



Appeal Decision

Site visit made on 15 December 2009

by **Philip Willmer BSc Dip Arch RIBA**

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

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Decision date:
15 January 2010

Appeal Ref: APP/Q1445/A/09/2106208

Garages at the rear of 90 Cromwell Road, Hove, East Sussex, BN3 3EG.

- 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 Miss Pauline Whitcomb against the decision of Brighton and Hove City Council.
- The application Ref BH2008/02452, dated 15 July 2008, was refused by notice dated 15 December 2008.
- The development proposed is the demolition of existing single storey garages and construction of one mews house.

Decision

1. I allow the appeal and grant planning permission for the demolition of existing single storey garages and construction of one mews house at the rear of 90 Cromwell Road, Hove, East Sussex, BN3 3EG in accordance with the terms of the application Ref BH2008/02452, dated 15 July 2008, and the plans submitted therewith, subject to the conditions set out at the end of this letter.

Procedural matters

2. I note from the appeal papers that there is a dispute between the appellant and neighbours in respect of land ownership and rights of access. However, these matters are not planning issues and I shall therefore proceed to consider the appeal on the basis of the application determined by the Council.

Main Issues

3. I consider the two main issues to be: firstly, the effect of the proposed development on the character and appearance of the area; and secondly, its impact on the living conditions of neighbouring residential occupiers.

Reasons

Character and appearance

4. The appeal site, located to the rear of number 90 Cromwell Road, consists of a block of four unattractive and utilitarian flat roofed garages, associated forecourt and an access ramp alongside number 90 leading to the road. 90 Cromwell Road, now converted into five self-contained apartments, is one half of a semi-detached villa facing the road but with views to the rear over the County Cricket Ground. The surrounding area is characterised by substantial villas to either side of the road interspersed by more contemporary multi-

storey residential blocks. The appeal site falls outside, but can be seen from, the Willett Estate Conservation Area.

5. The appellant proposes the demolition of the garage block and its replacement with a detached two bedroom mews style dwelling. Like the garages it would replace, it would abut the rear and two side boundaries. The north façade of the proposed dwelling has been designed so as to give the appearance of a traditional coach house with accommodation over. The south elevation, on the other hand, would in contrast have a more contemporary appearance and be reflective of the character of some of the structures around the cricket ground, incorporating, amongst other features, a balcony, vertical glazing and a living roof.
6. Overall I find the design to be imaginative and of a high quality. In my view the approach the architect has taken would produce a building that would respect the character and context of the location.
7. The proposed building would be deeper than the existing garage block and higher, by virtue of the proposed first floor accommodation. It would therefore, be a little more pronounced than the existing garage block when viewed from numbers 90 and 91 as well as both Cromwell Road and Palmeria Avenue. However, having regard to the built up urban setting, the scale of neighbouring development and as it would be set down below road level, I do not consider that it would be unduly prominent, or detrimental to either the setting of neighbouring properties or the conservation area.
8. The new building would be visible from both the cricket ground and also, between buildings, from Eaton Road (on the far side of the cricket ground). However, as I saw, it would be seen against a backdrop of the larger properties fronting Cromwell Road. Accordingly, I do not consider that it would disturb in any significant material way either the layout or the rhythm of the existing development in the area. Furthermore, because of its high quality design it would not, as suggested by the Council, be an inappropriate addition to the visual environment but would add visual interest to the street scene.
9. I conclude in respect of the first main issue that the proposed development would not be detrimental to the character and appearance of the area. It therefore accords with the objectives of Policies QD1, QD2 and HE6 of the Brighton and Hove Local Plan (LP) in this respect.

Living conditions

10. The introduction of a slightly larger building would change the outlook from the ground and first floor flats within number 90 and would, to some limited extent, impact on existing views of the cricket ground. However, given the separation distance of a little over 21.0 metres between the rear façade of number 90 and the proposed dwelling, the overall height of the new dwelling, the existing trees on the boundary of the site shown to be retained and the general built up nature of this urban site, I do not consider that the replacement dwelling would have any significant detrimental impact on neighbouring occupiers' living conditions in terms of being either overbearing or leading to a significant loss of outlook. In addition, and while having regard to the full length glazed doors serving the proposed new ground floor bedrooms, I
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do not believe, for the reasons stated, that the proposal would lead to significant overlooking or loss of privacy.

11. I concur, however, with the Council's view that the balcony to the southern façade would offer some limited views into neighbouring residential gardens. However, as it suggests, this could be suitably mitigated by the privacy screening to either side of the balcony area. In the event that I am minded to allow this appeal I could include a suitably worded condition to this effect.
12. Concerns have been raised in respect of the potential for noise and disturbance emanating from increased vehicular and pedestrian movements. In my opinion the noise and disturbance emanating from the new dwelling, even if one or more additional bedrooms were over time to be created by subdivision and alteration as suggested, is likely to be less than would be caused by the more intensive use of the four garages if let or sold individually.
13. The increased height of the building over that of the existing single storey garages would, because of the orientation, lead to some overshadowing of the neighbouring gardens to the north and west. However, in my judgement such overshadowing is not likely to be significantly greater than that presently cast by the trees along the boundary.
14. In respect of the second main issue, I conclude that the proposed development would not cause harm to the living conditions of either existing or future residential occupiers. The proposal therefore accords with the aims of LP Policy QD27.

