

Appeal Decision

Site visit made on 22 February 2016

by Joanna Reid BA(Hons) BArch(Hons) RIBA

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

Decision date: 15 March 2016

Appeal Ref: APP/Q1445/W/15/3137542
54 Woodland Drive, Hove BH3 6DJ

- 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 Ms Setareh Shahin against the decision of Brighton & Hove City Council.
 - The application Ref BH2014/03283, dated 27 September 2014, was refused by notice dated 7 August 2015.
 - The development proposed is "conversion of 4 bedroom (C3) detached house to day nursery (D1)".
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Decision

1. The appeal is allowed and planning permission is granted for "conversion of 4 bedroom (C3) detached house to day nursery (D1)" at 54 Woodland Drive, Hove BH3 6DJ in accordance with the terms of the application, Ref BH2014/03283, dated 27 September 2014, subject to the conditions set out in Schedule A at the end of this decision.

Main issues

2. The main issues in this appeal are the effect that the proposal would have on:
 - The character and appearance of the surrounding area, and
 - Highway safety and the free flow of traffic in and around the junction of Woodland Drive and Shirley Drive, and
 - Whether the proposal would cause the unacceptable loss of a unit of residential accommodation.

Reasons

3. The proposal includes the change of use of the existing dwelling at the appeal site to a mixed use children's day nursery (use Class D1) and a one-bedroom residential unit (use Class C3), and to alter the roof space with hip to gable roof extensions and 2 rear dormers. The development also includes a new front wall, railings and gate, and acoustic fencing to parts of the side boundaries. It also includes 2 front roof lights, an external staircase on the south side, and new doors and windows in the east and north walls.
 4. The relevant Policies of the *Brighton & Hove Local Plan* (LP) are broadly in line with the *National Planning Policy Framework* (Framework). So, in accordance with Framework paragraph 215, due weight can be afforded to them.
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Character and appearance

5. The site is situated in a mainly residential area, very close to but outside the boundary of the Woodland Drive Conservation Area (Conservation Area). The appeal dwelling is a 2-storey house, which is not dissimilar to others in the locality both within and outside the Conservation Area. The proposed roof alterations and extensions would be in keeping with the developed roof spaces at several nearby houses, including 50 and 52 Woodland Drive, which are part of the established character of the area.
6. Because the hip to gable roof extensions would maintain the traditional appearance of the building, and their barn-hipped form would alleviate their mass, the proposal would be in keeping with the large mainly traditional detached and semi-detached houses in Woodland Drive. The flat-roofed dormers at the back would respect the scale and siting of the windows below them, and they would be set well down from the ridge and well in from the gables. The front-facing roof lights would maintain the form of the front roof slope. So, the form and design of the roof extensions and alterations would harmonise with character and appearance of the existing building.
7. As the site is separated from the plot of the dwelling at 56 Woodland Drive by the footpath to Three Cornered Copse, the additional scale and bulk of the roof extensions and dormers would not dominate that neighbouring dwelling. Thus, the proposal, which is within the immediate setting of the Conservation Area, would not harm the character or appearance of the designated heritage asset, or erode its significance as an area of residential townscape. Much of the area in front of the building is hard-surfaced at present, so the new soft landscaped areas and low front boundary walls, gates and railings would harmonise with the street scene in Woodland Drive.
8. I consider that the proposal would not harm the character and appearance of the surrounding area. It would satisfy LP Policy QD14 which aims for extensions and alterations to be well designed, and guidance in the *Brighton & Hove City Council spd 12 design guide for extensions and alterations*. It would also satisfy the Framework which aims to always seek to secure high quality design and to take account of the character of different areas.

