



Appeal Decision

Site visit made on 19 September 2011

by **J O Head BSc(Econ) DipTP MRTPI**

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

Decision date: 13 October 2011

Appeal Ref: APP/Q1445/A/11/2153764

Land adjacent to 23 Alan Way, Brighton, East Sussex BN2 5PF

- 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 Greenplan (Construction) Ltd (now Greenplan Designer Homes Ltd) against the decision of Brighton & Hove City Council.
 - The application Ref BH2011/00423, dated 8 February 2011, was refused by notice dated 14 April 2011.
 - The development proposed is the erection of a detached two-storey residential dwelling.
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Decision

1. **The appeal is allowed** and planning permission is granted for the erection of a detached two-storey residential dwelling on land adjacent to 23 Alan Way, Brighton in accordance with the terms of the application, Ref BH2011/00423, dated 8 February 2011, subject to the conditions set out in the appended schedule.

Main Issues

2. The main issues are the impact of the proposed development on the character and appearance of the locality; and whether adequate amenity space would be provided for the future occupiers of the proposed dwelling.

Reasons

3. The appeal site is in a hilly location near to Brighton Racecourse. It comprises a triangular piece of land, with a frontage to Wiston Road, which is currently part of the side garden of the semi-detached house at No 23 Alan Way. Existing dwellings in the vicinity are a mixture of semi-detached and terraced 2-storey houses and bungalows of various designs and set at varying levels in relation to the roads. The appeal site is below the level of Wiston Road but at a significantly higher level than the adjoining parking area at the rear of Nos 28-36 Nuthurst Place.
4. The Council does not object to the detailed design of the proposed dwelling, which would be of traditional style and broadly reflective of the design and appearance of the properties in the surrounding area. The amended drawings submitted with the appeal show the roofs of the proposed first floor dormers to be hipped, rather than gabled as shown on the application plans. This would be a better reflection of the roof designs in the locality, particularly those in

Alan Way, and is a minor alteration that would not be prejudicial to the interests of any party. Compliance with the amended drawings could be ensured by condition if the appeal were to be allowed.

5. The proposed house would be seen primarily in the context of the development in Wiston Road and would have little impact on the street scene in Alan Way other than at the road junction, where it would appear set back from and lower than the semi-detached pair of houses at Nos 21 & 23 and would be an appropriate and unobtrusive termination to the development on the west side of the road. From the west along Wiston Road, the first floor and roof of the house would be prominent on the rising ground and above the car park and landscaping area of Nuthurst Place. There are, however, a significant number of trees and shrubs along the western boundary of the appeal site which would soften the appearance of the house. Although prominent, the proposed house would not appear out of keeping or unduly overbearing in relation to Nuthurst Place, nor would its siting appear incongruous in relation to the street scene in Wiston Road.
6. From the north, along Desmond Way, the appeal site is a terminal feature at the road junction. The proposed house would reduce its present openness. Nevertheless, because of the lie of the land and the siting of the house below the level of Wiston Road, the characteristic views across Brighton towards the sea from this end of Desmond Way would still be possible above and around the building. The proposed garden space to the front and side would be sufficient to provide an appropriate setting for the house and to prevent a cramped appearance in the street scene, whether seen in the context of Wiston Road, Desmond Way or Alan Way.
7. For these reasons, the proposed development would be of a sufficiently high standard of design to meet the requirements of Local Plan Policy QD1. It would make a positive contribution to the visual quality of the environment and would take proper account of the local characteristics as required by Policy QD2. There would be no harm to the character or appearance of the locality.
8. Turning to the second issue, the Council has no set standard for the provision of private amenity space, Local Plan Policy HO5 saying only that the provision of private useable amenity space in new residential development should be "appropriate to the scale and character of the development". The proposals show a private patio area to the rear of the house¹ and a triangular side garden of reasonable size, together with a small front garden that includes a car parking space. Although the whole of the frontage to Wiston Road can be overlooked from the higher level pavement, suitable landscaping or fencing within the site could ensure that part of the side garden could also function as private useable amenity space.
9. The data submitted by the appellant illustrates that the total area of amenity space to be provided around the building would exceed that of a number of the existing dwellings in Wiston Road and Nuthurst Place. Some existing dwellings in the vicinity also have small rear gardens and the majority of their amenity space to the front and side. The amenity space for the proposed dwelling would be well distributed around the building and the arrangement would not be an uncharacteristic one for the locality.

