



Appeal Decision

Site visit made on 26 August 2014

by **Philip Willmer BSc Dip Arch RIBA**

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

Decision date: 15 September 2014

Appeal Ref: APP/Q1445/A/14/2220704

19 Bath Street, Brighton, East Sussex, BN1 3TB.

- 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 Jonathan Le Roy against the decision of Brighton and Hove City Council.
 - The application Ref BH2013/03704, dated 28 October 2013, was refused by notice dated 24 December 2013.
 - The development proposed is described as the demolition of the existing dwelling at 19 Bath Street and the construction of a new dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of the existing dwelling at 19 Bath Street and the construction of a new dwelling at 19 Bath Street, Brighton, East Sussex, BN1 3TB in accordance with the terms of the application, Ref BH2013/03704, dated 28 October 2013, and the plans submitted with it, subject to the conditions set out in the schedule at the end of this decision letter.

Main Issues

2. I consider the main issues in this case to be:
 - a) whether the appeal proposal would preserve or enhance the character or appearance of the West Hill Conservation Area; and,
 - b) the effect of the proposed development on the living conditions of the occupiers of 19a Bath Street in terms of its potential to have an enclosing or overbearing impact.

Reasons

Character and appearance

3. The property the subject of this appeal, 19 Bath Street, is a two-storey end of terrace building in residential occupation, located on rising ground in the West Hill Conservation Area. Due to the topography of the area, number 19 is set into the bank resulting in the first floor being at rear garden level.
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4. The immediately adjoining property, number 19a, is a former commercial vehicle garage now converted and, by the addition of a mansard roof, extended into a three-storey dwelling. However, the original fuel pumps have been retained. The neighbouring property to the south west, number 20, separated by a flight of access steps to number 19, is the end of a short terrace of two storey traditional red brick houses the ridge line of which is comparable to that of number 19a as extended.
5. In contrast to the buildings either side, due to its flat roof, overall width, symmetrical fenestration, garage doors at street level, height and overall horizontal emphasis, number 19 appears more modern than and subservient to its neighbours.
6. The appellant proposes the demolition of the existing property and the construction of a new three bedroom dwelling over three floors, retaining access to a garage at street level.
7. The new dwelling, linked to number 20 by an entrance lobby and stair tower, would be of a contemporary design. While the line of the parapet to the tower would be maintained, this element would be narrow and set back from the front of the building with a lower roof. In my judgement, therefore, the tower as designed would fulfil the same aesthetic function as the present gap by providing a clear distinction between the contrasting architectural styles.
8. The parapet line of number 19a would be maintained across the street elevation of the building. However, it is proposed that the roof would have a lower ridge line and be set forward of the new mansard to number 19a. Accordingly, while the roof may be marginally more prominent than the roof of 19a, it would serve to act as a full stop to the roof of the terrace, which ends at number 19. Further, it would reinforce the distinction of architectural styles between 19 and 20. Due to the stair tower being set back and having a lower roof, I do not consider that the proposed second floor would cause harm to the setting of the neighbouring buildings.
9. It is proposed to replace the existing pair of single garage doors with a new double width garage door at street level. A garage door here, like the four fully glazed doors and retained petrol pumps to the front of number 19a, may well appear to some people as an uncharacteristic feature in this stretch of Bath Street. However, equally they serve to reinforce the character and former use of the buildings and therefore I consider, despite being uncharacteristic, the retention of a garage door opening, like the glazed doors and petrol pumps at 19a, serves to better reveal the intrinsic historic character of the conservation area. However, given the sensitive nature of the site, if I were minded to allow the appeal the detailed design, materials and finishes of this element, along with the front door that is shown designed to match, would need to be conditioned to ensure that they are acceptable.
10. The design of the street elevation would have a strong horizontal emphasis by reason of the new wide single garage door, box bay at first floor level and the strip glazing to the second floor window. Accordingly, the building would to some extent appear visually bulky as asserted by the Council. However, it would reflect the existing building that due to its width, flat roof, fenestration pattern and change of materials at street level, equally has a more

contemporary horizontal feel. Accordingly, while the building would have a simple uncluttered appearance, I do not believe that in this context it would necessarily appear clumsy or overly dominant as suggested by the Council.

11. The proposed replacement dwelling would project further to the rear of the property than the existing property. At ground floor level it would line through with the rear of number 19a and project in front of the rear wall of 19a as extended at first and second floor level. Nevertheless, I am not persuaded that due to its stepped flat roof design in the context of the additions to the rear of numbers 19a and 20 and the topography of the site with the ground floor being set into the bank, that the rear of the building would appear either unnecessarily bulky or thereby too prominent in the conservation area.
12. I conclude in respect of the first main issue that the proposed replacement dwelling would serve to preserve the character and appearance of the conservation area. It would therefore accord with the objectives of Policies QD1, QD2 and HE6 of the Brighton and Hove Local Plan 2005 (LP) as they relate to, amongst other things, the quality of development and the preservation or enhancement of the character or appearance of conservation areas.

