



Appeal Decision

Site visit made on 4 August 2011

by J O Head BSc(Econ) DipTP MRTPI

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

Decision date: 19 August 2011

Appeal Ref: APP/Q1445/A/11/2149876

10 Wilbury Road, Hove, East Sussex BN3 3JN

- 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 Paul Hazeldine (HR Investments) against the decision of Brighton & Hove City Council.
 - The application Ref BH2010/02108, dated 9 July 2010, was refused by notice dated 27 October 2010.
 - The development proposed is the demolition of 8 no. garage units situated to the rear of 10 Wilbury Road and construction of 2 no. new single-storey residential units.
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Decision

1. **The appeal is dismissed.**

Main Issues

2. No 10 Wilbury Road is a substantial Victorian villa, used as 9 flats, within the Willett Estate Conservation Area. The main issues are whether the proposed development would preserve or enhance the character or appearance of the conservation area; and whether adequate living conditions would be created for the future occupiers of the proposed residential units, with particular reference to outlook, natural light and privacy.

Reasons

Character and appearance

3. The appeal property is situated on the east side of Wilbury Road, which retains many of its characteristic Willett houses. The existing block of 8 garages is situated on the rear boundary of No 10 and is noticeable from the street only at the gap between Nos 10 and 12. There are garages in a similar position at the rear of Nos 4 and 24 and an extension at No 32 but, apart from these, buildings in the rear gardens are not a characteristic feature of this part of the Conservation Area. The garden area between the rear of the properties in Wilbury Road and those in Selborne Road is generally well vegetated, with a number of mature trees, which enhances the setting of the houses.
4. The existing block of garages is utilitarian in appearance and appears to be unused. Car parking for the existing flats at No 10 is accommodated in the

- remainder of the former rear garden area which, with the exception of a small planted strip adjacent to the boundary wall with No 12, is hard surfaced. This situation would not change as a result of the appeal proposal. The existing tree in the planted strip would be retained and a further small planting strip would be formed in front of the proposed building.
5. Since it would replace the existing garage block and would not increase its footprint, the proposed building would not result in any overall expansion of built development in the rear garden area. Although of an uncharacteristic form for the Conservation Area, the building, which would be of contemporary design, would be well proportioned and detailed, with a flat roof only a little higher than that of the existing garages. The proposed "green" roof surface would soften the appearance of the development when viewed from the upper windows of surrounding dwellings and would go a little way towards offsetting the lack of vegetation at the rear of the appeal property. It would have little impact on the street scene in Wilbury Road. Subject to agreement on the use of a suitable colour and texture of brickwork (which could be the subject of a condition if the appeal were to be allowed), the proposed building would be of a suitably high standard of design to meet the requirements of Local Plan Policies QD1, QD2, QD3 & HE6. It would represent a visual improvement in comparison to the existing garage block and would, at the least, preserve the character and appearance of the Conservation Area.
 6. The proposal includes the erection of a recycling store and a cycle store for the occupiers of the existing building at No 10. Subject to details of design, the recycling store could be an improvement on the existing storage of boxes in the open to the left of the driveway, where they are on view to passers-by and create harmful visual clutter. The cycle store would occupy an area on the south side of the existing house, adjacent to the boundary with No 8 Wilbury Road and extending to the front elevation of the house. That area is currently undeveloped, apart from the small boiler room attached to the south-east corner of the house, and provides a green gap between the buildings that is visible from the street. Its enclosure with a cycle store, sited as proposed, would not meet the requirements of Policy HE6. It would harm the street scene and would fail to preserve the appearance of the Conservation Area.

Living conditions

7. Moving to the second issue, Local Plan Policy QD27 indicates that planning permission will not be granted for any development where there would be material nuisance and loss of amenity to proposed residents. Although much of the lighting to the interior of the proposed dwellings would be from clerestorey windows, the bedrooms would have main windows facing onto the car parking area and separated from it only by a small planting bed. This would result in a low level of privacy and potential for disturbance from noise and from car headlamps at night. Sound insulation and/or fixed glazing, as proposed, could minimise noise disturbance but, if obscure glass or shutters were to be used to protect privacy, an unacceptably claustrophobic internal environment would result. Whilst there are habitable room windows on the rear elevation of the existing house which face the car park, these are physically separated from it by the width of the sunken rear lightwell area and are also at a different level to those proposed. They are therefore less likely to suffer from these harmful impacts.

8. In contrast to the flats in the existing house, the proposed residential units would have some private external amenity space, in the form of a terrace or patio at each end of the building. Although the appellant says that this would exceed the standards set out in the Code for Sustainable Homes, the terraces would be only some 2.5 metres wide, providing a limited outlook from the patio doors of the living rooms onto the boundary walls of the adjoining properties. The space would be further restricted by the inclusion of a cycle and recycling store.
9. The site is also surrounded by large trees, most of which are in neighbouring gardens. The Council accepts that the construction of the building would cause no direct harm to the trees, in accordance with the details given in the appellant's Arboricultural Report. However, the trees would restrict light levels on the terraces and at the patio doors of the proposed building, particularly in the case of the north-facing unit which would have little, if any, direct sunlight and would be likely to appear gloomy. The Elm tree on the appeal site, which would be close to the north-facing terrace, could be thinned and/or crown lifted to allow some additional daylight, but the extent of such work would be constrained by the need to protect the value of the tree as a visual amenity in the Conservation Area. The same would apply to any work to trees in surrounding gardens and the presence of the proposed residential units might well result in pressure for such work in the future as tree cover increases.
10. Overall, the constraints of the site would result in the proposed residential units having a poor standard of outlook, natural light and privacy. This would conflict with Policy QD27 and would not create adequate living conditions for the future occupiers if the dwellings.

Overall conclusion

11. The appeal site is in an urban area where residential development is acceptable in principle. The architectural design of the proposed residential units would be of a high standard and the building could result in a visual improvement to the Conservation Area. The proposed cycle storage facility would, however, be harmful to the street scene and the Conservation Area. The appellant has suggested that a split decision could be issued if the proposal is otherwise satisfactory. However, in view of the conclusions on the second issue, above, that is not the case.
12. The harm caused by the inadequate living conditions that would be created for the future occupiers of the residential units, together with the visual impact of the proposed cycle store, are sufficient to outweigh the benefit to the Conservation Area from replacing the garages with a building of better design. Accordingly, the proposed development is unacceptable and the appeal does not succeed.
13. In reaching that conclusion, account has been taken of the representations made by interested persons. Although the proposed building would be higher than the existing, the impact that this would have on the rear boundary wall of No 11A Selborne Road would have a minimal effect on the amenity value of the garden. Bearing in mind the design and use of the proposed building, the development would be unlikely to cause any unusual noise and disturbance in this residential area. No alteration to the existing car parking area is proposed,

other than a formalisation of the existing parking spaces, and the site is in an area subject to a controlled parking regime.

John Head

INSPECTOR