¹ Adjacent to the rear garden of No 23 and the landscaped area at Nuthurst Place.

10. To some extent, the quantum of external amenity space to be provided is a matter for the marketing judgment of the developer and the preference of potential occupiers of the dwelling. A certain minimum will, however, be necessary in order to ensure that adequate living conditions are created and that the character of the surroundings is not adversely affected. Subject to a landscaping condition, the appeal proposal would provide a level of private and useable amenity space that would be appropriate to the scale and character of the dwelling, in accordance with Policy HO5. Adequate living conditions would be provided for the future occupiers of the dwelling and the proposal would reflect the spatial standards that apply in the locality.
11. The Council's Traffic Engineer has no objection to the proposed access, car parking and cycle parking provision and it is agreed that the proposal would have no significant impact on neighbouring properties by way of overlooking or loss of light. As a private residential garden, the appeal site is no longer classified as previously-developed land and the proposed development would not contribute to the Government's target that 60% of new housing should be provided on such land. Nonetheless, the location is a reasonably sustainable one and the proposal would make efficient and effective use of the site without harming the character and quality of the surroundings. On the appellant's figures, which are not challenged, the density of development at the site would be well within the range already established in the surrounding area and the proposal would not represent overdevelopment or "town cramming". It would meet the requirements of Local Plan Policy QD3 and would make a small, but useful, addition to the city's housing stock. Subject to appropriate conditions, the proposed development is, accordingly, acceptable and the appeal is successful.
12. No conditions have been suggested by the Council or the appellant in the event that the appeal is allowed. Nevertheless, the conditions in the Schedule below are necessary in order to comply with statutory requirements, to cover the matters raised above and to ensure compliance with other policies of the Local Plan. Condition 1 is the statutory time condition. Condition 2 is to ensure that the development takes place in accordance with the approved plans (as amended), for the avoidance of doubt and in the interests of proper planning. To ensure a satisfactory appearance Conditions 3 and 4 require details of external materials and of the level of the ground floor of the building to be agreed. For the same reason and to address the matter of privacy in the side garden, Condition 5 deals with landscaping, fencing and boundary works. Conditions 6 & 7 are to ensure that refuse & recycling and car and cycle parking facilities are provided and maintained and that the refuse & recycling facilities have a satisfactory appearance. Condition 8 is in accordance with the Council's indication that achievement of Level 4 of the Code for Sustainable Homes would be acceptable for the development.

John Head

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) Except where amended in compliance with any condition below, the development hereby permitted shall be carried out in accordance with the following approved plans: TA 566/ – 01D; 02A; 03A; 04A; 05B; 10G; 11C; 12B; 13D; 14C; 15E; 16C.
- 3) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) No development shall take place until details of the ground floor level of the proposed building in relation to the levels of the surrounding land have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 5) Notwithstanding the details shown on Drawing No TA566/10G, no development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include hard surfacing materials; boundary works and any walls or fences within the site. All hard and soft landscape works shall be carried out in accordance with the approved details prior to the occupation of the dwelling, or in accordance with a programme agreed with the local planning authority.
- 6) No development shall take place until details of the proposed refuse and recycling store have been submitted to and approved in writing by the local planning authority. The refuse and recycling store shall be provided in accordance with the approved details before the dwelling is occupied.
- 7) The car and cycle parking facilities shown on Drawing No TA566/10G shall be provided before the dwelling is occupied and shall be kept available thereafter for their intended purpose.
- 8) The dwelling shall achieve Level 4 of the Code for Sustainable Homes and shall not be occupied until a final Code Certificate has been issued for it certifying that Code Level 4 has been achieved.