Highway safety

9. Woodland Drive slopes down from roughly north to south with the topography. Close by, it is subject to a 30 mph speed restriction, as is the nearby part of Shirley Drive. There are few parking restrictions, so parking in most parts of the nearby roads, and in the lay-by on the opposite side of Woodland Drive, is not controlled. Woodland Drive includes road humps for much of its length and around the junction with Shirley Drive.
10. The proposal includes separate pedestrian and vehicular accesses to the site, which would reduce the potential for conflict between these different modes of travel. The 3 on-site car parking spaces, which would be reached from the existing access, would be for staff vehicles only. There would be ample room within the site for cycle parking in accordance with the Council's standards. As there would be no drop-off facility at the site, parents and carers delivering and collecting children by vehicle would park off-site and walk to the nursery. This would limit the number of vehicle movements at the site and reduce the potentially hazardous vehicle manoeuvres by the access in Woodland Drive.

11. The highway authority agrees with the appellant's assessment that there are suitable spaces in the local area to support the forecast parking demand of a nursery for 28 children. As there would be sufficient on-street parking provision for parents and carers to park in a responsible, legal and safe location and then walk to the nursery, this should be promoted through the travel plan.
12. LP Policy TR12, which is referred to in the Council's reason for refusal 2, aims to encourage the independent movement of children. Its supporting text explains that children's access needs are different from the needs of adults because of their inability to assess traffic speed, and their inability to choose safe places to cross roads, amongst other things. Due to the age range of the nursery children, the parents and carers responsible for them would reasonably expect to accompany those children up to the hand over to, or collection from, nursery school staff, and they would choose safe places to cross roads as necessary. As the children would be accompanied by parents or carers if on foot, or pushed in push chairs and the like, they would not be travelling independently, so LP Policy TR12 is not relevant to this proposal.
13. Whilst concerns about highway safety and congestion in and around the nearby roads have been raised by many interested persons, almost no substantive evidence, such as accident records, traffic counts or parking surveys, have been put to me to support their view. By contrast, the highway authority has provided a detailed appraisal including access and parking, trip generation and highway impact, road safety, and the need for a travel plan. Moreover, its evidence is that the last recorded accident at the junction of Woodland Drive and Shirley Drive was in 2006 and that this was recorded as slight. So, I see no reason to disagree with the highway authority's assessment.
14. I consider that, subject to the imposition of relevant conditions suggested by the Council, the proposal would not be likely to endanger highway safety or to unacceptably impede the free flow of traffic in and around the junction of Woodland Drive and Shirley Drive. It would satisfy LP Policy TR1 which aims for developments to provide for the demand for travel that they create and to maximise the use of public transport, walking and cycling, and LP Policy TR7 which seeks to permit proposals for new development and changes of use that do not increase danger to users of adjacent pavements, cycle routes and roads. It would also satisfy the Framework which aims to only prevent or refuse development on transport grounds where the residual cumulative impacts of development are severe.

The dwelling

15. LP Policy HO8 aims to not permit proposals involving a net loss of units of residential accommodation unless one or more of 5 exceptional circumstances apply, none of which are relevant to the proposal. LP Policy HO26, which aims to permit day nurseries, says, amongst other things, that the loss of residential units may be permitted as an exception to LP Policy HO8 to enable the provision of nursery facilities in those areas where it can be demonstrated that there is a significant shortfall.
16. As the existing building is a single dwelling, and the proposal includes a day nursery with one-bedroom living accommodation, there would continue to be one unit of residential accommodation at the site. Thus, there is no need to demonstrate a significant shortfall in day nursery provision in the locality. I therefore consider that the proposal would not cause the unacceptable loss of

a unit of residential accommodation. It would satisfy LP Policies HO8 and HO26, and the Framework which seeks to promote mixed use developments.

Other matters

17. As a side boundary fence up to 2 m high could be erected without the need for planning permission if the dwelling were to remain in use as a house, the proposed 1.8 m high acoustic fence would not have a harmfully overbearing impact on the occupiers of 52 Woodland Drive. Moreover, the acoustic fence by the common boundary would ensure that the use of the buggy store would not cause an unacceptable loss of privacy for those adjoining occupiers.

Balance

18. As the proposal would be acceptable for the reasons given in the main issues, planning permission should be granted subject to the imposition of conditions.

