



Appeal Decision

Site visit made on 25 October 2011

by Jessica Graham BA(Hons) PgDipl

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

Decision date: 15 November 2011

Appeal Ref: APP/Q1445/A/11/2154701

19 Shirley Drive, Hove, East Sussex BN3 6NQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr and Mrs P Sherman against the decision of Brighton & Hove City Council.
 - The application Ref BH2010/03875, dated 15 December 2010, was refused by notice dated 21 February 2011.
 - The development proposed is subdivision of the site and construction of a detached dwelling.
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Procedural matter

1. The application was submitted in outline, with details of access, layout and scale provided, but details of appearance and landscaping reserved for future consideration. My determination of the appeal has proceeded on that basis.

Decision

2. The appeal is dismissed.

Main issues

3. I consider the main issues to be the effect that the proposed development would have upon
 - (a) the character and appearance of the area; and
 - (b) living conditions at neighbouring properties, with particular regard to its impact upon privacy, and any increase in noise and disturbance.

Reasons

4. The proposed development would involve the subdivision of the grounds of No. 19, and the construction of a new house on land that currently forms part of the rear garden of the existing dwelling. The proposed house would be served by a new 2.5m wide access drive passing between the dwellings at Nos. 17 and 19.
5. The new house would be set down into the plot by some 2.5m, such that any public views of it through gaps between the existing dwellings would be very limited. However, the new entrance and access created to serve it would be apparent from Shirley Drive, and would clearly indicate its presence to the rear of the house at No. 19. The appellant contends that backland housing already forms part of the character of this section of Shirley Drive, since the Council

permitted this form of development nearby at Nos. 25 and 27. I saw at my site visit that notwithstanding those nearby developments, most of the properties on this part of Shirley Drive still have sizeable plots, with the dwellings generally set well back from the tree-lined road, opposite the Hove recreation ground. As a result, the area retains a pleasantly open and spacious character.

6. The proposed subdivision of the grounds of No. 19 would result in two plots that would be very much smaller than the majority of the neighbouring properties. This would be at odds with the prevailing pattern of development in the area, and in my judgment would have a significant and harmful impact upon its current spacious character. I note that the proposed ratio of built footprint to plot size at No. 19 would not be dissimilar to that which now subsists at Nos. 25 and 27, but nevertheless the plots themselves would be considerably smaller. I am not party to the balance of considerations that led to planning permission being granted for the additional dwellings at Nos. 25 and 27, but in my view the existence of backland housing on these two sites does not constitute any justification for permitting what I consider would be a harmful form of development at No. 19.
7. I conclude that the proposed development would conflict with the objectives of policies QD1, QD2 and QD3 of the Brighton and Hove Local Plan 2005, which seek to ensure that new development makes a positive contribution to the quality of the environment, taking account of local characteristics and incorporating an intensity of development appropriate to the locality.
8. National planning guidance set out at paragraph 71 of Planning Policy Statement (PPS) 3: *Housing* states that where local planning authorities cannot demonstrate an up-to-date five year supply of deliverable housing sites, planning applications for housing should be considered favourably. The Council is not currently able to demonstrate a 5 year supply, and so the favourable presumption in paragraph 71 of PPS 3 applies to this proposal. However, the advice in PPS 3 makes it clear that new development must still be in keeping with the spatial vision for the area, and must not undermine wider policy objectives. I consider that the visual harm that would be caused by the proposed development, and the ensuing conflict with adopted policies of the Local Plan, are at odds with the overall aims of PPS 3 and so outweigh any favourable presumption.
9. The proposed house would be set down into the plot such that only the upper storey would be above the existing ground level. It would also be set back from the south and east boundaries by 2m, and from the north boundary by 1.5m. Dense, mature boundary planting already provides a large amount of screening to and from neighbouring properties. There is scope for this to be enhanced by additional planting, and the future retention of an appropriate landscaping scheme could be secured by condition. The new house would be set a considerable distance from the facing windows of any existing dwellings, and while the disposition of its windows is a design detail that has been reserved for future consideration, I see no reason why this could not be achieved in a manner that would prevent any undue overlooking of the neighbouring houses and gardens, including the Rigden Road properties to the rear.
10. The proposed access arrangements would involve the movement of vehicles along the new drive between Nos. 17 and 19 Shirley Drive, and this would lead

to a small increase in the noise levels experienced at those properties. However, vehicular movements to and from the proposed new dwelling are unlikely to be vast in number, and given the short length of the drive, unlikely to be undertaken at speed. In the context of the existing noise levels of traffic using Shirley Drive, I do not consider the increase in noise or disturbance likely to arise from the proposed development would be so great as to cause any significant harm to living conditions at Nos. 17 and 19.

11. I therefore find that the proposal would accord with Policy QD27 of the Local Plan, which requires that new development should not cause any material loss of amenity to existing residents.
12. The Council's third reason for refusal centred upon its concern that construction of the proposed new access could have such an adverse effect upon the stability of an existing street tree as to be detrimental to public safety. The appellant subsequently provided an Arboricultural Method Statement, compiled by a professional arboriculturist, which advised that if the new crossover was formed by hand excavation and utilised a porous cellular confinement system, it would not adversely affect the stability or longevity of the mature elm in question. This new evidence is not disputed by the Council. Had I found the development acceptable in all other respects, then, it would have been possible to attach a condition requiring the development to be carried out in accordance with the provisions of the Arboricultural Method Statement. On that basis, I am satisfied that there would be no conflict with Policies TR7 and TR8 of the Local Plan, which seek to ensure that new development does not increase the risk of danger to users of the public highway.
13. In summary, I conclude that while the proposed development would not have any significant adverse impact upon the living conditions of neighbouring residents or the stability of the elm tree that grows in the verge in front of No. 19, it would cause considerable harm to the character and appearance of the area, and that is in itself sufficient reason to refuse planning permission.
14. I therefore determine that the appeal should be dismissed.

Jessica Graham

INSPECTOR

