



Appeal Decision

Site visit made on 1 April 2014

by Elizabeth Lawrence BTP MRTPI

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

Decision date: 22 April 2014

Appeal Ref: APP/Q1445/A/14/2212356

Land to the rear of The Roundhouse, London Road, Preston, Brighton, BN1 6UA.

- 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 Mrs Rose Dawes against the decision of Brighton & Hove City Council.
 - The application Ref BH2013/01675 dated 3 May 2013, was refused by notice dated 14 October 2013.
 - The development proposed is a new dwelling on land to the rear of The Roundhouse, London Road, Preston, Brighton, BN1 6UA.
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Preliminary matter

1. On 6 March 2014 the Planning Practice Guidance (planning guidance) was published by the Department for Communities & Local Government. In relation to this Appeal the planning guidance refers to the design statements set out in the National Planning Policy Framework (NPPF), which are addressed in this decision.
2. The proposed front entrance door is not shown on the west elevation drawing, although it is indicated on the floor plans. Similarly the proposed pergola just to the front of the entrance is shown on the west elevation, but not on the other drawings. At the Appeal site visit the Appellant's agent confirmed that these details were omitted from various drawings in error. Due to the minor nature of these omissions they have not affected my ability to determine this Appeal.

Decision

3. The Appeal is allowed and planning permission is granted for a new dwelling on land to the rear of The Roundhouse, London Road, Preston, Brighton, BN1 6UA in accordance with the terms of the application, Ref BH2013/01675, dated 3 May 2013, subject to the conditions set out in the schedule attached to this decision.

Main Issue

4. The main issue is whether the proposed dwelling would provide satisfactory living conditions for its occupants, with particular regard to privacy.
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Reasons

5. The Appeal site is located in a "backland" position within a mixed residential area. To the west is a modest sized dwelling and to the north, south and east are tall flats developments. The site sits at a slightly lower level to the adjacent flats buildings and is separated from them by a low wall and tall fence.
6. In 2002 an outline application for a single storey dwelling on the Appeal site was dismissed at Appeal. Whilst few details regarding that scheme are provided, from the Appeal decision it is apparent that the main concerns of the appointed Inspector related to privacy and outlook within the proposed garden area and highway safety.
7. Concerning highway safety the proposed vehicle crossover and access are wider than those proposed in 2002. Together with the layout of the proposed parking areas and submitted transport evidence, this satisfactorily addresses the highway safety concerns previously raised. Indeed it is noted that no highway concerns have been raised by the Council.
8. Since 2002 the Brighton and Hove Local Plan has been adopted. Together and amongst other things policies QD27 and HO5 of the Local Plan seek to provide satisfactory living conditions for residents. This includes the provision of suitable outdoor recreation space and adequate levels of privacy.
9. The proposed dwelling would be sited at the eastern end of the plot and would be orientated around a lower ground floor terrace. All of the habitable rooms would have favourable westerly and/or southerly aspects facing the main terrace and garden areas. Due to the shape and siting of the proposed dwelling and associated pergolas the lower ground floor terrace would not be materially overlooked. In addition the ground floor patio areas would be partially screened. Whilst the remainder of the garden area would be overlooked from the upper windows serving the adjacent flats, such overlooking is not unusual within urban residential areas.
10. The "backland" position of the site and the proximity and height of the adjacent flats would result in a strong sense of enclosure for the occupants of the proposed dwelling. However this would contribute to the character of the development. The layout and orientation of the proposed dwelling has been designed to provide an attractive and secure outlook and several garden areas with varying degrees of privacy.
11. Overall the scheme would provide a satisfactory and in many respects an attractive living environment, both within the proposed dwelling and within its garden areas. At the same time the proposed scheme would make full and efficient use of the site and contribute to the supply of family housing in an accessible residential area. This would be consistent with the NPPF, which states that housing applications should be considered in the context of the presumption in favour of sustainable development. Schemes should optimise the potential of a site and establish a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live.
12. I conclude on the main issue that the proposed dwelling would provide satisfactory living conditions for its occupants, with particular regard to privacy.

Accordingly the scheme would comply with policies QD27 and HO5 of the Local Plan.

Other matters

13. The Appeal site sits at a lower level to the adjacent flats and the proposed dwelling would be modest in height, with a flat "green" roof. As a result the scheme would be visually discrete and would not result in a material increase in overshadowing or loss of daylight for the occupants of the adjacent flats. Due to its westerly aspect and the screened nature of its immediate garden areas, the proposed development would not result in a material loss of privacy for the occupants of the adjacent flats.
14. As a single dwelling any noise or disturbance generated by the occupants of the dwelling would be unlikely to have a materially adverse impact on the living conditions of any local residents. Whilst it is noted that there would be some noise, dust and disturbance during the construction of the proposed development, this applies to many developments in urban areas. It would be for a relatively short period of time and would not amount to a reason for withholding planning permission.
15. Finally, subject to satisfactory protection measures during the construction works, I am satisfied that the proposed scheme would not threaten the short or long term health of any trees, including the trees located a short distance from the eastern boundary of the Appeal site.

