



Appeal Decision

Site visit made on 11 September 2009

by **M C J Nunn BA BPL LLB LLM BCL MRTPI**

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

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Decision date:
16 November 2009

Appeal Ref: APP/Q1445/A/09/2105169

18 Davigdor Road, Hove, East Sussex, BN3 1TT

- 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 A Haagman against the decision of Brighton and Hove City Council.
- The application Ref BH2009/00012, dated 18 December 2008, was refused by notice dated 2 April 2009.
- The development proposed is an extension to 18 Davigdor Road to form a two bedroom dwelling.

Decision

1. I dismiss the appeal.

Procedural matters

2. The description in the heading above is that used on the application and appeal forms. It differs from that in the Council's decision notice which is the 'erection of a 3 storey extension to form one dwelling.' I believe the description in the heading above adequately reflects the works proposed and I have therefore considered the appeal on this basis.
3. I note that the appellant has submitted a unilateral undertaking which I deal with in the body of this decision.

Main issues

4. I consider the main issues in this case to be:
 - i. the effect of the proposal on the character and appearance of the area;
 - ii. the effect of the proposal on the living conditions at the host property and adjacent properties, with particular reference to outlook, sunlight and daylight;
 - iii. whether the proposal would comply with 'Lifetime Homes' standards;
 - iv. the effect of the proposal on highway safety, with particular regard to on-street parking availability.

Reasons

Character and Appearance

5. The appeal property comprises a large rendered property with a rear garden that runs parallel with Davigdor Road. The property appears to date from the

Victorian era and is currently converted into flats. It lies on a corner site at the junction of Davigdor Road and Osmond Gardens. The local area is predominantly residential and comprises a mix of dwelling types, including substantial Victorian semi-detached villas, some of which have been converted to flats, but there are dwellings from later periods.

6. I consider that the proposed extension to provide a new dwelling would be an overly large addition to the existing building. I acknowledge an attempt has been made by the appellant to follow the design of the property by replicating the existing architectural detailing, roof form as well as window and door arrangements. However, the proposed excavation works to provide a lower ground floor would mean the addition would have the appearance of a three storey dwelling, increasing the impression of bulk and scale. This would, in my opinion, harm the appearance of existing property. Also, the scheme would result in a building considerably larger in bulk and size than others in the vicinity, including those nearby in Davigdor Road and Osmond Gardens. Thus I consider it would appear overly dominant and discordant in relation to other properties, and would harm the area's character.
7. I also consider that the proposed excavation works at the rear garden area to facilitate to the lower ground floor, involving an elevated access way to the entrance, would appear incongruous at this location. In my view, this arrangement would be much more visible from public vantage points than the appellant's computer generated photo image would suggest. From my site visit, I could not see any evidence of this kind of arrangement in the vicinity. In my view, as this feature does not draw on any locally evident examples, it would appear incongruous and unsympathetic in this location. I consider it would harm the appearance and architectural integrity of the building, as well as the wider area.
8. I note the existing rear garden is at a lower level than the adjacent property at No 16 Davigdor Road. It seems to me that the proposed excavation works will exacerbate this difference in levels, creating a visually unattractive and discordant effect, particularly when viewed from vantage points in Davigdor Road. This adds to my concerns regarding the proposal's effect on the character and appearance of the area.
9. I note that the appellant contends that the proposal would not be cramped because of the separation between the proposed extension and No 16 Davigdor Road. Whilst I accept there would be adequate separation between these properties, this does not alter my concerns above.
10. I therefore find on the first issue the proposal would unacceptably harm the character and appearance of the area. It would be contrary to Policies QD1, QD2, QD3 and H04 of the Brighton and Hove Local Plan (BHLP) which together require, amongst other things, a high quality of design for new development which takes into account local characteristics whilst ensuring the efficient and effective use of sites.

Living Conditions

11. Because of the substantial size of the addition, particularly its height and depth, I have concerns at its effect on the living conditions of occupiers of the
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existing host building. I consider the addition would appear overbearing and create an unacceptable sense of enclosure, causing a loss of outlook to the rear facing windows of the existing property. The rearward projection of the addition would unacceptably impinge on the living conditions in the rooms facing to the rear creating a 'hemmed in' feeling. This enclosed feeling would be exacerbated by the existing property at No 16 Davigdor Road at the end of the appeal property's garden.

