



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: 10 November 2011

Appeal Ref: APP/Q1445/A/11/2155376

66 Wolseley Road, Coldean, Brighton, East Sussex BN1 9ET

- 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 J Summerfield against the decision of Brighton & Hove City Council.
 - The application Ref BH2011/00517, dated 17 February 2011, was refused by notice dated 28 April 2011.
 - The development proposed is demolition of existing garage and erection of two-storey dwelling.
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Decision

1. The appeal is dismissed.

Main issues

2. I consider the main issues to be
 - (a) the effect that the proposed development would have upon the character and appearance of the area, and
 - (b) whether the proposal would provide adequate outdoor amenity space for future occupiers.

Reasons

3. No. 66 is a two-storey semi-detached house, converted to form two self-contained flats. It lies toward the front of the plot, which slopes steeply down from Wolseley Road to Standean Close, with a garage in the rear garden set at a much lower level than the house. The proposed development would involve subdividing the plot, and replacing the garage with a two-storey dwelling, accessed from Standean Close. The new house would be set into the slope, such that its roof ridge height would be no higher than that of the dwelling at No. 5 Standean Close.
4. A pedestrian footway runs alongside the western boundary of No. 66, from Wolseley Road down to Standean Close. I saw at my site visit that the lower end of this footway marks a distinct change in the character of the street scene. To the west, there are terraced dwellings disposed in a fairly tight pattern, fronting Standean Close. To the east, the unmade road adjoins the long rear gardens of the larger Wolseley Road properties, set high above, and serves a block of garages.

5. In this context, the proposed subdivision of the grounds of No. 66 would be at odds with the surrounding pattern of development. The existing property would be left with a plot only around half the size of its neighbours on Wolseley Road. The plot size of the new dwelling would not be very much smaller than that of some of the existing Standean Close properties, but the house itself would sit uneasily next to them. Fronting the unmade road, rather than forming part of the carefully disposed grouping around the close, it would appear as something of an afterthought; an overly dominant residential presence inappropriately sited in a backland setting.
6. In my judgment, the subdivision of the rear garden of No. 66 in order to create a new dwelling would result in an incongruous form of development that would have a harmful impact on the character and appearance of the area. It would therefore conflict with the objectives of Policies QD1 and QD2 of the Brighton and Hove Local Plan 2005, which aim to ensure that new buildings make a positive contribution to the visual quality of the environment, enhancing the qualities of the local neighbourhood.
7. The new dwelling would have an area of private outdoor amenity space of some 3.5m by 10.5m. It is fair to note that there are many other properties in and around Brighton and Hove, old and new, with smaller areas of outdoor space. However, Policy HO5 of the Local Plan makes it clear that what is important is that the provision of amenity space is appropriate to the scale and character of the development. In central, built-up parts of the city, for example, it might be appropriate for some dwellings to have no private outdoor space at all. But in this more spacious location, where the adjoining properties of Wolseley Road are well served by long rear gardens, I consider the very limited amount of proposed amenity space would be out of keeping with the scale and character of the intended three-bedroom family house.
8. The Council's third reason for refusal concerned an alleged failure to demonstrate that the proposed internal layout could meet the Lifetime Homes standard. However, the appellant has confirmed that the Lifetime Homes standard informed the design of the dwelling, and that the layout could therefore comply with that standard. On that basis, if the proposed development were acceptable in all other respects, I consider that compliance with the Lifetime Homes standard could be adequately secured by condition.
9. Similarly, the Council's fourth reason for refusal concerned the absence of sufficient information to demonstrate that the development could achieve the "appropriate" level of sustainability, which the Council considers to be Level 5 of the Code for Sustainable Homes. Such a requirement is not contained in any adopted policy of the Development Plan, as advised by government guidance set out in *Planning and Climate Change* (a supplement to Planning Policy Statement 1), but stems instead from the Council's Supplementary Planning Document (SPD) 08: *Sustainable Building Design*.
10. While Policy SU2 of the Local Plan states that permission will be granted for proposals which demonstrate a high standard of efficiency in the use of energy, water and materials, it does not refer to the Code for Sustainable Homes, or set out any other measurable requirements. I consider that in the current absence of an adopted Development Plan Policy specifying the Code Level to be achieved, it would be unreasonable to seek to make compliance with this voluntary Code mandatory through the imposition of conditions, unless the developer has specifically indicated that the proposal would achieve a particular

Level. In this particular case, the appellant has indicated that the proposed development would achieve Level 3 of the Code, which would be sufficient to meet current Building Regulations requirements. On that basis, I consider that if the proposed development were acceptable in all other respects, a condition requiring the new dwelling to achieve Level 3 of the Code for Sustainable Homes would be sufficient to ensure that it would comply with current relevant sustainability standards.

11. The appellant has drawn my attention to examples of other development in the area which, it is claimed, are similar to that currently proposed. However, I am not party to the balance of considerations which informed the decisions to permit this other development. In any event, the existence of similar examples nearby does not constitute justification for permitting what I consider would be a harmful form of development at this particular site.
12. In conclusion, while I have found that the Council's concerns about compliance with the Lifetime Homes standard and the Code for Sustainable Homes could be addressed by the imposition of conditions, I consider that the harm the proposed development would cause to the character and appearance of the area, and the inadequate provision it would make for outdoor amenity space to serve occupiers of the new dwelling, weigh heavily against granting planning permission for the proposed development.
13. I therefore determine that the appeal should be dismissed.

Jessica Graham

INSPECTOR

