings.
10. The proposed development would fail to make a positive contribution to the visual quality of the area and would not represent good design in relation to its surroundings; it would therefore not reach the standard sought in Policies QD1 and QD3. Whilst the addition of the dwelling would make better use of the site, the result would not be of the quality sought in Policies HO4 and QD3. The design would not satisfy the requirements of section 7 of the Framework and in particular, the statement at paragraph 56 that the Government attaches great importance to the design of the built environment; good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

Character and Appearance, Plot Sub-division

11. Looking first at Appeal A for the new building, the shortcomings identified in the previous main issue stem largely from the restricted plot width, whereas the depth would not be dissimilar to others in the area and along Surrenden Road. The arrangement of vegetation at the boundary and trees on the verge would limit the extent to which the size of plot would be obvious, and there would be no real harm. As a result, whilst there are failings in the ability of the plot to contain a dwelling that would be in character with its surroundings, the plot size as such would not appear out of place such that the aims of Policies QD1, QD2 and QD3 would be compromised.
12. Turning to Appeal B, the Council's concerns are solely over the size and character of the resulting plot sub-division, as the building exists as a part of the main house. There would be the removal of the short link with the main house but this is a recessive feature and the resulting gap, significantly less than that proposed between the main house and the new dwelling in Appeal A, would maintain a visual link so that the appearance what becomes two

buildings would be little altered. The roadside appearance on Hollingbury Copse would be improved with the removal of the dominant garage door and its replacement with the entry door and windows, introducing an appropriate residential frontage.

13. At the south end of the original plot the character and appearance of the adjoining area is markedly different from that just described to the north, with not only the smaller plots and smaller dwellings south along Ditchling Road, but into the *cul-de-sac* of Hollingbury Copse there is a tightening of the urban grain with limited frontage widths around the hammerheads, albeit the plots widen to the rear. Immediately to the west of the appeal site the frontages are the rear vehicle garages to properties on Surrenden Road, and to the south is a modern property. Within this changed character the formation of the proposed plot, new vehicle entry and earth-sheltered garage would not adversely alter the grain of development or the appearance of garages and boundary treatments.
14. Representation had been made as to other adverse effects such as to parking and highway safety, but the Council raise no concerns on these matters and correspondence from the highway authority at the time of the original application concluded that as the *cul-de-sac* has limited traffic and an informal layout, it would be unreasonable to refuse permission on highway grounds.
15. It is concluded that the formation of the proposed new plot in either case would be acceptable in its effect on the character and appearance of the area and whilst in Appeal A the resulting building would appear out of place, a sub-division in Appeal B to change the use of an existing building would bring benefits to the appearance of the Hollingbury Copse frontage and would not appear out of place or cramped. The proposals would satisfy the requirements of the Development Plan policies cited in respect of the sub-division of the plot.

Planning Balance

16. As set out above, the Council cannot demonstrate a five year supply of housing land, and the acceptable proposal in Appeal B would add to the supply of housing in a sustainable location. However, there are design shortcomings in Appeal A which would cause serious harm to the character and appearance of the area, and render the proposal contrary to Development Plan policies which remain consistent with the Framework with regard to the need for good design.
17. With regard to the presumption in favour of sustainable development, paragraph 7 of the Framework details the three dimensions to such development: economic, social and environmental. The proposals would aid the first dimension in building work and additional residents in the urban area making use of shopping facilities, entertainment and employment, and the social dimension would be aided by providing the supply of housing required to meet the needs of present and future generations, but the proposal in Appeal A would not create a high quality built environment and as a result would not aid the third dimension.
18. The balance lies in Appeal B being acceptable, sustainable development, whereas Appeal A would cause unacceptable harm and notwithstanding the lack of a five year supply of housing land, the adverse impacts in Appeal A would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework, and in particular the statement on the

importance attached to the design of the built environment and good design being a key aspect of sustainable development indivisible from good planning.

