



Appeal Decision

Site visit made on 24 November 2009

by **Elaine Benson BA (Hons) Dip TP MRTPI**

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/09/2108911

Land adjacent to 16 Robins Court, Clarke Avenue, Hove, East Sussex BN3 8GA

- 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 Mrs Annalisa Saxby against the decision of Brighton & Hove City Council.
- The application Ref BH2009/00078, dated 13 January 2009, was refused by notice dated 30 March 2009.
- The development proposed is construction of new 2 bed detached dwellinghouse with amenity space and off street car parking.

Procedural matter

1. The Council's 4th refusal reason relates to highway safety issues arising from the proposed parking of three vehicles on the appeal site. Further information on this matter was provided by the appellant on drawing 2.02, which shows a revised layout of two parking spaces and a turning area. The Council has subsequently withdrawn its objection this basis. I am satisfied that the revised parking arrangements would not increase danger to highway users and pedestrians and that there would be no conflict with saved policy TR7 of the Brighton and Hove Local Plan (Local Plan). I have therefore focussed on the other main issues in my decision.

Decision

2. I dismiss the appeal.

Main issues

3. The main issues in this case are: i) the effect of the proposed development on the character and appearance of the surrounding area; ii) whether it would provide adequate garden space for future occupiers; and iii) its effect on the living conditions of neighbouring occupiers.

Reasons

4. The appeal site is land located between the adjoining gardens of maisonettes at the junction of Clarke Avenue with Downland Drive and those on the corner of Downland Drive and Poynings Drive. It includes a grassed area which extends to the edge of the pavement, with an incomplete low boundary wall enclosing it. Although the Council describes this as communal land, it appears to be the former side garden of 16 Robins Court and the front garden of 2 Downland Drive; this is confirmed by the appellant. Part of the site has been used for car parking. On the opposite side of the road is a similar grassed area which forms

- the front gardens of 3 properties. The proposed chalet bungalow would face onto Downland Drive and would incorporate the area to the front of the house as its amenity space and a parking and turning area for the new property and No 16.
5. Within the locality homes are generally set within spacious plots and have front and rear gardens. Although the size of the appeal plot might be similar to others in the area, from what I saw none of these rely on the frontage area in the same way as indicated in this appeal proposal. The side and rear walls of the proposed bungalow would extend to within about 1m of the boundaries. Its overhanging eaves would extend to the rear boundary line and beyond the line of the front wall of 2 Downland Drive and the wall dividing its front and rear gardens. This would result in the almost total coverage of the site area behind the existing building line.
 6. I conclude that the proposed site coverage would be excessive and out of character with its surroundings, also restricting the outlook from the side and rear ground floor windows. Moreover, the need to incorporate the garden space to the front of the site to provide the only usable amenity space also demonstrates that the proposal would result in a cramped form amounting to an overdevelopment of the site. Given the limitations I have set out, I do not consider that the scheme could be described as exhibiting a high standard of design which could justify a density higher than those found in the locality, as is exceptionally permitted by saved policy HO4 of the Local Plan.
 7. The area surrounding the appeal site is of mixed character and comprises maisonettes, houses and bungalows of varied design and scale. Therefore in general terms I consider that a development which does not reflect the scale or design of its immediate neighbours would not necessarily be out of keeping. However, structures in garden areas similar to the appeal site are small in scale and single storey. I find that the height and mass of the proposed development in this location and its upper level projection beyond the walls of No 2 Downland Drive would appear incongruous and out of character in this locality. It would not integrate with the street scene. Furthermore, although I accept the appellant's argument that a hedge could be planted on the frontage whether or not the proposed bungalow is constructed, I consider it unlikely. In my view the loss of the longstanding undeveloped and open appearance of this frontage area, which is reflected on the opposite side of the road, would further harm the character and appearance of the locality.
 8. Turning to the second main issue, the size of garden areas is to some extent a matter for the developer and the future occupier. However, the proposed development is for a house and having regard to its size and layout I consider it to be suitable for occupation by a family. The appellant would have no control over future residents or their family circumstances, including whether they might spend a large part of the day in their home environment. It is important to achieve appropriate living conditions for future occupiers and in this case I consider that a reasonable area of usable private amenity space is necessary, as required by saved policy HO5 of the Local Plan. There would be insufficient space between the house and its rear and side boundaries to constitute usable private garden space and the only garden area proposed would be at the front of the dwelling. I consider that a garden in this location

- would be unacceptable sited so close to the road frontage and would be insufficiently private to comply with the Council's policy.
9. On the final issue, in my view the height and siting of the bungalow would not result in a loss of light to neighbouring homes or gardens. However, it would be clearly visible above the height of the garden boundaries and when combined with its proximity to the rear gardens would be visually obtrusive and have an overbearing effect on the occupiers of the properties to both sides and the rear. As a result, the quality of their gardens would be reduced. The appellant suggests that an amendment to the height of the rear rooflights would prevent the overlooking of neighbouring gardens which would be significant because of the absence of a rear garden for the bungalow. Whilst I agree that amendments could be undertaken and controlled by a suitably worded condition to improve the relationship with neighbouring properties, this approach would not be acceptable as it would also result in an unsatisfactory change to the lighting of the bedroom concerned and there would be no outlook from the window.
 10. Although the proposal would represent a more efficient use of the land for housing purposes, this would be outweighed by the harm that the bungalow would cause to the visual quality of the environment in conflict with saved policies QD1, QD2 and QD3 of the Local Plan and the living conditions of neighbouring properties in conflict with saved policy QD27.
 11. The appellant has referred to a number of properties in the area, including on Clarke Avenue and Sunninghill Avenue which she considers are similar to the appeal proposal. From what I saw, the bungalows and other developments identified are within larger plots, do not have the same constraints as the appeal before me and are therefore not directly comparable this scheme. Furthermore, I do not have the full details of their planning background.
 12. I have also considered the appeal decisions referred to by both parties. The appeal reference APP/Q1445/A/08/2060826 at land adjacent to 148 Valley Drive, Brighton relates to an outline application for a house with most matters reserved and is therefore fundamentally different from the appeal proposal. Furthermore, the site context and relationship with neighbouring properties is significantly dissimilar to the proposal before me and I have given it little weight. Although referred to, the appellant did not provide a copy of the appeal decision reference APP/D3830/A/07/2043634 and the Council therefore did not have the opportunity to comment on this case. Nevertheless, I note that the site in East Grinstead falls under the control of a different local planning authority and would be subject to local policies. In the absence of the full details of the case I have also given this appeal little weight.
 13. I have reached my conclusions based on the site specific considerations set out above and have had regard to all other matters raised. However, they do not outweigh the considerations I have set out. For the reasons given above I conclude that the appeal should be dismissed.

Elaine Benson

INSPECTOR