



# Appeal Decision

Site visit made on 30 August 2011

**by Ann Skippers BSc (Hons) MRTPI**

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

**Decision date: 22 September 2011**

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**Appeal Ref: APP/Q1445/A/11/2152805**

**Land to the rear of 62 Bevendean Crescent, Brighton, East Sussex BN2 4RA**

- 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 Newman against the decision of Brighton and Hove City Council.
  - The application Ref BH2010/02021, dated 30 June 2010, was refused by notice dated 18 November 2010.
  - The development proposed is '2 new semi-detached houses on land to the rear of 62 Bevendean Crescent including associated cycle and refuse storage areas'.
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## Decision

1. The appeal is dismissed.

## Main Issues

2. There are three main issues in this case. The first issue is the effect of the proposal on the character and appearance of the area and the setting of the adjacent South Downs National Park. The second is whether the proposed access and parking provision is acceptable. The third issue is the effect on the living conditions of the occupiers of No 62 Bevendean Crescent with particular regard to noise and disturbance.

## Reasons

3. The site lies within the built-up area boundary within an established area of residential development close to local amenities. As such there is no objection in principle to development on the site. The proposal is for a pair of semi-detached, three bedroomed properties of a contemporary modernist design.
  4. No 62 is an end of terrace property with a spacious corner plot. The properties in this area have a distinctive pattern and a regular building form and line with gardens forming a boundary with the South Downs National Park (SDNP) as it curves into the area wrapping around the pockets of the existing built-up area, effectively separating two areas of residential development on this estate and The Avenue in a narrow 'finger'. There is a very clear and distinctive edge to the residential areas with the generally long gardens with mature vegetation and trees providing separation between the built-up and countryside areas.
  5. Whilst the appellant indicates that the plot has already been sub-divided, the block plan shows the subdivision of No 62's original area into three plots. The
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- proposed units would be sited into the garden area far beyond the existing building line and whilst I concur with the Council's view that the street frontage would not be adversely affected, the siting of such a large building, with a far larger footprint than those buildings nearby, in this area would be at odds with the prevailing pattern and grain of development.
6. In addition, No 62 would retain a particularly small area of garden, far smaller than any of its neighbours and although I accept that these corner plots have larger gardens than those around them, the particularly small size of the garden retained for No 62 would be uncharacteristic of the area.
  7. A footpath runs along the edge of the built-up area giving access to and from the SDNP. The area is well treed with mature vegetation. The South Downs Society consider that subject to the retention of the existing tree coverage and new planting, the visual impact of the scheme would be minimal. In contrast the SDNP Authority considers that the setting of the SDNP would be harmed. I walked a considerable distance in the area after the site visit, including up the stepped footpath accessed from The Avenue. It would be difficult to obtain more than long distance glimpses of the proposed new development from within the SDNP because of the trees and land levels. However, the proposed houses would be very close to the rear boundary, footpath and the SDNP introducing built development into the soft urban edge. This would reduce the important visual separation between the built form and the SDNP as the new dwellings would be seen from close up views despite the tree coverage because of the change in land levels and this would harm the setting of the SDNP.
  8. On the first issue, the proposal would have a harmful effect on the character and appearance of the area and the setting of the adjacent SDNP. This would not accord with Policies QD1 and QD2 of the Brighton and Hove Local Plan (LP) 2005 which, amongst other things, require development of a high standard of design which takes account of local characteristics and makes a positive contribution to the visual quality of the environment and LP Policy NC8 which resists development within the setting of the SDNP if it would be unduly prominent in, or detract from views into, or out of the SDNP.
  9. Turning now to the second issue, at present there is an access alongside No 62 which serves a detached garage. This garage would be demolished as part of the proposal to enable access to be taken into the site providing parking for the new properties. The Council and a number of local residents have expressed concern about the suitability of the access and in particular its width. At the site visit, both parties agreed that the access has a width of 1.68m to the common boundary with No 60. The occupiers of No 60 have pointed out that this is not a shared driveway and that they take access to a garage and also use their driveway for parking. It is clear that this access is of insufficient width to provide vehicular access for average sized cars into the site.
  10. So although one parking space for each of the new dwellings is shown on the plans, the usability of proposed access to this parking area is in some doubt as I have identified above because of its narrow width. Furthermore, no replacement parking for No 62 would be provided and this adds to my concerns about the proposal. Therefore despite the provision of cycle storage which is to be welcomed, the proposed access would not be suitable or appropriate for the development and this would result in inadequate parking provision. This would

not accord with LP Policies TR1 and TR19 which seek to ensure that the development provides for the travel demand it creates and complies with the Council's parking standards.

11. With regard to the third issue, the access would run along the side of No 62 as it does now. The land levels are such that No 62 and its two side windows are at a higher level than the access. However, the access would be extended, running the full length of the retained and uncharacteristically small garden area for No 62 and would be used by two additional properties. It would also be the only way to reach the new dwellings. Notwithstanding the narrowness of the access, if it was used for vehicles, the proposal would introduce traffic together with other movements close to these side windows and along the garden area where the occupiers might reasonably expect some peace and quiet. The parking area would be close to the boundary too. There is little opportunity for any boundary treatment or landscaping. Therefore the proposal would harm the living conditions of the occupiers of No 62 with particular regard to noise and disturbance. This would not accord with the objectives of LP Policy SU10 which seeks to minimise the impact of noise on the occupiers of neighbouring properties.

### **Other Matters**

12. The Council objects to the proposal as it would not achieve level 5 of the Code for Sustainable Homes (CfSH). LP Policy SU2 states that permission will be granted for proposals which demonstrate a high standard of efficiency in the use of energy, water and materials. Supplementary Planning Document (SPD) 08 *Sustainable Building Design* has been adopted by the Council and sets out various recommendations including the need for schemes of this nature to achieve CfSH level 5. The appellant points out that this exceeds current building regulations and could only be a requirement if contained in a development plan document and points to a number of appeal decisions which support his stance. The Code is voluntary and the Supplement to Planning Policy Statement (PPS) 1 *Planning and Climate Change* makes it clear that any local requirements, such as this, must be set out in a development plan document rather than a SPD. Given this, and the appellant's confirmation that the development would meet level 3, had the appeal been allowed it would have been reasonable to require the scheme to achieve level 3 through the imposition of a condition.
13. I have also had regard to the advice in PPS1 *Delivering Sustainable Development* and PPS3 *Housing*. Since the changes to PPS3, the appeal site is no longer defined as previously developed land. That said PPS3 indicates that efficient and effective use should be made of land, but both PPSs make it clear that development which is inappropriate in its context or which fails to take the opportunities available for improving the character and quality of the area should not be accepted.
14. Accordingly, for the reasons given above and having had regard to all other matters raised, the appeal should be dismissed.

*Ann Skippers*

INSPECTOR

