



Appeal Decision

Site visit made on 17 November 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:
7 January 2010

Appeal Ref: APP/Q1445/A/09/2095225

28/30 Newlands Road, Rottingdean, East Sussex, BN2 7GD.

- 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 John Breeds against the decision of Brighton and Hove City Council.
- The application Ref BH2008/02502, dated 10 July 2008, was refused by notice dated 6 November 2008.
- The development proposed is described as "three storey nursing and care home on the site of 28 Newlands Road."

Decision

1. I dismiss the appeal.

Procedural matters

2. The appellant has submitted drawings for a revised scheme design that has not been considered by the Council. It is for the Council to consider it in the first instance and I shall therefore confine my considerations to the proposed development as determined by the local planning authority.

Main Issues

3. I consider the main issues to be firstly, the design in terms of height, mass, form, site coverage and appearance having regard to the character and appearance of the surrounding area. Secondly, whether the proposal would result in the loss of a dwelling contrary to the objectives of the development plan. Thirdly, the effect of the proposed development on the living conditions of neighbouring residential occupiers. Fourthly, whether the development would provide adequate amenity space for residents.

Reasons

Character and appearance

4. The appeal site comprises number 28 Newlands Road, a bungalow with a single detached garage, and the Rottingdean Nursing Home, numbers 30-32 Newlands Road, a substantial three storey detached property on the corner of Newlands and Steyning Road. Newlands Road, which is part of a larger suburban area, is characterised by a mix of large detached dwellings set on rising ground on the east side of the road. Although the properties are fairly uniformly spaced, due to the variety of roof forms there is a general sense of spaciousness between them.

5. The proposed development is for the demolition of the existing bungalow and garage and the erection of a three storey, 15 bedroom, nursing home as an extension to the Rottingdean Nursing Home, a residential nursing and care home. I saw that number 26 is the only bungalow on the east side of the road and in that respect it stands out in the street scene because of its uncharacteristic diminutive form. Accordingly, having regard to the scale of the neighbouring development, I do not consider its replacement with a three storey building would in principle be detrimental to the character and appearance of the area. To my mind, the eaves line and overall ridge height would reflect the topography of the site and the constraints imposed on the design by the massing of the neighbouring properties.
6. Policy QD1 requires new buildings to demonstrate a high standard of design and to make a positive contribution to the visual quality of the area. In this respect it accords with the objectives of Planning Policy Statement 3 (PPS3) *Housing* which at paragraph 13, records that "*good design should contribute positively to making places better for people. Design which is inappropriate in its context, or which fails to take the opportunities available for improving the character and quality of an area and the way it functions, should not be accepted.*"
7. The design proposes a simple gable to gable roof form. This design would, in my opinion, make the building appear more bulky than necessary. Further, it would significantly reduce the visual gap to the neighbouring buildings on either side.
8. Generally, although the houses on the east side of the road are tall and prominent they have been designed with a strong horizontal emphasis. This is exemplified by the eaves line, window proportions etc. which also tend to reflect their residential function. The proposed building would, however, in direct contrast have an uncharacteristic strong vertical emphasis due to the window proportions, projecting narrow bays and the recess in front of the motor room. This significant change in emphasis would, in my judgement, make this building appear as a prominent alien addition in the street scene.
9. I conclude in respect of the first main issue that, because of its design, the proposed development would be detrimental to the character and appearance of the area, contrary to the aims of PPS3 as reflected in Brighton and Hove Local Plan (LP) Policies QD1, QD2 and QD4.

Loss of a dwelling

10. Due to a strict limitation on the number of new sites available for housing development in Brighton and Hove the local plan, at Policy HO8, identifies the need to make the best use of sites and properties that are available and goes on to state that it is important to retain existing houses, flats and other residential accommodation.
 11. I concur with the Council that this proposal does not meet the five tests set out in LP Policy HO8. However, from the consultations undertaken at application stage with Adult Social Care and Housing I note that there is a shortage of nursing home provision, which may be one form of *other residential accommodation* referred to in the policy, within the city.
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12. The development would result in the loss of a single family dwelling unit. However, no evidence has been advanced by the Council to suggest that there is a shortage of the type of family dwelling it considers the site currently provides, nor do they challenge the need for the 15 additional nursing home bed spaces. It would seem to me therefore that in this instance, on balance, the proposal as well as helping to meet a recognised shortfall in local nursing home provision, would also go some way towards meeting the underlying objectives of LP Policy HO8 in terms of seeking to make the best use of the site in providing a form of residential accommodation.
13. I conclude in respect of the second main issue that while the proposal would result in the loss of a single dwelling it would nevertheless, in this case, meet the objectives of the development plan.