12. As the extension would be located to the north of these rear facing windows, I do not consider there would be any adverse effect in terms of loss of direct sunlight. Although I consider the extension's size would mean a reduction in the amount of daylight reaching these rear windows, I do not consider this loss to be significant because of the northward position of the extension.
13. I am satisfied that there would be no unreasonable adverse effect on living conditions in terms of outlook, sunlight or daylight to No 16 Davigdor Road. There would be a reasonable degree of separation between the proposal and this property which has only secondary flank windows facing the appeal site, serving what appeared to be a toilet and bathroom and a secondary window to a kitchen.
14. I am also satisfied that, because of the considerable separation involved, there would be no unreasonable loss of outlook, daylight or sunlight to the adjacent property to the south at No 19 Osmond Gardens.
15. However, these findings do not outweigh the harm I have identified to living conditions at the host property in terms of outlook. I therefore conclude that the proposal would be contrary to BHLPP Policy QD27 which states that new development will not be permitted where it would cause a loss of amenity to proposed, existing and /or adjacent users, residents or occupiers.

Lifetime Homes

16. The Council is concerned that the proposal would not comply with 'Lifetime Homes' standards, although the appellant has stated that where practicable, they have been incorporated into this scheme, and that certain requirements are covered by building regulations in any event.
17. However, I note BHLPP Policy H013 requires new development to comply with 'Lifetime Homes' standards. I have been supplied with the Council's Planning Advice Note 03 (PAN 03) dated January 2008 on Accessible Housing and Lifetime Homes. This gives guidance on the application of BHLPP Policy H013. It states that, whilst there is some flexibility in applying the standards in conversions or the creation of new housing units in existing residential buildings, where new build housing is proposed, proposals will be expected to comply fully with the standards. I consider this proposal to be essentially a new build scheme, although I acknowledge it utilises part of the existing building for one of the bedrooms.
18. Some of the Council's concerns could be resolved by a suitably worded condition requiring appropriate details to be submitted for approval to ensure compliance with the standards. However, the proposal as currently designed would not comply with the standards in certain respects because of the internal layout proposed. Whilst I note the appellant's view that the existing layout has

the potential to be amended so as to ensure greater compliance with the standards, I have to assess the scheme before me.

19. This being so, I can see no sound reason to depart from or override the requirements of BHL Policy H013. Consequently, I am led to conclude that until the scheme is modified so as to comply with the requirements of that policy, the appeal would not comply with 'Lifetime Homes' standards and should therefore fail.

Highway Safety

20. The Council states that insufficient information has been submitted relating to the demand for travel likely to be created by the development, and has raised concerns regarding on-street parking availability. Despite this, I note the Council's own Transport Planning Section has not raised objections to permission being granted subject to a financial contribution towards improving transport infrastructure, and cycle parking provision being implemented once the details have been agreed.
21. I have been supplied with a Unilateral Undertaking dated 17 August 2009 whereby the appellant has undertaken to pay to the Council a 'Sustainable Transport Contribution' of £1,000 and a 'Traffic Regulation Order Payment' of £2,000 in the event I am minded to allow the appeal. Thus it seems to me that this undertaking in principle would address the Transport Planning Section's requirements regarding financial contributions. As to cycle provision, this is indicated on the plans, the details of which could be controlled by a suitably worded condition.
22. Thus, there is no evidence before me that would suggest the appeal should fail on highway grounds. In my view, the provision of a single dwelling of the size and type proposed would not result in significant harm to highway safety, nor be likely to have an unacceptable effect on on-street parking availability.
23. My findings on this matter do not, however, outweigh the harm I have already identified.

Other matters

24. I note the appellant's contention that the proposal would make better use of an underused garden area, improving its appearance, and that the site is accessible to local facilities, and is well served by public transport. I have also had regard to Government policy, as well as BHL policy QD3 which encourages the most efficient use of land. However, in this instance, I consider that the benefits that would accrue from allowing the appeal would not outweigh the harm I have identified.

Conclusion

25. For the reasons given above, and having considered all other matters raised, I conclude that the appeal should be dismissed.

M C J Nunn

INSPECTOR
