



Appeal Decision

Site visit made on 7 October 2011

by **C J Leigh** BSc(Hons) MPhil(Dist) MRTPI

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

Decision date: 26 October 2011

Appeal Ref: APP/Q1445/A/11/2156094
9 Hillbrow Road, Brighton, East Sussex, BN1 5JP

- 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 BH2010/03549, dated 21 October 2010, was refused by notice dated 7 January 2011.
 - The development proposed is the erection of two dwelling houses with new access drive and associated parking.
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Decision

1. The appeal is dismissed.

Main issues

2. The main issues in this appeal is the effect of the proposed development on, firstly, the living conditions of adjoining occupiers with particular reference to outlook and, secondly, the character and appearance of the surrounding area.

Reasons

Living conditions

3. The proposed development would see a new house erected at the southern end of the appeal site (termed 'plot 2'). This is currently open garden land that is very steeply sloped, with the sloping land continuing southwards to the gardens of Valley Drive houses. As a consequence the houses along Valley Drive are set notably lower than the appeal site. The siting of the proposed house would be close to the boundary with those houses, and would be over 6m high and have a rear elevation of around 15.5m alongside the mutual boundary.
 4. I acknowledge the Valley Gardens properties have garden lengths greater than 25m. Whilst this is greater than might be expected in many urban situations, what is unusual in this case is the great drop in levels between the appeal site and the Valley Drive houses. This means that, despite the length of gardens, the provision of a sizeable house in the position shown so close to the northern boundaries of the adjoining gardens would lead to a very appreciable sense of overbearing and intrusion upon the gardens to the neighbouring properties: I viewed the appeal site from a number of those gardens and I am in no doubt that the proposed house would appear dominant and imposing to users of the garden, due to the impression of a tall and extensive wall of development
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looming over the gardens at a raised level. The provision of planting between the proposed house and the boundary, or on the walls of the proposed house, would not mitigate this harm, nor would existing planting and tree cover be sufficient mitigation.

5. It is from within the garden that this intrusive effect would arise: the distance once in the houses of Valley Drive themselves, and the limited views out of those houses towards the location of the proposed house, mean there would not be an undue impression of intrusion or overbearing within the houses.
6. The positioning of windows within the proposed house on plot 2 would not lead to any loss of privacy to adjoining occupiers.
7. The proposed house fronting Hillbrow Road ('plot 1') would continue the line of frontage development along the road. It would sit comfortably between two houses and adjoin a flank elevation of 11 Hillbrow Road that does not contain windows. The massing and relationship of the house to adjoining properties mean no overbearing impact upon residents would occur. The positioning of windows within the dwelling would not to any loss of privacy.
8. Certain aspects of the proposed development would not give rise to any harm to the living conditions of adjoining occupiers. However, the harm arising from the effect upon the outlook from the gardens to the Valley Drive properties represents a conflict in the scheme with the objectives of Policies QD1, QD2, QD3, QD27 and HO4 of the Brighton and Hove Local Plan 2005, insofar as they seek to provide for new development, including housing, that does not lead to harm to living conditions for existing residents.

Character and appearance

9. The site lies within the built up area boundary, as defined in the Local Plan, and development in such areas is considered by the Local Plan to be acceptable in principle, subject to compliance with relevant development plan policies. I have been referred to Policy QD3 of the Local Plan, which seek to make the more efficient and effective use of sites, and Policy HO4, which specifically seeks to make full and effective use of land for housing, and permits residential development at higher densities. It is clear from these policies and their supporting text that design and other development control issues are of principle importance in determining the acceptability of any proposals for higher density housing.
10. The proposed house on plot 1 would continue the pattern of frontage development along Hillbrow Road. The design would be subtle and modern, sitting comfortably next to the larger houses either side and responding well to the narrower plot width. There would be no harm to the character and appearance of the area arising from this proposed house.
11. The proposed house on plot 2 would be located in an area of garden between frontage development along Hillbrow Road and Valley Drive. This would represent a different pattern of development to that seen in the area. As a discrete piece of architecture, it is a well-designed modern building that would represent a clear later addition to the evolution of this part of Brighton. There would be limited views from public areas, and in those views the impression would be of an interesting contemporary addition, still set within considerable areas of garden space associated with the new houses on plots 2 and 1, the retained garden to 9 Hillbrow Road, and associated landscaping.

12. The higher density of development that would be achieved through the proposed development, and more effective use of the land for housing, would therefore exhibit high standards of design and architecture that would not harm the character and appearance of the area. Thus, the objectives of Policies QD1, QD2, QD3 and HO4 of the Local Plan would be satisfied, insofar as they relate to securing design of new development that is not harmful to the character and appearance of the surrounding area.

Conclusions

13. I have found in favour of the proposed development on the second main issue: the design, form and location of the two houses would be acceptable and not harm the character and appearance of the area. However, this does not lead to the automatic finding that there is not any harm to the living conditions of adjoining occupiers. For the reasons given on the first main issues I have found there is such harm. The resulting conflict with the relevant provisions of the cited policies of the Local Plan is sufficient to outweigh other findings in this appeal. The overall conclusion is therefore that planning permission should be withheld, and the appeal is dismissed.

C J Leigh

INSPECTOR

