



Appeal Decision

Site visit made on 7 December 2011

by Jane Miles BA (Hons) DipTP MRTPI

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

Decision date: 11 January 2012

Appeal Ref: APP/Q1445/A/11/2159547
9 Ridgeside Avenue, Brighton BN1 8WD

- 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 R Counsell against the decision of Brighton & Hove City Council.
 - The application ref: BH2011/01189, dated 20 April 2011, was refused by notice dated 26 July 2011.
 - The development proposed is erection of a detached single dwelling to replace existing garage.
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Decision

1. The appeal is dismissed.

Reasons

2. The appeal site, which has been the subject of several previous applications including two dismissed on appeal (in 2009 and 2010), is in an accessible and sustainable location where there is no policy objection in principle to new dwellings. This is so notwithstanding the removal of residential garden land from the definition of previously developed land¹ in 2010. The **main issues** in this appeal are: the effect of the proposal on the character and appearance of the surrounding area; the adequacy of provision for private amenity space; whether or not the development would achieve an adequate level of sustainability.

Character and Appearance

3. The existing house is at the northernmost end of an elevated row along the east side of the street and its large plot extends across the end of a cul-de-sac section of Ridgeside Avenue. On the opposite side are two bungalows at a lower level. The new dwelling would sit at this lower level, forwards of no. 9 and directly off the head of the cul-de-sac. This part of Ridgeside Avenue and the wider area around it consists mainly of detached houses and bungalows on generous plots, set in streets with areas of grass verge and established trees, which all helps to create a spacious, verdant and attractive character.
4. In terms of its total size, the proposed plot would not be markedly dissimilar from some others in the vicinity, but it would be an unusual and irregular shape. The dwelling and attached garage would be sited close to the northern and western plot boundaries, with a private garden area extending upwards in

¹ In Planning Policy Statement 3 (PPS3) Housing

a steeply sloping strip to the (eastern) side, rather than to the rear of the dwelling, and another area of amenity space at the front between the dwelling and the highway. Space around the western and northern sides of the dwelling would be extremely limited. The site plan indicates that the kitchen door in the west elevation would open onto a space roughly 0.6m deep. The area along the north (rear) elevation (with patio doors) would vary in depth from about 1.6m to just over 2m to the boundary, with much of this area already being taken up by a tall conifer hedge.

5. Thus, notwithstanding the space to one side and to the front of the dwelling, the built form would appear shoe-horned into the site's north-west corner. Cutting the building into the slope on the eastern side would further emphasise this very cramped arrangement, which would be at odds with the generally more spacious pattern in the wider area. Thus, irrespective of the building's design and appearance, the development would detract from the street scene rather than contribute positively to it: it would neither repair nor complete the street scene. It is because of these factors, rather than the shape of the plot per se, that the proposal would in my judgement seriously detract from the locality's established character and appearance.
6. Simply in terms of its scale and design, the dwelling would be an appropriate response to the context of the surrounding buildings, but that is not sufficient to overcome the harmful effect described above. I conclude therefore that the proposal would cause unacceptable harm to the character and appearance of the surrounding area. It would conflict with Policies QD1 and QD2 of the Brighton and Hove Local Plan 2005 (LP) relating to design.

Private amenity space

7. LP Policy HO5 does not set out specific standards but requires the provision of "private useable amenity space in new residential development where appropriate to the scale and character of the development". In this context the development's scale and character is that of a one-bedroom retirement dwelling for the appellant and his wife (albeit it could be occupied differently in future). I can find nothing in this policy which requires the private garden of a new house to be of similar size and shape to those around it. Moreover a dwelling with a smaller garden could offer variety and choice in an area where larger gardens predominate.
8. Where external amenity space is appropriate, as here, it is however important that it includes sufficient which is 'private' and 'useable'. Thus the limited space to the north and west of the proposed dwelling would be of little value. Even if terraced, the value of the area of garden land to the eastern side would be limited by its slope, its narrowness (in places), and the probable need for significant enclosure to provide privacy. Similarly, although the south-facing area in front of the dwelling could be a pleasant sitting-out space, it too would need some form of enclosure for privacy, and this could further emphasise the cramped nature of the built development in the street scene.
9. Thus, whilst the total amount of space would be sufficient in quantitative terms, I am not convinced of the adequacy of its layout and practicability. On balance, I conclude that the proposal would conflict with Policy HO5, which is another matter that weighs against it.

Sustainability

10. The aim of LP Policy SU2 is to ensure that new development achieves a high standard of efficiency in the use of energy, water and materials, and this is consistent with current and emerging national policy. The proposal is designed to meet Level 3 of the Code for Sustainable Homes (CSH), which is the standard expected in the Council's SPD08² for small-scale development of one or two residential units. The SPD also expects new housing on 'greenfield' sites to achieve CSH Level 5 and, following the changed definition referred to in paragraph 2 above, the status of the appeal site is now that of greenfield rather than previously developed land.
11. However, national policy guidance³ establishes that local requirements for sustainable buildings should be set out in a development plan document rather than an SPD, so as to ensure independent examination. Thus local requirements for particular CSH levels should be included in development plan policies. There is no such requirement, nor any other specific standard, in Policy SU2 and, whilst the SPD is a material consideration, it does not have the weight of a development plan policy. In addition I note the statement in the appellant's grounds of appeal that a rating above CSH Level 3 could be achieved in some respects. In these circumstances I am satisfied that the development could achieve an adequate level of sustainability and that it would not conflict with the objectives of LP Policy SU2.

Other matters and overall conclusion

12. I note local residents concerns about various other matters, most notably the impacts of the additional dwelling on parking and congestion in the cul-de-sac and on local wildlife. I have taken account of the appellant's references to other appeal decisions, and of letters in support of the proposal as well as those objecting to it. Points raised about property boundaries are not material planning considerations but are private matters to be resolved between the parties involved.
13. I appreciate that the appellant has sought to overcome concerns raised in relation to previous schemes, on a site where plot shape and topography pose challenging constraints. In providing a smaller dwelling, the proposal would be beneficial in adding to the variety and choice of accommodation in the area. However neither these points, my conclusion in relation to sustainability nor any other matters raised are sufficient to outweigh my conclusions on the first two main issues. Taken together, these indicate that the appeal must fail.

Jane Miles

INSPECTOR

² An adopted supplementary planning document (SPD) entitled 'Sustainable Building Design'

³ In the PPS: Planning and Climate Change document, which is a supplement to PPS1: Delivering Sustainable Development