Conditions

16. The Council has suggested the imposition of conditions regarding external materials and finishes; hard and soft landscaping; the protection of existing trees; the construction of the dwelling to Lifetime Homes Standards; the provision of cycle, recycling and refuse storage facilities; energy efficiency/sustainability; site and finished floor levels; the provision and retention of parking areas; and restrictions on the use of the roof of the proposed dwelling. In relation to cycle and refuse/recycling storage, although their positions are shown on the submitted drawings, few details are provided concerning their security and retention.
17. I consider that all of these conditions are both reasonable and necessary to ensure the development blends in with its surroundings; provides an energy efficient home suitable for people with disabilities and the changing needs of households; to encourage sustainable means of transport; in the interests of highway safety; and to protect the living conditions of nearby residents. The Council has also suggested the imposition of a condition which requires the development to be carried out in accordance with the approved drawings. This is necessary for the avoidance of doubt and in the interests of proper planning.

Conclusion

18. Having regard to the conclusions on the main issue and all other matters raised the Appeal is allowed.

Elizabeth Lawrence

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: TA705/01A, TA705/02, TA705/03, TA705/04, TA705/05, TA705/10A, TA705/11A, TA705/12A, TA705/13, TA705/14, TA705/15, TA705/16,
- 3) The new dwelling hereby permitted shall be constructed to Lifetime Homes Standards prior to its first occupation and shall be retained as such thereafter.
- 4) The development hereby permitted shall not be commenced until details of secure cycle parking facilities for the occupants of, and visitors to, the development have been submitted to and approved in writing by the local planning authority. These facilities shall be fully implemented and made available for use prior to the occupation of the dwelling hereby permitted and shall thereafter be retained for use at all times.
- 5) No development shall take place until a scheme for the storage of refuse and recycling has been submitted to and approved in writing by the local planning authority. The approved storage facilities shall be fully implemented and made available for use prior to the occupation of the dwelling hereby permitted and shall thereafter be retained for use at all times.
- 6) Unless otherwise agreed in writing by the local planning authority, the development shall not commence until a Design Stage/Interim Code for Sustainable Homes Certificate demonstrating that the development achieves a Code for Sustainable Homes rating of Code level 5 as a minimum for the dwelling has been submitted to and approved in writing by the local planning authority. A completed pre-assessment estimator will not be acceptable.
- 7) Unless otherwise agreed in writing by the local planning authority, the dwelling hereby permitted shall not be occupied until a Final/Post Construction Code Certificate issued by an accreditation body confirming that the dwelling has achieved a Code for Sustainable Homes rating Code level 5 as a minimum has been submitted to and approved in writing by the local planning authority.
- 8) Access to the flat roof over the dwelling hereby permitted shall be for maintenance or emergency purposes only and the flat roof shall not be used as a roof garden, terrace, patio or similar amenity area.
- 9) No development shall take place until full details of the existing and proposed land levels of the proposed development in relation to Ordnance Datum and to surrounding properties have been submitted to and approved in writing by the local planning authority. The details shall include finished floor levels. The development shall be constructed in accordance with the approved details.
- 10) No development shall take place until samples of the materials (including colour of render, paintwork and colourwash) to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 11) No development shall take place until there has been submitted to and approved in writing by the local planning authority a scheme for landscaping,

which shall include hard surfacing, boundary treatments, proposed new soft planting, details of all existing trees and shrubs on the land and details of any to be retained, together with measures for their protection during the construction of the development.

- 12) All planting, seeding or turfing comprised in the approved scheme of landscaping shall be carried out in the first planting and seeding seasons following the first occupation or completion of the dwelling hereby permitted, whichever is sooner, and any trees or plants which within a period of 5 years from the date of 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 otherwise agreed in writing by the local planning authority. All hard landscaping and means of enclosure shall be completed prior to the first occupation of the dwelling.
- 13) No development shall take place until details of the construction of the green roofs have been submitted to and approved in writing by the local planning authority. The details shall include a cross section, construction method statement, the seed mix, and a maintenance and irrigation programme. The roofs shall then be constructed in accordance with the approved details and shall be retained as such thereafter.
- 14) No development shall take place until an arboricultural method statement regarding the protection of the adjacent trees has been submitted to and approved in writing by the local planning authority. The statement shall be in accordance with BS 5837:12 Trees in relation to Construction and will include protection of roots. The works shall be implemented in accordance with the approved statement.
- 15) The dwelling hereby permitted shall not be first occupied until the parking areas have been provided in accordance with the approved plans and the areas shall thereafter be retained for that use and shall not be used for any other purpose other than the parking of motor vehicles.