Conditions

19. The Council suggested conditions covering matching materials, use and retention of the parking area, provision of the new access to the highway, details of cycle parking, refuse and recycling facilities, a requirement for a landscaping scheme and its implementation, and another requiring hard-standings to be porous. These are all reasonable and necessary to ensure the quality of the development. A requirement for the dwelling to be designed to Lifetime Homes standards is justified with reference to Policy HO13, and conditions ensuring that the building meets the BREEAM standard of 'Pass' is reasonable in this refurbishment and re-use proposal, in line with Policy SU2 and Supplementary Planning Document '*Sustainable Building Design*'.
20. It is further suggested that permitted development rights for extensions, enlargements, alterations and provisions within the curtilage be removed, and in view of the reasoning for the permission, this would be reasonable, not with a view to necessarily preventing such works, but to allow proper consideration of the effects on the character and appearance of the area and the remaining plot size. Lastly a condition is required naming the drawings, because otherwise than as set out in this decision and conditions, it is necessary that the development shall be carried out in accordance with the approved plans for the avoidance of doubt and in the interests of proper planning.

Conclusions

21. The proposed new building to form a dwelling to the north would cause harm to the character and appearance of the area. The proposal would not accord with the environmental dimension of sustainable development and the adverse effects would significantly and demonstrably outweigh the benefits including the provision of a single additional dwelling in an area of housing need. For the reasons given above it is concluded that Appeal A should be dismissed.
22. The proposed change of use in Appeal B would make use of an existing building and the sub-division of the plot to provide its amenity space would not cause harm to the character and appearance of the area to the south of the site, where density is greater and the grain of urban development is of smaller plots and less space between buildings. The benefits of increased housing provision can be provided without demonstrable harm, and the proposal would be in accordance with the stated policies of the Development Plan and national planning policy. For the reasons given above it is concluded that Appeal B should be allowed.

S J Papworth

INSPECTOR

Schedule of Conditions Appeal B, change of use of existing games room into a single detached dwelling and the formation of an underground garage to the rear

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: unnumbered Site Plan, drawings 1362/01A, 02E and 03.
- 3) No extension, enlargement, alteration or provision within the curtilage of the of the dwellinghouse as provided for within Schedule 2, Part 1, Classes A to E of the Town and Country Planning (General Permitted Development) Order 1995, as amended (or any order revoking and re-enacting that Order with or without modification) other than that expressly authorised by this permission shall be carried out without planning permission obtained from the Local Planning Authority.
- 4) The external finishes of alterations to the building as a result of the development hereby permitted shall match in material, colour, style, bonding and texture those of the existing building.
- 5) The vehicle parking area shown on the approved plans shall not be used otherwise than for the parking of private motor vehicles and motorcycles belonging to the occupants of and visitors to the development hereby approved.
- 6) The new dwelling hereby permitted shall be constructed and fitted out to Lifetime Homes standards prior to the first occupation and these provisions shall be retained as such thereafter.
- 7) No development shall commence until a details of the new crossover and access to be constructed have been submitted to and approved in writing by the Local Planning Authority. The works shall then be carried out in accordance with the approved details prior to the first occupation of the development hereby approved.
- 8) The development hereby permitted shall not be commenced until further details of secure cycle parking facilities for the occupants of, and visitors to, the development hereby approved have been submitted to and approved in writing by the Local Planning Authority. These facilities shall be fully implemented and made available for use prior to the occupation of the development hereby permitted and shall thereafter be retained for use at all times.
- 9) The development hereby approved shall not be occupied until the refuse and recycling storage facilities indicated on the approved plans have been fully implemented and made available for use. These facilities shall thereafter be retained for use at all times.
- 10) No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a scheme for landscaping, which shall include hard surfacing, all boundary treatments, planting of the development, indications of all existing trees and hedgerows on the land and details of any to be retained, together with measures for their protection in the course of development.

- 11) All planting, seeding or turfing comprised in the approved scheme of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation. All hard landscaping and means of enclosure shall be completed before the development is occupied.
- 12) The development shall not commence until a BRE issued Interim/Design Stage Certificate demonstrating that the development has achieved a BREEAM Domestic Refurbishment rating of 'pass' as a minimum has been submitted to and approved in writing by the Local Planning Authority. A completed pre-assessment estimator will not be acceptable.
- 13) The development hereby approved shall not be occupied until a BRE issued BREEAM Domestic Refurbishment Final/Post Construction Certificate confirming that each residential unit built has achieved a rating of 'pass' as a minimum has been submitted to, and approved in writing by, the Local Planning Authority.
- 14) The hard surface hereby approved shall be made of porous materials and retained thereafter or provision shall be made and retained thereafter to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the property.

