



Appeal Decision

Site visit made on 19 June 2009

by **J D Westbrook** Bsc(Hons) MSc MRTPI

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

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Decision date:
29 June 2009

Appeal Ref: APP/Q1445/A/09/2099278

21 Nanson Road, Brighton, BN1 9GJ

- 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 Ms Joyce Edmond-Smith against the decision of Brighton and Hove City Council.
- The application (Ref BH2008/03054), dated 15 October 2008, was refused by notice dated 10 December 2008.
- The development proposed is the construction of a new dwelling.

Decision

1. I allow the appeal and grant planning permission for the construction of a new dwelling at 21 Nanson Road, Brighton, BN1 9GJ, in accordance with the terms of the application Ref. BH2008/03054, dated 15 October 2008, and the plans submitted therewith, subject to the following conditions:
 - 1) The development hereby permitted shall begin before the expiration of three years from the date of this decision.
 - 2) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking, re-enacting or modifying that Order), no extension, enlargement or other alteration of the dwelling hereby permitted shall be carried out without the express permission of the Local Planning Authority.
 - 3) The development hereby permitted shall not be commenced until details of secure cycle parking facilities for the occupants of the dwelling 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 dwelling hereby permitted and shall thereafter be retained for use at all times.
 - 4) The dwelling hereby approved shall not be occupied until a Building Research Establishment issued Final Code Certificate confirming that the dwelling as built has achieved a Code for Sustainable Homes rating of Code Level 3 has been submitted to, and approved in writing by, the Local Planning Authority.

Main issue

2. I consider the main issue in this case to be the effect of the proposed dwelling on the character and appearance of the area around Nanson Road and Ashburnham Drive.

Reasons

3. No 21 Nanson Road is a semi-detached house located at the junction of Nanson Road with Ashburnham Drive. It has a large side garden and the proposed dwelling would be sited within this garden area. The general area around Nanson Road and Ashburnham Drive is steeply sloping down from west to east. Nanson Road itself slopes down from south to north from its junction with Reeves Hill. It then levels out around the junction with Ashburnham Drive before rising again to the north. Dwellings in the vicinity are largely semi-detached and stepped down the slopes. There is a variety of designs of houses in the area. The junctions of Nanson Road with Reeves Hill/Wolseley Road and Ashburnham Drive have large triangular areas of grass that create a somewhat open feel to the area.
 4. The proposed dwelling would be of a different design from any of the surrounding houses and would have a number of modern features, including a range of energy-saving and "environmentally friendly" features, such as solar panels, photovoltaic cells and green roofs. The appellant has indicated that the aim of the dwelling is to achieve Level 4 of the Code for Sustainable Homes, although it would appear that this cannot be guaranteed without further study. It would be a detached house with a part pitched roof and part "green" flat roof, and it would be approximately the same height as No 21, with a similar volume and floorspace.
 5. Although most of the dwellings in the vicinity are stepped down the slopes, including Nos 21 and 23 Nanson Road, the appeal site itself is relatively level. Furthermore, because of the amount of open green space around the complex junction area, the proposed house would not be readily seen in the same context as any other houses except Nos 21 and 23. I do not consider, therefore, that the fact that the proposed house would not be stepped down from No 21, would be harmful to the visual appearance or character of the area. Furthermore, the house would be of a similar scale, massing and height to No 21, and would not be out of character in this respect either.
 6. The Council contends that the house would not respect the established building lines of Nanson Road or Ashburnham Drive. In my opinion, because of the configuration of the dwellings around the road junctions in the area, the building lines in the vicinity are effectively only formed by one pair of semi-detached houses on Nanson Road (Nos 21 and 23) and one pair on Ashburnham Drive (Nos 37 and 35). The proposed dwelling would be forward of the building lines formed by these particular properties, but there are a range of building lines along different parts of these roads, and I do not consider that the siting of the proposed house would have any significant adverse effect on the character of the area in this respect. Moreover, the visibility of the house from Ashburnham Drive, below Nos 37 and 35, would in any case be limited by the topography and the existence of mature trees to the rear of the plot.
 7. The appeal site is prominent within the area, but this is not a reason to refuse permission for a well designed house. There is already a relatively new detached house on a small but prominent corner plot at No 36A Wolseley Road. Whilst the proposed dwelling would be of a more modern and unusual
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design than that of No 36A, I consider that it would be equally appropriate on its plot, and that it would make a positive statement for sustainable design principles in a prominent position, without adversely affecting the basic character or appearance of the area.

8. I conclude that the proposed dwelling would not be out of scale with its surroundings, and that its design would be appropriate for its site and location, particularly bearing in mind the significance of encouraging a more sustainable design of dwellings in the future. It would not be detrimental to the character or appearance of the area around Nanson Road and Ashburnham Drive and would not conflict with saved policies QD1, QD2 and QD3 of the Brighton and Hove Local Plan.
9. I have added conditions relating to the removal of permitted development rights and to the Code for Sustainable Homes in the interests both of protecting the visual amenities of the area, and also because the permitted design, as indicated on the submitted plans, is inextricably linked to principles of resource efficiency and sustainability which should be continued in any future developments on the site.
10. The Council has suggested a condition relating to the provision of sustainable transport infrastructure. In the context of a development of the scale proposed, I find the wording of this condition unacceptably vague. It would appear from a consultation reply provided by the transport planning section of the Council that this relates to a Local Transport Plan of which I have no copy and only relatively little information. The consultation reply indicates that small-scale developments might be expected to contribute towards the provision of sustainable transport infrastructure dependent on the scale of the development and its likely impact on the existing transport infrastructure. However, it is not possible to require a financial contribution by way of a planning condition. A Section 106 obligation would be needed in such a case.
11. Circular 05/2005: *Planning Obligations*, advises that they are intended to make acceptable a development which would otherwise be unacceptable in planning terms. I have been given no explanation of the impact that the construction of the dwelling would have on existing transport facilities, although the Council has raised no objection on highway issues. In the light of the limited information before me, and no evidence of negotiations between the Council and the appellants on the matter, I am not persuaded in this case that contributions are necessary to make the proposal acceptable. I have, however, added a condition relating to the provision of cycle parking, in the interests of encouraging travel by means other than private motor vehicles.

J D Westbrook

INSPECTOR