Living conditions

14. The proposed building would be similar in height but deeper than number 26. However, notwithstanding the limited separation distance between flank walls, I do not consider that it would be significantly overbearing in scale, due to the lack of windows in the flank wall of number 26 and the form of the roof proposed to the new building.
 15. The scheme design proposes projecting bay windows to the rear elevation of the new block serving residents' bedroom accommodation on all three floors. As illustrated by the furniture layout for the first floor, these bay windows would make attractive sitting spaces for future residents. This would, however, lead to the potential for overlooking of the private rear garden of number 26. Having regard to the suburban location, I consider that some mutual overlooking is to be expected. However, as it is likely that the bedrooms would generally be continually occupied and intensively used by residents and staff, the design of the windows in the rear elevation may well lead to a significant loss of privacy for the occupier of number 26.
 16. I do not share the Council's concern that the side facing windows to bathroom/stair lobbies would be un-neighbourly as, by condition, these could be required to be obscure glazed and fixed shut to avoid overlooking and loss of privacy. Further, due to the overall depth of the retained rear garden, I do not believe that the development would lead to significant overlooking of the rear gardens of the properties to the east of the appeal site.
 17. Concerns have been raised by the Council's Environmental Health team that there is a potential for noise from the lift impacting on neighbours' quiet enjoyment of their homes. However, in my opinion, a suitably worded condition would be appropriate to overcome any concerns in this regard.
 18. I do not share the Council's unease in respect of the development being overbearing, or for the windows in the flank wall to be un-neighbourly. However, in my judgement the rear projecting box bay windows could lead to overlooking and a loss of privacy because of the nature and use of the development. I therefore conclude in respect of the third main issue that the proposed development would have a detrimental impact on the living conditions of the residential occupiers of number 26 Newlands Road. In this respect the proposal would not accord with the aims of LP Policy QD27.
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Amenity space

19. Policy HO11 requires adequate amenity space to be provided for residents. It goes on to suggest a minimum depth of 10.0 metres and not less than 25 square metres per resident, although lower standards, not specified, may apply to nursing homes.
20. From an inspection of the site plan I see that the depth of the rear garden area behind the proposed building would be some 34.0 metres or thereabouts and the width approximately 10.6 metres. This would give an area of approximately 24.0 square metres or so per resident, excluding any additional amenity space that may also be available to the front.
21. I appreciate that the new home would straddle the existing boundary and there would be a marginal loss of amenity space to the existing nursing home. In my judgement, and as there is no evidence before me to suggest that even a marginal loss of amenity space to the Rottingdean Nursing Home would be detrimental, I conclude in respect of the fourth main issue that the proposal would provide adequate amenity space, given that the proposal is for a nursing/care home where a lesser standard than 25.0 square metres is considered acceptable. The proposal therefore accords with the objectives of LP Policy HO11.

Other matters

Travel demands

22. The Council's Traffic Manager, when consulted at the application stage, indicated that he had no objection to the proposed development subject to the secure, covered and lit cycle parking and the vehicle parking provision shown being provided before occupation. The local planning authority indicated that although a design was not before them for cycle parking, there were opportunities within the site for this to be provided. This matter could therefore be addressed by condition. From what I have seen and read I have no reason to reach a contrary conclusion.
23. The Traffic Manager, however, went on to request, by way of a section 106 agreement, a sum of £10,000.00 as a contribution towards accessibility to bus stops, pedestrian facilities and cycling infrastructure in the area of the site. The appellant has indicated in his evidence that he is agreeable to making a contribution on the basis of a fair assessment.
24. My attention has been drawn to Policy QD28 which sets out various aims but does not show how the contribution requested was calculated. 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, at paragraph B35 it indicates that "*standard charges and formulae should not be applied in blanket form regardless of actual impacts*".
25. Although some additional facilities might arise, in direct proportion to the population increase resulting from the development, the local planning