Other considerations

15. In relation to the possibility of setting a precedent, I have concluded that on the basis on which I have considered the case the scheme would comply with the objectives of planning policy. Although all sites are different, and all cases fall in the first instance to be considered by the local planning authority, proposals which fall within the terms of planning policy would not lead to the creation of an unacceptable precedent.
 16. A third party has drawn to my attention that the owners of the County Cricket Ground propose to construct a new building close to the boundary of the appeal site. However, in support of the contention that it would impact on the living conditions of future occupiers of the proposed house, no drawings other than a small scale site plan have been provided. Accordingly, I am not in a position to judge the potential impact if any of the proposed structure. Based on this limited evidence, and as there is no certainty that the development even if approved by the Council would proceed, I can give this consideration limited weight.
 17. Reference is made by the representative of the Sussex County Cricket Club to the desirability of maintaining a buffer zone between the cricket ground and surrounding residential properties as well as the potential impact of the proposed development on the function of the cricket ground as the head quarters of County cricket. However, no details have been provided as to the rationale for such a buffer zone, its present status if any or the feared impact.
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I can therefore give these considerations little weight in the determination of this appeal.

18. I acknowledge that if this development were to go ahead then there would, even though it is currently not fully utilised, be an overall loss of parking provision. However, the site is located in a sustainable urban area with access to local facilities and public transport. Accordingly, I do not consider the potential loss significant in this case.
19. The proposed development includes for a single garage along with outside parking and turning. However, I am not persuaded that this provision in itself would, as suggested, automatically encourage car use. Having regard to the unit's design to Lifetime Homes Standards, the dwelling may be suitable for someone, such as a mobility impaired person, who already has or may at a later date require access to a private car. Therefore it seems to me to be reasonable to make some provision that also provides flexibility to allow for secured covered parking for two wheel forms of transport that are popular alternatives to the car in urban locations where roads are congested and parking restricted.

Conditions

20. The Council has not provided a list of suggested conditions. However, the officer's/committee report makes reference to a number of detailed items that I shall take into account. In addition to the standard time condition, to ensure a high quality development, I have included a condition about building materials.
21. Further, the appellant has indicated that to meet the aims of LP Policy SU2 the development seeks to achieve the Building Research Establishment (BRE) Code for Sustainable Homes Level 3. However, as noted by the Council, only limited information has been provided in respect of this claim. Accordingly, I shall include a condition requiring, prior to occupation, a BRE Final Code Certificate to be submitted confirming that code level 3 has been achieved.
22. The scheme has been designed to Lifetime Homes Standards. However, I note from the evidence that the Council's Accessibility Consultant requires some minor revisions to ensure full compliance. I shall therefore condition this element of the design to be approved before work starts.
23. As noted by the Council the submitted construction and demolition waste minimisation statement is rather generic. Therefore, and as the development may fall outside of the scope of the Site Waste Management Plans Regulations 2008 because of its size, I consider that it is reasonable to require further details to be approved to ensure compliance with LP Policy SU13.
24. In order to protect the living conditions of neighbouring residential occupiers, I shall require the detail of the screens to the first floor balcony to be approved.
25. The Council in its evidence has made reference to the Traffic Manager seeking an unspecified financial contribution towards public transport infrastructure in the surrounding area. Circular 05/2005 *Planning Obligations* states at paragraph B9 that "*developers may reasonably be expected to pay for or contribute to the cost of all, or part of, additional infrastructure provision which*

would not have been necessary but for their development". However, the Council has not indicated what additional provision would be required as a result of this development. Accordingly, in formulating appropriate conditions I cannot give this consideration any weight.

Conclusions

26. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be allowed.

Philip Willmer

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall begin before the expiration of three years from the date of this decision.
- 2) No development shall take place until samples and details of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved samples and details.
- 3) Unless otherwise agreed in writing by the local planning authority, the residential unit hereby approved shall not be occupied until a Building Research Establishment Final Code Certificate has been issued confirming that the unit 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.
- 4) No development shall take place until detailed drawings at a scale of not less than 1:100 showing that the new dwelling has been designed to Lifetime Homes Standards have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 5) No development shall take place until a written Waste Minimisation Statement, confirming how demolition and construction waste will be recovered and reused on site or at other sites, has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 6) No development shall take place until detailed drawings at a scale of not less than 1:20 showing the detail for the screens to the balcony at first floor level has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

