



# Appeal Decision

Site visit made on 1 July 2009

by **Peter Bird** BSc DipTP MRTPI MRICS

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

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**Decision date:**  
**13 July 2009**

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## Appeal Ref: APP/Q1445/A/09/2100448

### 49 Old Mill Close, Patcham, Brighton, East Sussex BN1 8WE

- 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 & Mrs R Hopwood against the decision of Brighton & Hove City Council.
- The application Ref BH2008/02925, dated 3 September 2008, was refused by notice dated 14 November 2008.
- The development proposed is the erection of a detached bungalow.

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## Decision

1. I dismiss the appeal.

## Main Issues

2. The main issues in this appeal are the effects of the proposal on firstly, the area's character and appearance, including nearby trees protected by a tree preservation order; and secondly, the living conditions of the future occupiers of the proposed dwelling, especially in relation to the space around the building.

## Reasons

3. No 49 Old Mill Close is a detached bungalow situated at the end of a cul-de-sac within a predominantly residential part of the built-up area of Brighton. The site's wider context contains a range of housing of differing age, type and size. Nevertheless, I share the Inspector's view in the earlier appeal, Ref APP/Q1445/A/06/2031922, that a significant influence on the distinctiveness of the character and appearance of Old Mill Close is its landscaped central verge, which in part, and, to my mind in combination with the width of the highway, creates a sense of spaciousness. Moreover, this is enhanced by the single storey dwellings, including No 49, at the end of the cul-de-sac and their back-drop of mature trees.
4. The proposal would sub-divide the curtilage of No 49 to create a new plot essentially to the side and rear of the present dwelling for a modest two bedroom bungalow. Whilst the remaining curtilage for the existing bungalow would be a reasonably sized, the new plot would be markedly smaller, especially in relation to the space at the rear of the proposed dwelling. This pattern of development would be clearly out of keeping with the area, particularly the characteristic plot size that is integral to the locality's spatial

quality. Despite the generous size of plot, both as existing and as proposed, to the present bungalow, the width of the property's existing highway frontage is relatively limited. To punctuate this frontage with a further and separate point of access would, in my view, exacerbate the harm to the spaciousness of the area's character and appearance, especially at an important focus in the street scene, given the contribution of this group of existing bungalows at this point. I note that the bungalow's design would reflect others in the area. However, despite the appellants' intention for a low roof pitch, bearing in mind the building's footprint, the bungalow's overall height would still be significant. Having regard to the dwelling's consequent bulk I consider the proposal would result in a congested development on this relatively small plot.

5. The appellants argue that the deeds show the existing property comprises more than one plot. They have also drawn attention to other housing developments in the area, the circumstances of which are not before me. Nevertheless, each proposal needs to be considered on its merits in relation to current national and local planning policies, which I have done here.
6. Although no tree survey has been provided, from what I saw at my visit the proposed dwelling would be in close proximity to the canopy of protected trees albeit outside of the site, but adjacent to the northern/rear boundary. In this regard I share the concerns of the earlier Inspector, in that although a bungalow is now proposed rather than the previous houses, the proposal poses a significant threat to the adjacent protected trees. These trees dominate the external space at the rear of the present and proposed bungalow. The appellants argue that existing trees and shrubs would be retained. Even if the necessary care was ensured during construction, in my view there would be a realistic likelihood of pressure from future occupiers seeking to carry out works to the trees, either due to potential physical damage to the proposed property, or to improve their living conditions in relation to the use of the space at the rear of the dwelling. The consequent effect of such works on the appearance of these significant trees would be likely to add to the harm to the area's character and appearance I have described above.
7. Whilst older properties in Brighton may have limited space around them, Planning Policy Statement 3: *Housing* makes clear that good design is fundamental to the development of high quality new housing. Part of the assessment of this quality is the provision of private outdoor space such as residential gardens. In this case the space at the rear of the proposed bungalow would fail to reflect the standard expected by national policy, and in particular the use of the space would be seriously affected by the adjacent protected trees.
8. I conclude that the proposal would have a harmful effect on the area's character and appearance. In this regard it would conflict with Policies QD1 and QD2 of the Brighton & Hove Local Plan 2005 (LP), which amongst their considerations seek to achieve a high standard of design and enhance the positive qualities of the local neighbourhood. Moreover, LP Policy QD16 relates to trees, the likely detriment to adjacent protected trees would therefore be contrary to the aims and objectives of this policy. Having regard to the external space to the proposed dwelling, the proposal would fail to reflect the

expectations of national and local planning policies for good quality housing and thus would be harmful to the living conditions its future occupiers. In this regard it would conflict with LP Policies QD3 and QD27, which although the efficient and effective use of sites is sought particular attention is nevertheless paid to the design and quality of space between buildings and the amenity of occupiers.

9. I share the Council's concern for protected species. However, I understand there has been a change in the circumstances relating to the activity of badgers in the area. Therefore, for the purposes of this appeal, and in the absence of other evidence, I shall give no further consideration to this matter. Other objections have been raised by the Council concerning the adequacy of the details in relation to the Lifetime Homes standards and the use of limited resources in the proposed development. However, even if these matters were to be satisfactorily addressed, neither they nor the support from interested parties for this proposal would outweigh my conclusions on the main issues.
10. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

*Peter Bird*  
INSPECTOR