authority has not shown why the contribution is necessary or, to my mind, provided adequate justification for such a requirement as a result of this proposal. Indeed the provision of accommodation for an additional 15 residents may well result overall in the need for less travel more generally within the area. It would therefore seem to me that there is no certainty that the required contribution fairly and reasonably relates in scale and kind to this development. The weight that I can give this consideration is therefore reduced.

26. As the Council has not shown how the need for new facilities directly arises from this proposal, I cannot conclude in respect of this issue that the proposal would necessarily conflict with LP Policy QD28.

Acceptable standards of sustainability

27. LP Policy SU2 states that planning permission, subject to other policy considerations, will be granted for proposals which demonstrate a high standard of efficiency in the use of energy, water and materials. The policy goes on to require the applicant to demonstrate how the design has addressed a number of factors including reduced fuel use, greenhouse gas emissions, etc.
28. From the appeal papers I see that the appellant completed a sustainability checklist and submitted this with the application. I agree with the Council that this is limited and does not address in a satisfactory manner the requirements of LP Policy SU2. Nevertheless, in my opinion the Council, having regard to the benchmark status attributed to this policy, might have been more proactive in seeking the detailed information required.
29. I note from the appellant's evidence that it is his intention that the development would be sustainable and in this respect lists a number of features proposed. I accept that the drawings show a building that would be naturally lit and ventilated. However, having regard to the requirements of the policy, details of these measures, some of which are fundamental to the building's design, should form an integral part of the design submission and not be considered as an adjunct to it, even at the planning application stage. I therefore find in respect of this issue that the appellant has failed to demonstrate that the development would meet acceptable standards of sustainability. The proposal therefore does not accord with LP Policy SU2.
30. I have seen the print out of the Council's standard online checklist which I believe was completed by the appellant after determination of the application. However, to my mind, this checklist, whenever submitted, is in my judgement insufficient to show how the design would meet the high standard of efficiency which is the overriding concern of the policy.

Construction waste minimisation strategy

31. LP Policy SU13 requires development proposals to show that regard has been given to the minimisation and reuse of construction waste and appears to have similar objectives to the requirements of the Site Waste Management Plans Regulations 2008 (SWMPR).

32. The appellant has carried out an initial assessment and sets out a number of key objectives. This has gone some way towards meeting the requirements of the policy. My attention has been drawn to a supplementary planning document *Construction and Demolition Waste*. I appreciate that this calls for significantly more detail than that provided with the proposal. However, it is not clear that this document has been the subject of any form of public consultation. Accordingly, I can afford it only limited weight.
33. Having regard to the likely cost of this project I believe that it would fall within the scope of the SWMPR which would in any event require a full and detailed SWMP to be in place before any work begins. Accordingly, and while having regard to the introduction of the Regulations in April 2008, it seems to me that it would now and in these particular circumstances be reasonable to condition this matter, requiring the SWMP to be submitted to and approved by the Council before work commences.
34. I conclude in respect of this matter that although the appellant has provided only limited detail the aims of Policy SU13 could be addressed by a suitably worded condition.

Conclusions

35. I have concluded that although the proposed development would result in the loss of a dwelling, overall it would in these circumstances nevertheless meet the aims of the development plan by providing additional residential accommodation. The development would provide adequate amenity space for future residential occupiers. I have also found that by condition the construction waste minimisation strategy could be satisfactory met. Finally, I am not convinced that the financial contribution sought fairly and reasonably relates in scale and kind to the proposed development. However, I consider that the proposal would harm the character and appearance of the area and be detrimental to the living conditions of neighbouring residential occupiers. Further, the appellant has failed to demonstrate that the development would meet acceptable standards of sustainability. To my mind these are compelling objections and therefore for these reasons and having regard to all other matters raised, I conclude that the appeal should not succeed.

Philip Willmer

INSPECTOR