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## Appeal Decision

Site visit made on 20 April 2018

**by R J Jackson BA MPhil DMS MRTPI MCI**

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

**Decision date: 09 May 2018**

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### **Appeal Ref: APP/Q1445/W/17/3190031 238 Elm Grove, Brighton BN2 3DA**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
  - The appeal is made by Mr Paul Nash, Brighton Builds LLP against Brighton & Hove City Council.
  - The application Ref BH2017/01114, is dated 17 March 2017.
  - The development proposed is erection of new 2 bedroom house over ground and lower floors.
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### **Decision**

1. The appeal is dismissed and planning permission for erection of new 2 bedroom house over ground and lower floors is refused.

### **Procedural matter**

2. Following the lodging of the appeal the Council indicated that, had it been in a position to do so, it would have refused the application for two reasons relating to its alleged effects on the character and appearance of the area and the living conditions of any future occupiers.

### **Main Issues**

3. The main issues are the effects on:
  - the character and appearance of the area; and
  - the living conditions of the proposed occupiers in terms of size, light, outlook and amenity space.

### **Reasons**

#### *Character and appearance*

4. The appeal site lies to the rear of 238 Elm Grove which has recently been converted to four flats including a number of extensions. It is an end of terrace property on the south site of the road towards the top of a hill. To the east is Hallett Road, which is a one-way street exiting to Elm Grove at this junction. The land rises to the rear of No 238 and there is a domestic style garage on the site with access to Hallett Road. This extends to the whole width of the site. To the south is a small, roughly triangular piece of land used for parking.

5. Development on Elm Grove, which runs approximately east/west, consists predominantly of long stepped terraces of dwellings along with some commercial properties. Hallett Road runs north/south close to its junction with Elm Grove but then turns so as to run southwest/northeast. It consists of shorter terraces and semi-detached properties. On the north side of Hallett Road the properties are set down from the street and those to the south are set up above it.
6. The proposal is to demolish the garage and construct a two storey 2-bedroomed dwelling. The site would be excavated so that the upper storey would be at approximately the same level and position as the garage although it would be slightly wider. The lower storey would be constructed at right angles to the upper storey with the southeast corners overlapping. An amenity space would be provided in the northwest corner of the appeal site.
7. The building has been designed to replicate the ancillary nature of the existing building on the site. The overall character of the area is of a tight urban grain and I consider that the introduction of an additional unit of residential development in the form proposed would be in keeping with that character. That there would be a separate dwelling, rather than an outbuilding, would not be readily noted from outside the appeal site, and although the appeal property could be seen from adjoining properties this would not be harmful. The lack of an articulated front door is a product of the design approach. The proposal would contribute positively to the sense of place.
8. As such the proposal would be in keeping with the character and appearance of the area. It would therefore comply with Policy CP14 of the Brighton & Hove City Plan Part One which indicates that density of development should be appropriate to the character of the neighbourhood. It would also comply with paragraph 58 of the National Planning Policy Framework (the Framework) which indicates that decisions should aim to ensure that development responds to local character.

#### *Living conditions*

9. The Council has not adopted any space standards but has referred to the Government's Technical Housing Standards (the Standards). The national Planning Practice Guidance<sup>1</sup> makes clear that decision takers should only require compliance with the new national technical standards where there is a relevant current local plan policy. However, I consider that the Standards provides a useful guide for accessing the acceptability or otherwise of the size of the proposed dwelling.
10. There is a dispute between the parties as to how the prospective occupancy should be considered. The appellant maintains that it should be considered as a 2-bedroom 3-person property. However, according to the Council, and the figures have not been disputed, both the bedrooms equal or exceed the minimum size for a double (or twin) bedroom in the Standards. I therefore consider that the property should properly be considered as a 2-bedroom 4-person property. In this situation the property would be significantly below the minimum gross internal floor area set out in the Standards and therefore this should weigh against the proposal as it would not be of high quality for the proposed occupancy.

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<sup>1</sup> Reference ID: 56-018-20150327

11. Due to the design of the proposal the only effective amenity area available for the occupiers of the proposed dwelling would be area in the northwest corner of the appeal site. The western half of this area would be at the same level as the upper storey accommodation, but the eastern half would slope to approximately half the depth of the lower storey to just below the cill level of the bedroom windows.
12. In my view this would not provide an appropriate amenity space for the occupiers of the proposed dwelling. It would be small and enclosed. It would slope to provide lighting to the two bedrooms so that it would not provide an appropriate area which would permit sitting out or other beneficial use. Furthermore, the windows for the two bedrooms would be located towards the top of the rooms meaning that they would not provide sufficient light and the raised height of the amenity area would result in an overbearing environment for any occupiers.
13. Therefore the proposal would not give rise to appropriate living conditions for the occupiers of the proposed dwelling. It would therefore be contrary to Policy QD27 of the Brighton & Hove Local Plan which seeks to protect the living conditions of future occupiers of development. It would also be contrary to paragraph 17 of the Framework which indicates that planning should always seek to secure a good standard of amenity for the future occupiers of land and buildings.

### **Conclusion**

14. Notwithstanding that the proposal would be in keeping with the character and appearance of the area, the proposal would not result in good living conditions for the occupiers of the property and would thus be harmful. This harm is such that it outweighs the benefits of the proposal.
15. For the reasons given above I conclude that the appeal should be dismissed.

*RJ Jackson*

INSPECTOR

