



Appeal Decision

Site visit made on 10 December 2008

by **M F Aldous BA (Hons), Dip Mgt, MRTPI**

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

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Decision date:
15 December 2008

Appeal Ref: APP/Q1445/A/08/2081031 **53a New Church Road, Hove BN3 4BA.**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
- The appeal is made by Mrs P Stephen-Martin against Brighton & Hove City Council.
- The application Ref BH2008/01118, is dated 26 March 2008.
- The development proposed is three new detached houses and ancillary landscaping following demolition of the existing dwelling.

Decision

1. I dismiss the appeal.

Preliminary Matter

2. Although the Council is not the determining authority in this case, I have taken full account of the reasons for refusal upon which it has indicated that it would have been reliant, if that was not the case.

Main issues

3. I consider the main issues in this case to be:
 - i) The effect of the proposal on the character and appearance of the surrounding area;
 - ii) The effect of the proposal on the living conditions of the occupiers of adjoining properties, with particular regard to overlooking and loss of privacy; and
 - iii) Whether vehicular access arrangements are satisfactory and avoid the creation of highway and pedestrian safety.

Reasons

Character and Appearance

4. The appeal site occupies a backland location. It contains a single bungalow and which is accessed via a long, shared driveway from New Church Road. It is a primarily residential area, but with a very mixed pattern of housing. This includes streets of fairly uniform character and design such as is evident in Lawrence Road, grander and larger houses and blocks of flats along New Church Road and a mixture of properties occupying backland positions between these areas.

5. The location is a sustainable one, with a variety of shops, services and public transport connections available close to the appeal site. National planning policy guidance, as amplified in the local development plan, generally seeks to maximise the potential for the redevelopment of previously developed sites such as this within sustainable locations.
6. The appeal property is at the head of the access drive and faces directly across to another single storey dwelling at 53b. The proposal seeks to demolish the existing property and replace it with three 4 bedroom detached properties of distinctly contemporary design, with accommodation arranged on several floors.
7. As indicated above the area contains a wide variety of residential accommodation of varying height, mass and design. There is no consistent pattern or overriding theme within the backland area that requires adherence in my view.
8. The proposed design would differ from its surroundings, but that is not in itself a justifiable reason for resistance to the proposal. Indeed development plan policies encourage innovation in style and seek to avoid unnecessary replication or pastiche. The site is not visible from the public realm, but it is surrounded on all sides by other properties which have views of it.
9. The proposal would clearly raise the density of housing on the site and would create units that could accommodate family occupation. However, there are various other examples of high density accommodation adjacent to the site. Whilst amenity space would be limited there is no suggestion that it would be inadequate. A limited amount of car parking would be provided, and I return to this issue later.
10. Overall, purely in terms of character and appearance considerations, I formed the view given the specific circumstances of this discreet and well contained site, and the mixed pattern of housing within which it is located, that the development proposed would add to the diverse form of housing in the area. This could be achieved without detriment to the character and appearance of the area or the requirements of saved policies QD1 or QD2 of the Brighton & Hove Local Plan 2005 (local plan).

Impact on Living Conditions

11. Reference has been made to the close juxtaposition of existing dwellings in the vicinity of the appeal site. The site has a particularly close relationship with the bungalow at 53b New Church Road, 25 Richardson Road to the west and various houses immediately to the north within Lawrence Road, notably numbers 34 and 36.
12. In my view the proposed change from a single storey dwelling to three detached houses with accommodation arranged over three floors would have adverse consequences for the occupiers of all of these dwellings.
13. In the case of number 53b New Church Road the mutual bungalow to bungalow facing relationship would be starkly and harmfully amended. The front elevation of number 53b, which contains important habitable rooms such as the living room and principal bedroom together with its garden area, would be

directly overlooked by windows and a balcony area at upper levels, thereby introducing a distinct loss of privacy to the occupier of 53b.

14. With regard to 25 Richardson Road, I noted from my site visit to that property that it much of its garden suffers from overlooking from flats within Richardson Court. The only part free from this constraint is located to the rear of the property. This area would regrettably, be vulnerable to new overlooking and a degree of shadowing from the proposed houses, at close quarters, as they would contain windows and balconies at upper levels on their rear elevation.
15. The properties within Lawrence Road would be less affected in terms of overlooking because of the angled relationship between these houses and the appeal proposal. Indeed, I noted on my site visit that many of the existing houses in Lawrence Road benefit from rear terraces or balconies which themselves allow views over private areas to the south.
16. However, numbers 34 and 36 would be presented with a substantial blank side wall close to their mutual boundary with the appeal site instead of the modest side wall that currently exists. Given the small nature of the gardens to numbers 34 and 36 and the fact that the proposed buildings would be positioned directly to the south, which is the primary source of sunlight, particularly during winter months, I consider that the physical effect would be to cause unacceptable overshadowing and an overbearing impact on these properties.
17. I have taken full account of the close juxtaposition between properties in this backland area, and the fact that a degree of mutual overlooking is a natural component of urban life within such areas. However, this proposal would introduce considerable change, and in my considered view this change would be materially harmful to the living conditions of adjoining occupiers. As such the proposal is in conflict with saved policy QD27 of the local plan.

Highway and Pedestrian Safety

18. Access to the site is only available via the long driveway from New Church Road. This access is narrow and only allows for one vehicle to use the drive at any time. When this occurs, space for pedestrians to pass safely is very limited. At least three dwellings use the drive.
19. Larger delivery vehicles effectively block the drive when they need to access properties. Manoeuvring is difficult given limitations on space, with an indication within the application that cars on the appeal site would need the aid of a turntable so as to be able to enter and leave the site in a forward gear.
20. The proposal would clearly add to the existing pressures and vehicular movements by substituting three family dwellings for the existing bungalow. Whilst the Appellant points to the fact that each proposed dwelling would only be provided with one parking space, and by implication limited to one car, this could not be effectively controlled. The houses would contain four bedrooms and it is highly probable in my view that this could generate more than one car per household. There is no convenient or restriction free on street car parking available in the immediate area.

21. I consider that the proposed arrangement would exacerbate the likelihood of pedestrian / vehicular conflict, and add to existing tensions regarding access, given the physical limitations of the driveway. This is unsatisfactory and in this regard I share the view of several existing residents and the local Traffic Engineer.
22. There is no convincing evidence before me to indicate that the resultant car movement increase and the resultant potential threat to pedestrians could be effectively managed or alleviated. I consider the proposal to be contrary to the requirements of saved policy TR7 of the local plan.

Other Matters

23. The Council has also expressed concerns relating to housing accessibility, energy efficiency and lifetime homes standards. I consider these to be subsidiary worries that are capable of being resolved by the application of appropriate planning conditions.

Conclusions

24. Whilst this proposal would increase the density of housing on this backland site, I consider the proposal to be not inconsistent with adjoining schemes in this respect. Furthermore, the site occupies a sustainable location and the design of the dwellings would add to the diversity found in the area without detriment to character and appearance considerations.
25. However, I have found that the development proposed would have adverse and harmful consequences for the living conditions of adjoining residents in terms of overlooking and loss of privacy. Some properties would also be subjected to greater overshadowing and a degree of overbearance. In addition, the proposal would harmfully exacerbate vehicular / pedestrian conflict given the severe limitations imposed by access arrangements. In my view these are the decisive factors which indicate that the proposal is unacceptable and in conflict with the development plan.
26. For the reasons set out above, and having had full regard to all other matters raised, I therefore conclude that this appeal should not succeed.

Michael Aldous

INSPECTOR