Living conditions

13. As identified above the rear of the new dwelling would project in front of the rear of 19a and line through with the rear of 20 at first and second floor level.
14. As the proposed dwelling is located north east of number 20, I concur with the Council that the proposal would not impact on the living conditions of this neighbouring occupier in terms of dominance, overlooking or loss of privacy.
15. I understand the Council's view to be that although located to the north east of number 19, the proposed development would not result in either a loss of daylight or sunlight from the habitable room served by the rear facing French doors to number 19a. From the evidence before me, and from what I have seen and read, I have no reason to disagree.
16. The rear of the new dwelling would project some 5.5 metres beyond the mansard roof of 19a. As the dormer in the rear slope of the mansard serves a bathroom, the new dwelling would not cause any significant harm in terms of impact upon outlook from that window.
17. The overall projection of the dwelling beyond the roofline of 19a would be about 5.5 metres and some 2.0 metres in front of the rear wall of 19a at both first and second floor level. Having regard to the existing boundary walls, the limited projection in front of the rear wall of 19a and this generally high density urban location, I do not consider that the proposed replacement dwelling would appear overbearing or be so overly enclosing as to cause significant harm to the living conditions of the residential occupiers of number 19a.
18. I conclude in respect of the second main issue that the proposal would not cause harm to the living conditions of neighbouring residential occupiers and thereby would comply with the aims of LP Policy QD27 in this respect.

Conclusions and Conditions

19. For the reasons given above and while having regard to all other matters raised, I conclude that the appeal should succeed and planning permission be granted.
20. In accordance with the Council's suggestions, and to ensure a high quality development that meets the changing needs of households, I have included conditions about building materials and a requirement for the new dwelling to achieve the Lifetime Homes standard. As the garage and matching front door would be prominent features I shall also condition their detailed design and finish.
21. To protect living conditions and so the Council can retain control over future alterations and enlargements, I have removed permitted development rights and included conditions requiring the first and second floor windows in the south west elevation to be obscure glazed and non-opening and for the storage of refuse and recycling materials. To make sure of the provision of available and adequate cycle parking I have included a condition about cycle storage. To safeguard the health of future residents and occupiers of the site, I shall require a land contamination study to be undertaken along with any necessary remedial works and/or other measures.
22. To warrant that the new dwelling is sustainable and makes efficient use of energy, water and materials I shall require it to achieve Level 3 of the Code for Sustainable Homes. For the avoidance of doubt and in the interests of proper planning, I shall also impose a condition requiring the development to be carried out in accordance with the approved plans.

Philip Willmer

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: drawings numbered 268-01 Rev PI, 02 Rev PI, 03 Rev PI, 04 Rev PI, 21 Rev PI, 22 Rev PI, 24 Rev PI, 100 Rev PI, 101 Rev PI, 102 Rev PI and 103 Rev PI.
- 3) The development hereby permitted shall not be commenced until larger scale detailed plans and drawings showing in elevation the proposed garage and front doors at a scale of 1:20 together with a specification of the materials from which they would be made together with the finish and colour to be applied, have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) 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. Development shall be carried out in accordance with the approved details.

- 5) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking, re-enacting or modifying that Order), no extension, enlargement, alteration of the dwellinghouse or provision within the curtilage of the dwellinghouse as provided for within Schedule 2, Part 1, Classes A - E of the Town and Country Planning (General Permitted Development) Order 1995, as amended (or any order revoking and re-enacting that Order with or without modification) other than that expressly authorised by this permission shall be carried out.
- 6) Before the first occupation of the dwelling hereby permitted the first and second floor windows in the south west side elevation shall be fitted with obscured glass and be non-opening, unless the parts of the windows which can be opened are more than 1.7 metres above floor level of the room in which the windows are installed, and shall be permanently retained in that condition.
- 7) The development hereby permitted shall not be occupied until the cycle parking facilities shown on the approved plans have been fully implemented and made available for use. The cycle parking facilities shall thereafter be retained for use by the occupants of and visitors to the development at all times.
- 8) 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 scheme shall be carried out in full as approved prior to first occupation of the development and the refuse and recycling storage facilities shall thereafter be retained for use at all times.
- 9) The new dwelling hereby permitted shall be constructed to the Lifetime Homes standard prior to its first occupation and shall be retained as such thereafter.
- 10) The dwelling shall achieve Level 3 of the Code for Sustainable Homes. It shall not be occupied until a final Code Certificate has been issued for it certifying that Code Level 3 has been achieved.
- 11)(i) No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority:
 - (a) a desk top study documenting all the previous and existing land uses of the site and adjacent land in accordance with national guidance as set out in Contaminated Land Research Report Nos. 2 and 3 and BS10175:2001 - Investigation of Potentially Contaminated Sites - Code of Practice;
and, unless otherwise agreed in writing by the Local Planning Authority,
 - (b) a site investigation report documenting the ground conditions of the site and incorporating chemical and gas analysis identified as appropriate by the desk top study in accordance with BS10175:2001;
and, unless otherwise agreed in writing by the Local Planning Authority,

(c) a detailed scheme for remedial works and measures to be undertaken to avoid risk from contaminants and/or gases when the site is developed and proposals for future maintenance and monitoring. Any such scheme shall include the nomination of a competent person to oversee the implementation of the works.

- (ii) The development hereby permitted shall not be occupied or brought into use until there has been submitted to the Local Planning Authority verification by the competent person approved under the provisions of (i) (c) above that any remediation scheme required and approved under the provisions of (i) (c) above has been implemented fully in accordance with the approved details (unless varied with the written agreement of the Local Planning Authority in advance of implementation). Unless otherwise agreed in writing by the Local Planning Authority such verification shall comprise:
- a) as built drawings of the implemented scheme;
 - b) photographs of the remediation works in progress; and
 - c) certificates demonstrating that imported and/or material left in situ is free from contamination.
- Thereafter the scheme shall be monitored and maintained in accordance with the scheme approved under (i) (c).