
Appeal Decision

Site visit made on 14 July 2014

by Claire Victory BA (Hons) BPI MRTPI

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

Decision date: 29 July 2014

Appeal Ref: APP/Q1445/A/14/2217330
7 Midhurst Rise, Brighton, BN1 8LP

- 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 N Holmes against the decision of Brighton & Hove City Council.
 - The application Ref BH 2013/03074, dated 30 August 2013, was refused by notice dated 13 February 2014.
 - The development proposed is described in the application as "demolition of existing detached garage and the erection of an attached two storey house. Widening of existing vehicular access and provision of two cycle stores".
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing detached garage and the erection of an attached two storey house; widening of existing vehicular access and provision of two cycle stores at 7 Midhurst Rise, Brighton BN1 8LP in accordance with the terms of the application, Ref BH 2013/03074, dated 30 August 2013, subject to the conditions in the following schedule.

Main Issue

2. The main issue is the effect of the development on the character and appearance of the host dwelling and surrounding area.

Reasons

3. 7 Midhurst Drive is a semi-detached dwelling within a residential area. The site is enclosed by a low brick wall with hedge above. Midhurst Drive is built into a relatively steep hill, and the appeal property is situated at the bottom. This section of the road has two pairs of semi-detached houses on each side, with distinctive catslide roofs to single storey side projections. Whereas pairs of semi-detached properties further up Midhurst Drive have a clear space between them, the spacing between the pairs of semi-detached properties is less distinct, due to garages or other extensions built in between them.
4. The proposal would involve the demolition of the detached garage at the side of the host dwelling and the erection of a dwelling attached to No 7. The Council are concerned that the dwelling, in its corner position, would be a prominent feature within the street scene, particularly in long views from the north, and that the length of the resulting terrace would appear out of place. However, at most only an oblique view of the development would be possible from a

distance to the north along Midhurst Rise, in which the terrace may not be seen in its entirety. Moreover, due to the position of additions to other properties, including a garage at the side of No 4 opposite, and the narrower side garden of No 8, I consider that the terrace would appear no longer in length than Nos 2-8 opposite if the appeal was allowed.

5. Whilst the proposed dwelling appears to be marginally wider than the host dwelling, this incorporates a single storey side projection which is slightly set back. As a result the dwelling would not appear out of proportion with adjacent properties. The inclusion of the catslide roof to the single storey element would also assist in the integration of the new dwelling into the streetscene. The proposed materials are sympathetic to those of the host dwelling, and could be controlled by condition. Consequently I consider the dwelling could be satisfactorily incorporated into its surroundings.
6. Turning to the size of the gardens for the new and existing dwellings, Brighton and Hove Local Plan (LP) policy H05 notes that private amenity space is required where appropriate to the scale and character of the development, which can include both front and back gardens. The appellant has stated that the existing hedgerow boundary would be retained and this could be secured by condition, enabling the side garden to also be useable as private amenity space for the proposed dwelling. Accordingly I consider that the development would provide adequate private amenity space for the existing and future occupants of the dwellings.
7. I conclude that the development would not harm the character and appearance of the host dwelling or the surrounding area. Thus it would accord with the design objectives of LP policies QD1, QD2, and QD3, which require a high standard of design which emphasises the positive qualities of the local neighbourhood, and LP Policy H05. These policies are consistent with the National Planning Policy Framework, which requires a high quality of design in all new development, and seeks to secure a good standard of amenity for all existing and future occupants of land and buildings. As such the development would constitute sustainable development as defined by the Framework.

Other Matters

8. The occupants of No 6 are concerned that the development would block views and sunlight to their property, but there are no rights to a private view, and in any case, this section of Midhurst Drive is unusually wide, with two carriageways and a central grassed verge. This means that there would be sufficient distance between No6 and the new dwelling to avoid unacceptable harm to the living conditions of the occupants.
9. I have also had regard to concerns that the development would bring noise and disturbance including more traffic. However, the Highway Authority has no objection to the proposed parking arrangements for the new dwelling, and on my site visit I saw that there was capacity on-street for car parking in the locality. I do not consider there would be a significant increase in noise and disturbance in the street from one additional dwelling, and the tenure of the property does not have a bearing on my decision.
10. The Council cannot demonstrate a five year housing land supply and therefore in accordance with paragraphs 14 and 49 of the Framework there is a presumption in favour of sustainable development unless any adverse impacts

of development would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework as a whole. For the above reasons I have concluded that the development would be sustainable. The development would therefore make a modest contribution towards the housing supply in the Borough.

