
Appeal Decision

Site visit made on 3 March 2014

by J L Cheesley BA (Hons) DipTP MRTPI

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

Decision date: 5 March 2014

Appeal Ref: APP/Q1445/A/13/2205434
16 Bankside, Brighton, East Sussex BN1 5GN

- 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 M Deller against the decision of Brighton and Hove City Council.
- The application Ref BH2013/01522, dated 14 May 2013, was refused by notice dated 25 July 2013.
- The development proposed is erection of three-storey detached dwelling to the rear of 16 Bankside, with formation of access from Highbank.

Costs

1. An application for costs was made by Mr M Deller against Brighton and Hove City Council. This application is the subject of a separate decision.

Decision

2. The appeal is allowed and planning permission is granted for the erection of a three-storey detached dwelling to the rear of 16 Bankside, with formation of access from Highbank at 16 Bankside, Brighton, East Sussex BN1 5GN in accordance with the terms of the application, Ref BH2013/01522, dated 14 May 2013, subject to the conditions attached as Annex 1 to this Decision.

Main Issues

3. I consider the main issues to be:

the effect of the proposal on the character and appearance of the surrounding area; and

the effect of the proposal on the living conditions of occupiers of residential properties in Bankside, with particular reference to visual impact and privacy.

Reasons

4. The appeal site is a rear garden in a primarily residential area where local topography allows distant views. The design of the proposed dwelling has incorporated the local topography, allowing for the dwelling to cascade down the steep slope towards the rear of the dwelling at 16 Bankside. It would be of contemporary design with a high standard of sustainability.

5. Access would be obtained from Highbank. There is a recent contemporary dwelling adjacent to the site and other dwellings further along Highbank on this side of the road. In my opinion, a suitably designed dwelling on the appeal site would be in keeping with the residential character of the area and in particular, of this row of dwellings.
6. From Highbank the view would be of what would appear to be a discrete single-storey garage structure. This would be similar in scale to the dwelling at 21 Highbank adjacent to the appeal site. Due to its siting, design and scale, I consider that the proposal would be in keeping with the character and appearance of the surrounding streetscene in Highbank and would not have an adverse visual impact on neighbours in Highbank.
7. I note that the white rendering on the adjacent dwelling at 21 Highbank appears stark within its setting, particularly from distant views. The proposed dwelling would be rendered. The cascade design would break up the rear elevation to some extent. In order to ensure compatibility with the wider setting, I consider it reasonable and necessary to impose a condition regarding the colour of rendering, to ensure strategic views are not compromised.
8. Reference has been made to the need for a 21 metre separation distance specified by the Inspector with regard to the adjacent dwelling at 21 Highbank. The Council has acknowledged that boundary treatment would largely eliminate overlooking from ground floor windows of the new dwelling to neighbouring properties. I have been provided with a drawing showing the separation distance between the intermediate floor and the dwelling at 16 Bankside to be 21 metres and with the upper floor to be 22.15 metres. From my observations, I consider that this would provide sufficient separation distance between the dwellings in Bankside and the parking area and bedrooms on the intermediate floor at the proposed dwelling.
9. For the above reasons and having taken into consideration all matters raised upon which I have not specifically commented, I conclude that the proposal would be in keeping with the character and appearance of the surrounding area and would not have an adverse effect on the living conditions of neighbours. Thus, the proposal would be in accordance with saved Policies QD1, QD2, QD3, QD4 and QD27 in the Brighton and Hove Local Plan 2005, where these policies seek a high standard of design, seek to enhance the positive qualities of an area and seek to protect residential amenity. I consider that these policies are broadly in accordance with the National Planning Policy Framework as far as they meet the Framework's core principles; particularly that planning should be taking account of the different roles and character of an area; should be seeking to ensure high quality design and seeking a good standard of amenity for all existing occupants of land and buildings.

Conditions

10. Apart from a standard time condition, external materials condition and condition regarding conformity with the plans, the Council has suggested ten conditions.
11. I consider it reasonable and necessary to impose conditions restricting permitted development to protect neighbouring amenity. It is not necessary to

impose conditions regarding refuse and cycle storage as the plans, to which the development must conform, provide sufficient detail.

12. In the interest of sustainability and the living conditions of future occupiers, I consider it reasonable and necessary to impose conditions regarding Sustainable Homes and Lifetime Homes. The appellant has indicated that the proposed dwelling would be constructed to Level 5 of the Code for Sustainable Homes. The appellant has indicated that the dwelling would comply with all relevant provisions of Lifetime Homes. Therefore, the conditions will specify these.
13. In the interest of visual amenity, I consider it reasonable and necessary to impose landscaping conditions, but see no reason for a condition regarding parking at the front of the property.
14. I have amended the suggested conditions where necessary to accord with the principles in Circular 11/95.

J L Cheesley

INSPECTOR

Annex 1

Conditions to be attached to planning permission Ref: BH2013/01522.

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the development hereby permitted, (including the colour of the render, paintwork and colourwash), have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 3) The development hereby permitted shall be carried out in accordance with the approved plans on Drawing numbers: 01.1303561, 02.1303561, 03/1303561, 04/1303561, 05/1303561, 06/1303561, 07/1303561, 08/1303561, 09/1303561, 10/1303561, 11/1303561, 12/1303561, 13/1303561, 14/1303561 and 15/1303561.
- 4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no extension, enlargement or other external alteration to the dwelling house hereby permitted shall be

- carried out without the prior grant of planning permission from the local planning authority.
- 5) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no windows/dormer windows, roof lights or doors other than those expressly authorised by this permission shall be constructed without the prior grant of planning permission from the local planning authority.
 - 6) The dwelling shall achieve Level 5 of the Code for Sustainable Homes. No dwelling shall be occupied until a final Code Certificate has been issued for it certifying that Code Level 5 has been achieved.
 - 7) The dwelling hereby permitted shall be constructed to Lifetime Homes standards.
 - 8) No development shall take place until there has been submitted to and approved in writing by the local planning authority a scheme of landscaping, which shall include hard surfacing, boundary treatments, planting of the development, indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development.
 - 9) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation. All hard landscaping and means of enclosure shall be completed prior to the first occupation of the dwelling hereby permitted.