
Appeal Decision

Site visit made on 14 May 2014

by Cullum J A Parker BA(Hons) MA MRTPI AIEMA

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

Decision date: 11 June 2014

Appeal Ref: APP/Q1445/A/13/2210569

Land at rear 32 Stanford Avenue (fronting Rugby Road), Brighton, BN1 6EA

- 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 Jon Mills against the decision of Brighton & Hove City Council.
 - The application Ref BH2013/01836, dated 28 May 2013, was refused by notice dated 25 September 2013.
 - The development proposed is described on the application form as demolition of existing single storey garage. Construction of two storey, one bedroom detached house. Resubmission of refused application BH2012/03990.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - the effect of the proposed development on the character and appearance of the area and street scene, and whether the proposed development would preserve or enhance the character or appearance of the Preston Park Conservation Area, and;
 - the effect on the living conditions of occupiers of adjoining dwellings in terms of outlook, and;
 - the effect on highway safety in terms of pedestrians.

Reasons

Character and appearance of street scene/Conservation Area

3. The appeal site is occupied by a garage facing onto Rugby Road, which serves the property No 32 Stanford Avenue to the rear. The garage is single storey in height, with a flat roof form. It is proposed that the garage would be demolished and replaced with a new detached dwelling on a similar footprint to the garage. My site visit confirmed that the street scene, and wider conservation area, is generally characterised by Victorian era dwellings. In particular, Rugby Road is principally characterised by semi-detached two storey houses, with gabled roofed bay windows on their front elevations. However, directly adjacent to the site there is a terrace of four dwellings from the Victorian period which do not have the gable roofed bays.

4. The site area, as shown by the red line, would be significantly smaller than those adjacent to the site, and within the wider area. I accept the appellant's case that there are a variety of plots shapes within the nearby area, and the proposal would not represent overdevelopment in terms of density. However, the general characteristic of plot sizes within the immediate street scene are relatively uniform. The proposed plot size and shape, would therefore represent an incongruous and inappropriate development that would contrast sharply with the wider street scene.
5. The appellant also points to a dwelling at No 51 Rugby Road which is a two storey side extension, attached to the original dwelling. I do not have the full details of how that development arose. However, my site visit confirmed that this is an uncharacteristic development within the street scene and not representative of the prevailing pattern of development. I do not, therefore, find that it provides compelling justification for allowing the detached dwelling in this case for which the context and design proposed is very different.
6. Moreover, the proposed building would step forward of the building at single storey height, with a squat two storey height overall. The combination of this stepped forward element, together with its overall design and materials would result in a jarring visual juxtaposition compared to the prevailing pattern and character of development within the street scene and also this part of the Preston Park Conservation Area. The appellant has suggested that the gable of the pitched roof proposed would mimic those found in the nearby Victorian dwellings with a 45 degree pitch. However, the overall design and visual appearance of those existing two-storey dwellings is significantly different to that proposed in this case.
7. I acknowledge that the existing garage also has a similar footprint to that proposed, however the overall form, design and appearance of the existing building is very different to that proposed. The uncharacteristic and incongruous nature of the proposed development it would mean that it fails to preserve or enhance the character or appearance of the Preston Park Conservation Area.
8. I appreciate that the National Planning Policy Framework, at Paragraph 60, indicates that planning decisions should not attempt to impose architectural styles or tastes. On the other hand, at Paragraph 131, it indicates that planning authorities should take account of the desirability of new development making a positive contribution to local character and distinctiveness. This is explained further at a local level by Policy HE6 of the BHLP which provides that proposals within a conservation area should show a consistently high standard of design and detailing reflecting the scale and character or appearance of the area, including the layout of streets, development patterns, building lines and building forms.
9. I therefore conclude that the proposed development would fail to preserve or enhance the character or appearance of the Preston Park Conservation Area, the street scene and area generally. Accordingly, the proposal is contrary to Policies QD1, QD2, QD3 and HE6 of the BHLP, which, amongst the aims I have cited above, also seek that new developments enhance the positive qualities of the local neighbourhood by taking account of local characteristics including the height, scale, bulk and design of existing buildings.

Living Conditions

10. The dwelling would be situated close to the boundaries with Nos 30, 32 and 34, beyond which are gardens serving those dwellings. I was able to view the appeal site from the gardens and internally from Nos 32 and 34. My site visit confirmed that it is unlikely that the proposal would result in a loss of light or privacy for occupiers of these dwellings. Nevertheless, the proposal would see the replacement of a flat roofed single storey garage with a much higher two-storey pitched roof dwelling. Due to the height, depth and proximity of the proposal to the established gardens at Nos 30, 32 and 34, the proposal would result in a large expanse of roof that would create a greater sense of enclosure at the neighbouring properties. The roof, in particular, would therefore have an overbearing and oppressive effect on the outlook of residents of these properties both internally and from within the gardens of those dwellings.
11. I therefore conclude that the proposed development would be contrary to Policies QD27 of the BHLP which, amongst other aims, seeks that development will not be granted where it would cause a loss of amenity to the proposed, existing and adjacent residents.

Highway safety

12. There is an existing area of hardstanding to the front of the garage which my site visit confirmed was used for the storage of a vehicle. Furthermore, I was able to see inside the garage and saw a number of other vehicles for which the only access into and out of the garage would be over the existing dropped curb. Whilst I acknowledge the Council's concerns that the proposed hardstanding could be used for parking, it is difficult to see how the proposed arrangement would be significantly different from that at present.
13. Logically, this leads to the conclusion that the proposed parking would be no worse in terms of pedestrian, vehicle or cycle safety than the current situation. Moreover, I have been provided with no technical evidence that suggests that the existing arrangements, which appear to have been in place for a significant length of time, have resulted in danger to users of adjacent pavements, cycle routes or roads. Nor is there any evidence that suggests that vehicle(s) could not be safely parked within the whole of the hardstanding area and not overhang the pavement.
14. I note that the Local Highway Authority did not object to the proposed scheme, but they did suggest a condition requiring that a lower kerb and footway to improve the pedestrian link be installed. Moreover, they would want a boundary wall erected so as to prevent cars bumping up the pavement to use the hardstanding. However, this negates the fact that other vehicles, such as motorbikes and cycles, could be parked or stored within the hardstanding without overhanging the pavement. In any case, a wall is not proposed in this instance and I must consider the appeal on the proposal before me.
15. I therefore conclude that the proposed development would not result in material harm in terms of highway safety of pedestrians. As such it accords with the aims of Policy T7 of the BHLP, which, amongst other aims, seeks that planning permission will only be granted for developments that do not increase the danger to users of adjacent pavements and roads.

Conclusion

16. I have found in favour of the appellant in terms of highway safety and acknowledge that the proposal would contribute to the provision of housing in the district. However, whilst the harm to the significance of the Conservation Area is less than substantial, these benefits are not sufficient to outweigh that harm. Moreover, have I also found that the proposal would result in unacceptable material harm to the living conditions of neighbours.
17. For the reasons given above, I conclude that the appeal should be dismissed.

Cullum J A Parker

INSPECTOR