

Appeal Decision

Site visit made on 5 January 2016

by David Walker MA MRTPI

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

Decision date: 01 February 2016

Appeal Ref: APP/Q1445/W/15/3135019

Land to rear of 63 Bramble Rise, Brighton, Brighton & Hove BN1 5GE

- 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 M Deller against the decision of Brighton & Hove City Council.
 - The application Ref BH2015/00628, dated 24 February 2015, was refused by notice dated 16 July 2015.
 - The development proposed is the demolition of existing garage and store and erection of new 3 bedroom two storey detached dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in the appeal are the effect of the proposal on i) the character and appearance of the area, and ii) the living conditions of the occupants of neighbouring properties having regard to noise and disturbance.

Reasons

Character and Appearance

3. The proposal would result in a two storey dwelling of contemporary design situated in the rear garden of the host property No 63 and accessed off a private lane. It would replace the existing double garage at No 63.
 4. It is pointed out for the appellant that the Council cannot demonstrate a five-year supply of housing sites as required at paragraph 47 of the National Planning Policy Framework (the Framework). This is acknowledged by the Council and, under the circumstances, the Framework states that policies for the supply of housing cannot be considered up-to-date. Accordingly the presumption in favour of sustainable development set out within the Framework is a material consideration of significant weight and capable of outweighing housing mix Policy HO3 of the Brighton & Hove Local Plan (the Local Plan) referred to by the Council in its reasons for refusal, and housing density Policy HO4 referred to by the appellant.
 5. In applying the presumption in favour of sustainable development I am mindful of the Government's policy that the three dimensions of sustainable development, namely the economic, social and environmental roles, are mutually dependent. Therefore, while paragraph 47 of the Framework seeks to
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boost significantly the supply of housing, this is to be achieved within the core planning principles set out at paragraph 17 and which includes the need to 'always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings'.

6. The proposal would be located off an access lane that leads to the rears of properties along Bramble Rise, Highbank and Mill Rise. While there are a number of ancillary domestic buildings situated along the lane, including the sizeable garages at the appeal site and the neighbouring property No 65, there are no other dwellings located along the lane. The existing pattern of development in the vicinity of the appeal site, therefore, is one that fronts the public highway with private gardens to the rear. The rear access lane is very much incidental to this defining pattern of development and at the time of my site inspection had a quiet ambience with little use and activity.
7. Into this quiet setting the two storey dwelling would be nestled between the sloping gardens of the host property and its neighbours, and face out over the lane towards the rear gardens of the houses along Highbank. Although there would be a screening effect from existing trees along the lane, such an unusual pattern of development would be fundamentally at odds with the prevailing character of the area. It would lead to conflict with the requirements of Local Plan Policy QD2 to emphasise and enhance the positive qualities of the local neighbourhood by taking into account local characteristics. The setting of the proposal into the slope of the rear garden would not sufficiently integrate it into the existing rhythm and layout of the existing development of the area.
8. I acknowledge that the proposal would not be highly visible from public vantage points, and that the Council raises no objection to its design, but it would rise above the eaves of the summerhouse at No 65 with a wide flat roof structure that would be readily apparent to nearby residents and be of a dominant scale in its cramped garden setting. In this regard I am mindful of the requirements of Policy QD3 of the Local Plan to incorporate an intensity of development appropriate to the locality and/or its townscape, amongst other things, and to rigorously examine proposals for backland development to avoid town cramming.
9. Having regard to paragraph 49 of the Framework and the presumption in favour of sustainable development, the harm to character and appearance that I have identified would significantly and demonstrably outweigh the limited benefits to the housing supply that would be provided by one additional dwelling. Although the Local Plan is an aged document, to the extent that its design Policies QD1, QD2 and QD3 are consistent with paragraph 17 of the Framework and the more detailed design guidance at Section 7 of the Framework, I find no convincing reasons for setting them aside.
10. In this issue, therefore, I find the proposal would have a harmful effect on the character and appearance of the area leading to conflict with the requirements of design policies QD1, QD2 and QD3 of the Local Plan.

Living Conditions

11. I acknowledge that the design of the proposal is unlikely to give rise to overlooking of neighbouring properties and a corresponding loss of privacy. However, the introduction of a dwelling adjacent to the private gardens of

neighbouring properties, where none exists at present, would create a more intensive level of residential use and activity.

12. Such an intensity of usage as would arise from the full-time occupation of a new dwelling would be materially different from the occasional use of the existing garden. It would give rise to a level of noise and disturbance from general comings and goings, televisions and audio equipment, domestic appliances, and from night-time lighting that would be likely to have a harmful effect at a location where there would be a reasonable expectation of peace and quiet.
13. In this regard the proposal would conflict with the requirements of Policy QD27 of the Local Plan that seek to protect residential amenity, and the corresponding provision at paragraph 17 of the Framework. In this issue, therefore, I find that the harm to living conditions from the proposal would also significantly and demonstrably outweigh the limited benefits that would accrue from the provision of an additional dwelling for the purposes of the presumption in favour of sustainable development.

Conclusion

14. For the reasons given above, and with regard to all matters raised including the submissions of interested members of the public and the development plan read as a whole, I conclude that the appeal should be dismissed.

David Walker

INSPECTOR