Conditions

11. I consider the development would be acceptable subject to certain conditions. In considering those conditions suggested by the Council I have had regard to advice set out in both the Framework and the National Planning Policy Guidance (NPPG). In addition to the standard time limit condition, I have specified the approved plans for the avoidance of doubt and in the interests of proper planning.
12. I shall require the materials to be used in the external surfaces of the dwelling to match the host dwelling, and for hard and soft landscaping details to be submitted, and implemented in accordance with the approved details, both in the interests of residential amenity.
13. Conditions requiring the construction and retention of the vehicle crossover and access, and details of the proposed cycle parking store to be submitted to and approved in writing by the local planning authority are also necessary in the interests of highway safety.
14. I shall impose conditions requiring the dwelling to be constructed in accordance with Lifetime Homes standards, to comply with LP Policy HO13; the development to meet level 5 of the Code for Sustainable Homes, in line with LP Policy SU2 and the Sustainable Building Design Supplementary Planning Document, as the appellant has indicated the dwelling would meet this standard; and requiring the development to be undertaken in accordance with the Waste Minimisation Statement received on 9 September 2013, to re-use limited resources in line with LP Policy SU13 and Policy WMP3ed of the East Sussex, South Downs and Brighton and Hove Waste and Minerals Local Plan (2013).
15. Finally the Council have suggested the imposition of a condition requiring the submission of a nature conservation interest scheme to ensure the enhancement of biodiversity on the site and/or to mitigate any impact from the development. No specific impacts have been identified by the Council, and copies of the relevant policy LP QD17 and Annex 6 of the Nature Conservation and Development Supplementary Planning Document (SPD 11) have not been provided. This was not a reason for refusal and as the development is for a single dwelling I consider that the requirement is unduly onerous and unnecessary.

Conclusion

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

Claire Victory

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: Location Plan; Existing Floor Plans, Elevations, and Roof Plan (drawing ref. 13027/01); Proposed Floor Plans, Elevations, Roof Plan and Block Plan (drawing ref. 13027/02R2).
- 3) The materials to be used in the construction of the external surfaces of the dwelling hereby permitted shall match those used in the existing dwelling.
- 4) Prior to the commencement of the development hereby permitted, full details of both hard and soft landscape works shall be submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include means of enclosure; car parking layout; hard surfacing materials; planting areas; and refuse and recycling storage area.
- 5) 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 occupation of the dwelling hereby permitted, 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 diseased shall be replaced in the next planting season in kind. All hard landscaping works shall be carried out in accordance with the approved details prior to the first occupation of the dwelling hereby permitted.
- 6) The extended crossover and access shall be constructed prior to the first occupation of the dwelling hereby permitted and shall be retained as such thereafter.
- 7) Prior to the commencement of the development hereby permitted details of secure cycle parking facilities for the occupants of, and visitors to, the development hereby approved shall be submitted to and approved in writing by the local planning authority. These facilities shall be fully implemented and made available for use at all times.
- 8) The dwelling hereby permitted shall be constructed to Lifetime Homes standards prior to its first occupation and shall be retained as such thereafter.
- 9) 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 has been submitted to and approved in writing by the local planning authority. A completed pre-assessment estimator will not be acceptable.
- 10) The dwelling hereby permitted shall not be occupied until a Final/Post Construction Code Certificate issued by an accreditation body confirming that the residential unit has achieved a Code for Sustainable Homes rating of level 5 as a minimum has been submitted and approved in writing by the local planning authority.
- 11) The development hereby permitted shall be undertaken in accordance with the Waste Minimisation Statement received on 9 September 2013.