



Appeal Decisions

Site visit made on 9 December 2014

by Mrs H M Higenbottam BA (Hons) MRTPI

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

Decision date: 03 February 2015

Appeal A: APP/Q1445/A/14/2227995

25 Hove Park Villas, Hove, East Sussex BN3 6HH

- 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 Kevin Keehan against the decision of Brighton & Hove City Council.
- The application Ref: BH2014/01422, dated 1 May 2014, was refused by notice dated 11 July 2014.
- The development proposed is the construction of a single dwelling to the rear of 25 Hove Park Villas, Hove (replacement Coach House).

Appeal B: APP/Q1445/A/14/2227998

25 Hove Park Villas, Hove, East Sussex BN3 6HH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr Kevin Keehan against the decision of Brighton & Hove City Council.
- The application Ref: BH2014/01421, dated 1 May 2014, was refused by notice dated 23 July 2014.
- The application sought planning permission for 'the demolition of existing rear conservatory and erection of part single storey, part two storey rear extension and alterations including changes to fenestration. Loft conversion with dormers to front, side and rear and rooflights to sides to create additional flat' without complying with a condition attached to planning permission Ref: BH2013/00255, dated 1 March 2013.
- The condition in dispute is No 2 which states that: The development hereby approved shall be carried out in accordance with the approved drawings listed below.

Plan Type	Reference	Version	Date Received
Site plan and block plan	TA663C/01	C	15/02/2013
Existing plans and elevations	TA663C/02		28/01/2013
	TA663C/03		28/01/2013
	TA663C/04		28/01/2013
	TA663C/05		28/01/2013
	TA663C/06		28/01/2013
	TA663C/07		28/01/2013
	TA663C/08		28/01/2013
	TA663C/09		28/01/2013
	TA663C/10		28/01/2013
Proposed plans and elevations	TA663C/20	C	15/02/2013
	TA663C/21	-	28/01/2013
	TA663C/22	C	15/02/2013
	TA663C/23	C	15/02/2013
	TA663C/24	C	15/02/2013

	TA663C/25	D	15/02/2013
	TA663C/26	D	15/02/2013
	TA663C/27	C	15/02/2013

- The reason given for the condition is: For the avoidance of doubt and in the interests of proper planning.

Decisions

1. Both Appeal A and Appeal B are dismissed.

Background and Main Issues

2. A previous scheme for a three bedroom detached house was dismissed at appeal¹ in 2013. At the time of that appeal the planning permission BH2013/00255 at No 25 was being implemented. The Inspector in the 2013 appeal raised issues about the proposal before her and the effect on the layout of the external areas approved under planning permission BH2013/00255. The Appeal B proposals address this point by seeking variations that would ensure that the BH2013/00255 planning permission and the Appeal A proposal would be compatible.
3. The main issues in both appeals are the effect of the proposals on the character and appearance of the area and on the living conditions of adjacent occupiers, particularly in relation to visual intrusion, noise and disturbance.

Reasons

Character and Appearance

4. Hove Park Villas is an attractive tree lined road to the north of Hove Station. It comprises traditional, detached and semi-detached houses with dominant front gables, set back from the road behind small front gardens. Some have been converted to flats and I noted that, to the rear of two such properties on the opposite side of the road to the appeal site, vehicle access and parking at the rear of the properties has been created. There is also a rear annex building at No 33. Many properties, however, appear to remain as single dwellings. There are glimpses of the rear verdant back gardens and mature trees. Some single dwellings have narrow access ways for vehicles, although, in general, rear vehicle access is not a predominant feature of properties in the road.
5. The frontage building No 25 is a substantial, double fronted, detached Victorian 'villa'. It has been extended and converted into five flats and has a large rear garden which, as part of the approved conversion scheme, was to be subdivided into two gardens to serve the two ground floor flats only. The remains of what is described as a 'coach house' are to the rear of the garden area, and these comprise some walls, but no roof. The appellant states that this building once had a pitched roof and was damaged by fire. However, there is little substantiated evidence of its former appearance or how it was used, although a coach house would have been used ancillary to the main dwelling.

