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# Appeal Decision

Site visit made on 15 November 2010

**by Joanna C Reid BA(Hons) BArch(Hons) RIBA**

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

**Decision date: 6 December 2010**

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## **Appeal Ref: APP/Q1445/A/10/2131348**

### **9 Wilmington Close, Brighton BN1 8JE**

- 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 Alan Blackburn against the decision of Brighton & Hove City Council.
  - The application Ref BH2009/02660, dated 3 November 2009, was refused by notice dated 30 December 2009.
  - The development proposed is 1 x single storey detached dwelling.
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## **Decision**

1. I dismiss the appeal.

## **Main issues**

2. The main issues are the effect that the proposal would have on the character and appearance of the surrounding area, and on the living conditions of the occupiers of 8 and 9 Wilmington Close with regard to outlook, daylight and sunlight, overlooking and privacy, and the occupiers of 9 Wilmington Close with regard to useable private amenity space.

## **Reasons**

### *Character and appearance*

3. National policy in Planning Policy Statement 3: *Housing* (PPS3) was revised by the Government in June 2010. Private residential gardens were removed from the definition of previously-developed land, and the national indicative minimum density was deleted. Whilst saved Policy QD3 of the *Brighton & Hove Local Plan* (LP) seeks the efficient and effective use of sites, these more recent changes to PPS3, which seek to prevent inappropriate developments on garden land, and which recognise the contribution of gardens as an environmental asset, are material considerations in this appeal.
4. The appeal site is an irregularly-shaped piece of land that has been subdivided from the residential garden of the semi-detached dwelling at 9 Wilmington Close. It is at the south end of Wilmington Close where the ground levels rise steeply towards the back of the site. The appellant also has an interest in the attached semi-detached dwelling at 10 Wilmington Close which includes a similarly subdivided plot.
5. The development in Wilmington Close is characterised by pairs of semi-detached dwellings on the east side and at the south end of the road.

Because of the steeply sloping topography most of the dwellings are sited above the level of the road and they share a strong and consistent building line. Their mainly long back gardens rise up behind them and back on to the similarly long back gardens of dwellings in Highfield Crescent. The spaciousness in their front and back gardens, and in the gaps between the pairs of dwellings which become more spacious towards the end of the cul-de-sac, contribute positively to the suburban character in the street scene in Wilmington Close, and to the character and appearance of the wider area. There are a number of low-key dwellings on the west side of the road which are mainly single-storey facing the road. These are closer to the road and set in shallower gardens which would seem to have been subdivided from the back gardens of dwellings in Greenfield Crescent. However, other than the spaciousness above their roofs, they do not contribute in a positive way to the street scene in Wilmington Close or to the character and appearance of the locality.

6. The proposal includes an irregularly-shaped single-storey dwelling which would be sited further from the road than, and at an angle to, the dwelling at 9 Wilmington Close. It would have a poor and unneighbourly relationship with the surrounding dwellings because of its minimal frontage to the road and its set back siting. Because it would be close to the back of the site and close to its side boundary with 8 Wilmington Close, the dwelling would look cramped and squeezed in. Its alien form and its incongruous siting would contrast starkly with the form and rhythm of most of the semi-detached dwellings in the street. Its substantial height above the road, and its unacceptable intrusion into the important spaciousness between 8 and 9 Wilmington Close would harm the street scene in Wilmington Close, and the character and appearance of the locality. Because the dwelling would unacceptably disrupt the pattern of development, it would fail to emphasise and enhance the positive qualities of the local neighbourhood.
7. The subdivision of the gardens at 9 Wilmington Close and at 10 Wilmington Close has left these dwellings with small back gardens which are out of keeping with their surroundings. The more intensive use of the resulting back gardens at the appeal site and 9 Wilmington Close, and the associated domestic paraphernalia in them, from 2 dwellings where there had been one before, would also be at odds with the larger gardens which contribute positively to local distinctiveness. Whilst the single-storey dwellings on the west side of the street have fairly small back gardens, these developments do not contribute positively to the street scene in Wilmington Close or to the wider townscape.
8. A Certificate of Lawfulness, ref BH2009/01460, was approved in August 2009, which would allow the construction of a building of a similar size to the dwelling within the same plot for use as a garage/gym/sauna ancillary to the living accommodation of 9 Wilmington Close. However, from the appellant's plan, its orientation and siting would differ from the proposal before me, so it would not have the same impact on the street scene as the proposed dwelling. In addition, it would not require the plot to be subdivided, with the consequent loss of local distinctiveness that I have found.
9. It is not disputed that there are relatively few developable areas within the city, and that some occupiers do not require large gardens, but these are not sufficient reasons to allow this harmful development. I consider that the proposal would harm the character and appearance of the surrounding area. It would be contrary to saved LP Policies QD1, QD2 and QD3.

### *Living conditions*

10. The dwelling would be cut into the ground by about a metre, so its ridge height would be broadly similar to the ridges at 8 and 9 Wilmington Close, and the site boundaries would include fences about 1.8m high. Because of its scale, its single-storey height, its low pitched roofs, and its siting, the proposal would not be so overbearing or so oppressive that it would harm the living conditions of the occupiers of 8 or 9 Wilmington Close with regard to outlook. For the same reasons, the proposed dwelling would not cause a harmful loss of daylight or sunlight, or overshadowing, which would harm the living conditions of the occupiers at 8 or 9 Wilmington Close.
11. For the same reasons, and due to the orientation of the windows in the dwelling, and the height of the boundary fences, the occupiers of the proposed dwelling would not unacceptably overlook the occupiers of 8 and 9 Wilmington Close in their homes. The ground levels in the nearest parts of the proposed back garden could be reduced to prevent unacceptable overlooking of the back of the dwelling and the back garden at 9 Wilmington Close. I have found that the small back gardens at 9 and 10 Wilmington Close are out of keeping with the character and appearance of the surrounding area. However, the back garden at 9 Wilmington Close is not so small that it would harm the occupiers' living conditions due to insufficient private amenity space.
12. I consider that the proposal would not harm the living conditions of the adjoining occupiers at 8 and 9 Wilmington Close, with regard to outlook, sunlight and daylight, overlooking and privacy, and that it would not harm the living conditions of the occupiers of 9 Wilmington Close with regard to useable private amenity space. It would satisfy saved LP Policies QD15 and QD27.

### **Conclusions**

13. In reaching my conclusions I have had regard to my colleague's decision, ref APP/Q1445/A/07/2056523. I do not have the drawings for that scheme, but I note that it was for a 2-storey dwelling at 10 Wilmington Close, so it differs in its details from the proposal before me, which I have, in any case, dealt with on its merits.
14. I have found that the proposal would not harm the living conditions of the occupiers of 8 and 9 Wilmington Close, with regard to outlook, sunlight and daylight, overlooking and privacy, and that it would not harm the living conditions of the occupiers of 9 Wilmington Close with regard to useable private amenity space. In these regards it would satisfy local and national policy. However, this would be substantially outweighed by the harm that the proposal would cause to the character and appearance of the surrounding area, which is a compelling objection to the scheme. It would be contrary to local and national policy in this regard. For the reasons given above and having regard to all other matters raised, the appeal fails.

*Joanna C Reid*

INSPECTOR

