



# 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/11/2151330**

**81-89 Beaconsfield Road, Brighton, East Sussex BN1 6DD**

- 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. Mark Leach of John Leach Properties Ltd against the decision of Brighton and Hove City Council.
  - The application Ref BH2011/00067, dated 6 January 2011, was refused by notice dated 21 March 2011.
  - The development proposed is 'erection of terrace of 4 No. 2 bedroom houses on garage site at 81-89 Beaconsfield Road, Brighton, East Sussex, BN1 6DD (including demolition of garages)'.
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## Decision

1. The appeal is dismissed.

## Main Issues

2. There are three main issues in this case:
  - the effect of the proposal on the character and appearance of the area including the nearby Preston Park Conservation Area
  - whether the proposal would provide satisfactory living conditions for future occupiers with particular regard to daylight and sunlight and the provision of amenity space and
  - the effect of the proposal on a preserved beech tree on the adjoining site.

## Reasons

### *Effect on character and appearance*

3. The site is located on the western side of Beaconsfield Road, a major route to the city centre. The site comprises five garages and has an irregular shape, backing onto a storage/garage building which has a lower land level and a car park serving properties on Stanford Avenue at the rear. To the south is a row of commercial properties with residential above. This part of this wide road is very busy with one way traffic, on-street parking and a mix of styles of properties and uses adding to the area's hustle and bustle.
  4. It is proposed to demolish the garages and construct a terrace of four, two bedroom dwellings. The dwellings would be two storeys above ground level
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and three of the units would have an additional lower ground floor. There is little doubt that the site is suitable for redevelopment and the removal of the existing garages would do much to enhance the character and appearance of the area. The building's form, scale and design would enhance the locality and would preserve and enhance the setting of the nearby Preston Park Conservation Area.

5. However, the proposal would leave little space around the built form effectively filling the site with the creation of four units which as I go onto explain would not provide acceptable living conditions for future occupiers. This leads me to conclude on this first issue that despite the desirability of redevelopment and the design of this scheme, it would result in overdevelopment of the site. This would not accord with Policy QD3 of the Brighton and Hove Local Plan (LP) 2005 which seeks efficient and effective use of sites and, amongst other things, an appropriate intensity of development to be incorporated.

*Effect on living conditions of future occupiers*

6. With regard to the lower ground floor, a daylight assessment has been submitted at the appeal stage. The assessment confirms that the proposed light reaching the lower ground floor would be acceptable so long as the accommodation is 'enhanced with the provision of supplementary electric lighting'. There is little doubt in my mind that the decking areas and windows to the three units' kitchen and living areas would be hampered by a lack of daylight and sunlight given the context of the site, the buildings and trees around it and its orientation. Although the appellant draws my attention to another development at No 17 The Upper Drive to illustrate that this situation is typical in Brighton and that light wells present a common solution, the context for this particular site is different and in any case each application and appeal must be considered on its own merits.
7. In addition the outlook from windows at both the lower ground and ground levels would be rather gloomy and limited by the site's configuration and the presence of the buildings and trees and car park on adjoining sites. This would result in a greater sense of enclosure on this awkwardly shaped and constrained site.
8. Furthermore, the amenity areas would be limited in size and scope particularly at lower ground floor level and particularly for unit 2. Even with the provision of amenity space at other levels for some of the units, the plan form for four units would result in awkwardly shaped and sized spaces of limited usability and voids. Although there is a park nearby, the proposed amenity space on the site is not of an appropriate size or standard for these two bedroom houses.
9. On this second issue, the number of units proposed and resultant layout would result in unacceptable living conditions for future occupiers with particular regard to daylight and sunlight and the provision of amenity space contrary to the objectives of LP Policies QD3, QD27 and HO5 which respectively seek to ensure that the intensity of development is appropriate to the locality, to protect amenity and provide appropriate private amenity area.

*Effect on the beech tree*

10. A large beech tree subject to a tree preservation order lies immediately to the north of the site. This tree, together with others in the area, makes an important contribution to the area and the setting of the nearby Preston Park Conservation Area. The arboricultural report submitted at the appeal stage rightly points out that the new building would be about a metre further away from the tree than the existing garage and a large area of hardstanding, which has probably restricted the root spread of the tree, would be removed. However, I am not convinced by the report's conclusion that this important tree would not be adversely affected by the proposal as construction work would necessarily take place very close to the tree.
11. In addition, the majority of the unit closet to the tree would be under its canopy and whilst generally tree protection and construction methods can be satisfactorily dealt with by conditions had I been minded to allow the appeal, anticipating the wishes of future occupiers of the proposed dwellings is always difficult. I consider that, particularly in relation to Unit 4, pressure may well occur at a later date to reduce or remove the tree because of its proximity to the building, amenity area and habitable room windows. This adds to my concerns about the future well-being of this tree.

**Other Matters**

12. The Council has also objected on the grounds that the proposal fails to demonstrate that the displaced parking demand from the loss of the garages and the demand created by the units will not have a detrimental effect on highway safety. In contrast the appellant considers the scheme will improve highway safety by removing the access onto a footway and busy road. It seems to me that the removal of the garages might result in some displaced parking need, but there is no evidence of this before me.
13. The Council require a maximum of six parking spaces in accordance with their policies and standards and point out that some street works would be necessary to deal with the existing crossovers and footway. I noted at the site visit the road was heavily trafficked and side roads congested. Therefore in the absence of any evidence or justification to the contrary, and noting the site's location outside the controlled parking zone, the lack of any parking for a scheme of four units would not accord with LP Policies TR1, TR7 and TR8 which seek to ensure developments provide for the demand for travel they create and do not increase the danger to highway users. This adds to my overall concerns about the amount of development proposed on this site.
14. The appellant has submitted revised plans during the appeal process to try and overcome one of the reasons for refusal relating to Lifetime Homes. The Council has had an opportunity to consider these plans and are of the view that the revised plans do not accord with the standard as required by LP Policy HO13. In reaching this decision I have had regard to these revised plans insofar as they relate to internal changes and notwithstanding the details shown on these revised plans had I been minded to allow the appeal compliance with the Lifetime Home standard could have been satisfactorily conditioned.

## **Conclusions**

15. There are a number of matters including the desirability of redeveloping this site and the design of this scheme which weigh in favour of the proposal. However, in carefully balancing the issues it is apparent that the harmful effect on the living conditions for future occupiers in respect of light and amenity area, together with the uncertainty over the future well-being of the preserved beech tree and the inadequate justification for, and lack of, parking provision in this location point to overdevelopment of the site and outweigh the positive benefits of the visual enhancement of the site.
16. For the reasons given above and having had regard to all other matters raised, the appeal should be dismissed.

*Ann Skippers*

INSPECTOR