¹ APP/Q1445/A/13/2196839

Appeal A

6. The proposed dwelling would be a two storey two bedroom unit with a basement and ground floor. A patio area at the basement level is proposed. A single parking space is proposed adjacent to No 25 and no vehicular access is proposed to the rear of No 25.
7. The proposal previously dismissed at appeal was for a three bedroom dwelling, vehicle access to the rear of No 25, with parking adjacent to the proposed pitched roof dwelling with accommodation with significant areas of glazing at basement, ground floor and also in the roof (paragraph 8 of the previous appeal decision).
8. Whilst the current proposal seeks to address the previous appeal decision, it would still result in the creation of an independent dwelling to the rear of the No 25. Although there appears to be an annex at No 33 this appears to be ancillary to the main dwelling and not an independent self contained dwelling.
9. Whilst Policy QD3 of the Brighton and Hove Local Plan 2005 (LP) seeks the efficient and effective use of a site, including those comprising derelict or vacant land and buildings, the rear of No 25 was to be the garden areas for the ground floor flats at No 25. That use would respect the character and appearance of the immediate area.
10. I accept that the layout has been improved since the previous appeal, particularly by the removal of vehicle access to the rear of No 25, and the resultant increased garden/amenity space associated with the proposed dwelling. The reduction in the height of the proposed building compared with the previous scheme would also lesson its impact. However, it would introduce a detached self contained dwelling within the rear garden area of No 25. This would fail to either respect the character or appearance of the area, resulting in an incongruous feature which would seriously harm the character of the verdant gardens in the immediate locality.
11. I therefore find that the house would seriously harm the character and appearance of the area. This would be contrary to Policies QD1, QD2 of the Brighton and Hove Local Plan 2005 (LP) which requires a high standard of design, positive contribution to the visual quality of the environment and all new developments to be designed to emphasise and enhance the positive qualities of the local neighbourhood by taking into account the local characteristics such as the layout of streets and spaces.
12. Furthermore, it would be contrary to the National Planning Policy Framework (the Framework) which, as a core planning principle, states that planning should always seek to secure high quality design. The Framework states that good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. It goes on to say that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

Appeal B

13. The approved layout of the rear garden area provided for a front to back sub-division of the area into two to provide a garden for each of the ground floor

flats. There was no provision of gardens for the other three flats within No 25. The proposals in Appeal B would result in a reduction in the size of the gardens provided for each of the ground floor flats, as well as the creation of a communal garden to serve the other three flats. Whilst this would increase amenity provision for the upper floor flats, it would also increase the intensity of the use of the rear garden space of the property and reduce the amenity space associated with the two ground floor flats.

14. The sub-division of the rear garden of No 25 into four small, in comparison to adjacent gardens, separate parcels serving different users, i.e. three areas serving the flats in No 25 and the proposed dwelling the subject of Appeal A, would be at odds with the prevailing character and appearance of the rear gardens in the area and would be clearly viewed from adjacent properties.
15. I therefore find that the proposal would harm the character and appearance of the area and as such would be contrary to LP Policies QD1 and QD2.

Living Conditions

Appeal A

16. Whilst I accept that the proposed house would introduce additional use of the rear garden of No 25 there would be no vehicle movements in that area. The proposal would result in a more intensive use of the rear garden of No 25, with comings and going to the proposed dwelling by pedestrians. However, I am not satisfied that such a use would result in significant noise and disturbance to adjacent residential occupiers.
17. Moreover, whilst there would be lighting associated with the proposed dwelling, both internal with light spill outside the building envelope and external lighting within the patio areas or external lighting on the building, I am satisfied that excessive lighting could be controlled by the imposition of suitable conditions and that some lighting in this area would not result in unacceptable visual intrusion or harm to the amenities of adjacent residents.
18. As such I consider it would not cause a material nuisance or result in serious visual intrusion or disturbance. This would comply with LP Policy QD27.

Appeal B

19. The intensity of the use of the original rear garden area of No 25 by the flat occupiers would increase activity within the area. However, there is nothing to demonstrate that this would result in unacceptable noise and disturbance or that it would not be comparable with No 25 being occupied by a large family or extended family if it had remained as a single dwelling.
20. I therefore consider that the subdivision of the rear garden, of itself, would not result in unacceptable harm to the living conditions of adjacent residents. This would comply with LP Policy QD14 which deals with the alterations to existing buildings and resists development that would result in significant noise disturbance or loss of amenity to neighbouring properties.

Other Matters

21. Both parties agree that the Council cannot demonstrate a five-year supply of housing. The proposal is for a single dwelling and, would not therefore be a

significant contribution to the supply of housing. As such, this would weigh in favour, albeit in a limited way, of the proposal.

22. The appellant accepts that the tall fencing that has been erected to the rear of No 25 appears too high and suggests fencing of 1.5m be used and permitted development rights for the erection of fencing be withdrawn. However, a fence of such a height would not prevent views from users of one garden looking into the adjacent garden. As such the gardens would fail to provide a good level of privacy for future users of these spaces. I am therefore concerned that the resultant garden spaces created, whilst providing an outdoor space for all occupiers of the flats at No 25, would not be of a good standard of amenity.

Conclusions

Appeal A

23. The need for additional housing weighs in favour of the scheme. Whilst I have not found unacceptable harm to the living conditions of neighbouring residential occupiers the proposed dwelling would harm the character and appearance of the area. This harm is significant and the provision of a single dwelling would not demonstrably outweigh this harm. For the reasons set out above and having regard to all other matters raised I conclude that Appeal A should fail.

Appeal B

24. Whilst I have not found unacceptable harm to the living conditions of neighbouring residential occupiers, the subdivision of the rear garden area into four separate areas would harm the character and appearance of the area. For the reasons set out above and having regard to all other matters raised I conclude that Appeal B should fail.

Hilda Higenbottam

Inspector

