
Appeal Decision

Site visit made on 8 April 2014

by Edward Gerry BA (Hons) MSc MRTPI

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

Decision date: 30 April 2014

Appeal Ref: APP/Q1445/A/13/2209041
199/201 Old Shoreham Road, Hove BN3 7EA

- 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 Alfred Haagman against the decision of Brighton & Hove City Council.
 - The application Ref BH2013/00521, dated 15 February 2013, was refused by notice dated 2 August 2013.
 - The development proposed is the erection of a detached building containing ground floor two bedroom flat and first/second floor three bedroom maisonette.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. I have taken into account the Government's Planning Practice Guidance, issued on 6 March 2014, in reaching my decision.

Main Issues

3. The main issues are the effect of the proposed development on the character and appearance of the surrounding area, on the living conditions of the occupiers of Nos 197, 199 and 201 Old Shoreham Road, with particular reference to privacy and outlook, and whether the proposal would provide acceptable living conditions for future occupiers, with particular regard to external amenity space.

Reasons

Character and appearance

4. The appeal site, currently occupied by a building containing two single garages, is located in a residential area. The area predominantly consists of semi-detached dwellings which are set back within spacious plots that have fairly long narrow back gardens.
5. I note the proposed building would be set back from the front of its plot and the width of the plot compares favourably to some of the other plots in the surrounding area. Furthermore, I acknowledge that the appearance of the building would be in keeping with that of the other buildings in the vicinity of the site. However, given the overall size of the plot and the footprint of the building proposed it would appear cramped within its plot and would be at odds

with the pattern of development in the surrounding area. In addition, whilst I accept that Nos 199 and 201 Old Shoreham Road would still have sizeable rear gardens the proposal's encroachment into these gardens, which would result in the loss of some trees and vegetation, would have a negative impact on the spacious character of the area.

6. For these reasons the proposed development would unacceptably harm the character and appearance of the surrounding area. As a result there would be a conflict with policies QD1 and QD2 of the Brighton & Hove Local Plan 2005 (LP). The policies aim to ensure, amongst other things, that development is of a high quality design which makes a positive contribution to the visual quality of the environment. Furthermore, the policies seek to ensure that developments are designed to emphasise and enhance the positive qualities of the local neighbourhood, by taking into account its local characteristics.

Living conditions of nearby residents

7. The appeal site is located to the north of Nos 199 and 201 Old Shoreham Road and to the north west of No 197 Old Shoreham Road. The rear gardens of Nos 199 and 201 extend to the southern boundary of the appeal site whilst the end of the rear garden to No 197 abuts the eastern boundary of the site.
8. The demolition of the single storey garage on the site and its replacement with a much larger two storey dwelling would result in a significant increase in the massing of development on the site. Given the proximity of the proposed building to the rear boundaries of the plots of Nos 199 and 201 and the size of the building, the proposal would seem oppressive and overbearing from the gardens of Nos 199 and 201. The lack of any boundary screening would exacerbate the overbearing impact that would result from the proposal.
9. Turning to the matter of privacy, I acknowledge the southern elevation of the proposed building would have one window at both first floor level and ground floor level which would face Nos 199 and 201. Although the Council is concerned about the perception of overlooking policies QD14 and QD27 of the LP do not make specific reference to the perception of overlooking. I consider the key issue is whether the proposal would actually result in overlooking. I note the window at first floor level would be fitted with obscure glass. Furthermore, it would only be the fanlight section of the window at ground floor level which would extend beyond the height of the boundary fence. Consequently, I am satisfied that the proposal would not result in overlooking of Nos 199 and 201.
10. The eastern elevation of the proposed dwelling would face the rear garden of No 197. I accept that at first floor level there would be a large window to a habitable room that would face the rear garden of No 197. Furthermore, I acknowledge the limited distance between the rear elevation and the boundary with No 197. However, any overlooking which may take place would primarily only affect the rear part of the fairly long narrow rear garden to 197. Also the rear garden of No 197 is already overlooked from neighbouring properties. Finally, there are trees on the boundary of the site and No 197 which would help to limit any overlooking that may take place. Consequently, I consider that any harm would not be significant.
11. In addition to the above a number of local residents, including the occupiers of No 195 Old Shoreham Road and No 1 Weald Avenue have expressed concern in

relation to living conditions matters. However, the Council has not objected to the proposal on living conditions grounds beyond the impact that the proposal would have upon the occupiers of Nos 197, 199 and 201 Old Shoreham Road. Based upon the evidence before me I see no reason to come to a different view.

12. For these reasons the proposed development would unacceptably harm the living conditions of Nos 199 and 201 Old Shoreham Road with regard to outlook. As a result there would be a conflict with Policy QD27 of the LP which seeks to protect the amenity of the occupiers of neighbouring properties including in respect of outlook. Although the Council's decision notice refers to Policy QD14 of the LP I do not consider this policy is relevant as it is concerned with extensions and alterations.

Living conditions for future residents

13. The proposed building comprises of a ground floor two bedroom flat and first/second floor three bedroom maisonette. The rear garden associated with the proposal would be for the use of the occupiers of the ground floor flat whilst the front garden would be for the use of the occupiers of the maisonette.
14. Given the maisonette comprises of three bedrooms it is likely that it would be occupied by a family. On this basis, I consider that the amount of private amenity space proposed is inadequate. Furthermore, given its location to the front of the proposed building, facing Weald Avenue, the amenity space would suffer from a lack of privacy which may impact upon its usability.
15. In addition to the above, I acknowledge that ideally a larger area of external amenity space should be provided in connection with the ground floor flat. However, the flat only has two bedrooms and the amenity space would be located to the rear of the proposed building which would afford it some privacy and thus would be likely to increase its usability. On this basis I am satisfied that any harm arising from the lack of external amenity space would not be significant.
16. For these reasons the proposed development would fail to provide acceptable living conditions for future occupiers, with particular regard to external amenity space. As a result there would be a conflict with Policy HO5 of the LP which seeks to provide an appropriate amount of private useable amenity space in conjunction with new residential development.

Conclusion

17. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Edward Gerry

INSPECTOR