



Appeal Decision

Site visit made on 6 December 2011

by Simon Warder MA BSc(Hons) DipUD(Dist) MRTPI

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

Decision date: 3 January 2012

Appeal Ref: APP/Q1445/A/11/2159979

Land to rear of 47 Surrenden Road, Brighton, BN1 6PQ

- 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 Adelphi Midland Estates Ltd against the decision of Brighton and Hove City Council.
 - The application Ref BH2010/02425, dated 2 August 2010, was refused by notice dated 9 March 2011.
 - The development proposed is the conversion and extension of an existing garage and store to form a private dwelling house together with alterations to the existing access.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this case are the effect of the proposal on:
 - the character or appearance of the Preston Park Conservation Area;
 - the living conditions of neighbouring occupiers;
 - the safety of vehicular and pedestrian users of the access lane leading to the site.

Reasons

Character and Appearance

3. The statutory requirement to preserve or enhance the character or appearance of the Conservation Area is supported by policy HE6 of the Brighton and Hove Local Plan (LP). LP policy QD1 deals with design quality and QD2 with enhancing the positive qualities of local neighbourhoods.
 4. The appeal site comprises a domestic garage and adjoining land which has been separated from the rear garden of 47 Surrenden Road. It is served by an unmade and unadopted lane which provides access to the rear of a number of houses on Surrenden Road and the adjoining Cornwall Gardens. Many of the houses have detached garages or similar outbuildings accessed from the lane. The building at number 49 abuts the appeal garage and has been converted to domestic use. However a Certificate of Lawfulness for use of the building as an independent dwelling has been refused. As such the appeal proposal would create the only separate dwelling served by the lane.
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5. The appeal site is within the Preston Park Conservation Area which the Character Statement describes as containing many large, originally family, houses, domestic, and reasonably tranquil in character. The vicinity of the appeal site between Preston Road and Surrenden Road is characterised by Edwardian and later houses with large, well planted gardens. This depiction fits well with my impression of the area with the quiet, intimate environment of the lane complementing the more open and active space along Surrenden Road. Whilst the lane does provide secondary access to the houses on Surrenden Road and Cornwall Gardens, the level of activity appears to be very low and the area has the feel of an amenity space as much as an access route.
6. The introduction of an independent dwelling would materially alter its function and therefore its character. Increased vehicle movements would disturb the current tranquillity of the area. The design of the dwelling's west elevation facing the lane is restrained in an attempt to fit in with its surroundings. Nevertheless the glazed screen, personal door, parked cars, the inevitable paraphernalia and activity which go with a dwelling would significantly change the character and appearance of the area. It would no longer have the look or feel of a tranquil 'backwater' which is its distinctive contribution to the Conservation Area.
7. The appellant argues that the proposed extension would create a harmonious grouping of three elements (with the existing building at number 49). However, in the context of a lane containing domestic scale outbuildings, the group would become a substantial structure. Taken with the concerns regarding the proposed changes in appearance and activity therefore, the scale of the extended building would be out of keeping with the existing character of the lane.
8. There are a number of other garages and outbuildings along the lane which, potentially, could be extended and/or converted to create separate dwellings. If the appeal proposal were allowed, the lane would take on a more residential character in the ways described above. In those circumstances it would become difficult to resist other proposals for separate dwellings, leading to a further erosion of the lane's contribution to the character of the Conservation Area.
9. The appeal proposal includes rebuilding the wall adjoining number 43 in a new position to widen the lane at its junction with Surrenden Road. Local residents have objected to this element of the proposal, among other things, on the basis that it would harm the Conservation Area. Whilst the wall does contribute to the character of the area, I note that the section closest to Surrenden Road has been rebuilt already and that the proposal would close a gap in that frontage. Therefore, although there would be some loss of the original fabric of the wall, on balance its repositioning and rebuilding with appropriate materials and detailing would preserve the character and appearance of the Conservation Area.
10. Repositioning the wall would result in the loss of planting including a tree in the rear garden of number 43. Given its size and position, the tree makes a modest contribution to the area and I consider that appropriately specified and located replacement planting would preserve the Conservation Area.

11. Overall therefore, notwithstanding my conclusions on rebuilding the wall and the loss of the tree, the proposal would not preserve the character and appearance of the Conservation Area. As such it would be contrary to the requirements of the statutory test and the presumption in favour of the conservation of designated heritage assets set out in policy HE9 of Planning Policy Statement 5: Planning for the Historic Environment (PPS5). In terms of the assessment required by policy HE9.4 of PPS5, whilst the harm caused to the Conservation Area would be less than substantial, there are no public benefits sufficient to outweigh it.
12. The proposal does not meet the aims of policy HE6 of the LP which, amongst other things, requires proposals in Conservation Areas to have building forms which reflect the scale and character of the area and to protect the spaces between buildings. Nor does it comply with LP policies QD1 and QD2 which require proposals to enhance the positive qualities of their setting.

Living Conditions

13. There would inevitably be increased vehicular activity as a result of the proposed dwelling and I have already concluded that this would disturb the tranquil character of the area. However, in view of the length of the gardens along the lane and the presence of, in most cases, substantial boundary walls or fences, I do not consider that the noise and disturbance created by the increased vehicular activity would have an unacceptable effect on neighbouring occupiers. Vehicles would pass closer to the sides of numbers 43 and 45 as they exit the lane. However here the traffic on Surrenden Road already creates a noisier environment and the additional effect of the appeal proposal vehicle movements would not be material. Therefore the proposal is not in conflict with LP policy QD27 which seeks to protect residents from amenity impacts including noise and disturbance.

Pedestrian and Vehicular Safety

14. I agree with Council that the section of the lane leading from Surrenden Road, if widened as proposed, would provide a suitable access to serve the number of vehicle movements generated by the appeal scheme. Rather the Council's concern regarding pedestrian and vehicular safety is to do with the north-south section of the lane closest to the appeal site. Local residents say that the lane is well used by pedestrians and given its amenity value, this is understandable.
15. The lane turns at a right angle around the rear garden of number 45 and, from that point to the appeal site, is narrow. Whilst this is a relatively short length, there are no turning places, meaning that delivery and service vehicles in particular would need either to reverse passed the right angle bend into the garage courtyard behind number 43 or continue the entire length of the lane and exit at Varndean Road. Taking into account the narrowness of the lane, the poor quality of its surface, the scarcity of passing places and the presence of pedestrians, neither option is satisfactory and would unacceptably increase the risk of vehicle and pedestrian conflict.
16. The appellant argues that widening the access at its junction with Surrenden Road would benefit all users of the lane and cites appeal decision APP/Q1445/A/07/2052564. As that Inspector said, there may be 'a degree of benefit', but there is no evidence that the current arrangement is unsafe or

inefficient. As such the benefit is not sufficient to outweigh the concerns expressed above.

17. I therefore conclude that the proposal would unacceptably reduce vehicular and pedestrian safety contrary to LP policy TR7 which requires development not to increase danger to road and pavement users. The second reason for refusal also refers to LP policy Q27 on the protection of amenity. However this appears to add little to my consideration of this issue.

Other Matters

18. The appellant sets out of the history of the proposal which I have read as background information. However the appeal decision must be based on the final proposal and its determination by the Council.
19. I have taken into account the other concerns of residents and Councillors including loss of privacy and biodiversity, highway safety and disabled access shortcomings and the potential impacts of infrastructure provision, waste collection, lighting and construction works. However these matters have not led me to a different overall conclusion.

Conclusion

20. For the reasons set out above the appeal does not succeed.

Simon Warder

INSPECTOR