Conditions

19. The Council's suggested conditions have been considered in the light of Framework paragraph 206. The condition identifying the approved plans is necessary for the avoidance of doubt and in the interests of proper planning. Conditions to control external materials, tree protection, boundary treatment including gates and walls at the front and acoustic fencing, refuse and recycling facilities, and hard and soft landscaping, are necessary to protect the character and appearance of the area. Conditions to control operating hours and the number of children attending the day nursery, outdoor play sessions, acoustic fencing, acoustic window treatment and acoustic canopies, management of the outdoor space, and amplified music and musical equipment, are necessary to protect the living conditions of nearby occupiers.
20. The condition for fixed shut obscured glazing to part of the side facing second floor window, and for boundary treatment along the part of the south side boundary that is not enclosed by the acoustic fence is reasonable to protect the privacy of the neighbouring occupiers. Conditions to control the use of the on-site parking spaces, to prevent on-site parking, dropping off and collecting of children by parents and carers, and for a Travel Plan, are necessary in the interests of highway safety. The condition to control the use of the development is necessary for the avoidance of doubt, and to safeguard the living conditions of nearby occupiers and the character of the area. The condition to control the use of the flat is reasonable to prevent the loss of a dwelling in accordance with local policy. Conditions for refuse and recyclables facilities, cycle parking, and measures for the sustainable use of water, energy and materials, are reasonable in the interests of sustainability. Although some conditions have been re-worded in line with national policy and guidance, all of the Council's suggested conditions have been imposed.

Conclusion

21. For the reasons given above and having regard to all other matters raised, the appeal succeeds.

Joanna Reid

INSPECTOR

Schedule A

- 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: 14/WD/100B, 14/WD/101B, 14/WD/102K, 14/WD/103K (scale 1:100@A1), 14/WD/103K (scale 1:50@A1), 14/WD/104B and 14/WD/105B.
- 3) The materials to be used in the construction of the external surfaces of the extensions hereby permitted shall match those used in the existing building.
- 4) The day nursery use hereby permitted shall not be operational except between 0700 hours and 1900 hours Mondays to Fridays inclusive, and it shall not be operational on Saturdays, Sundays, Bank Holidays or Public Holidays.
- 5) The number of children attending the nursery shall not exceed 28 at any time.
- 6) Outdoor play sessions in connection with the day nursery use hereby permitted shall only take place between 0900 hours and 1700 hours on Mondays to Fridays inclusive, and no outdoor play sessions shall take place on Saturdays, Sundays, Bank Holidays or Public Holidays.
- 7) The management of the outdoor space shall be undertaken in accordance with the Noise Management Plan submitted to local planning authority on 23 March 2015.
- 8) No amplified music or musical equipment shall be used in the outdoor play area in connection with the day nursery use hereby permitted.
- 9) The vehicle parking area shown on the approved plans shall not be used otherwise than for the parking of vehicles belonging to staff members, and no parent or carer dropping off or picking up shall take place.
- 10) The development shall be used for a children's day nursery and a single one-bedroom flat and for no other purpose including any other purpose in use Classes C3 and D1 of the Schedule to *The Town & Country Planning (Use Classes) Order 1987* as amended, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification.
- 11) The rooms allocated for residential purposes shown on plan 14/WD/102K shall be retained as such and shall not be used as part of the day nursery.
- 12) The new side-facing window in the south elevation at second floor level shall be obscure-glazed and non-opening, unless the parts of the window that can be opened are more than 1.7 m above the finished floor level of the room within which the window is sited, and the window shall be retained as such thereafter.
- 13) No development or other operations shall commence on site in connection with the development hereby approved (including any tree felling, tree pruning, demolition works, soil moving, temporary access construction and widening, or any operations involving the use of motorised vehicles or construction machinery) until a Construction

Specification and Method Statement (CSMS) for the acoustic fence has been submitted to and approved in writing by the local planning authority. The CSMS shall provide for the long term retention of the trees on and adjacent to the site, and no development or other operations shall take place other than in accordance with the CSMS.

- 14) The development hereby permitted shall not be occupied until a scheme for the storage of refuse and recyclables has been submitted to and approved in writing by the local planning authority and has been carried out as approved. The approved facilities for the storage of refuse and recyclables shall be retained as approved for use as such thereafter.
- 15) The development hereby permitted shall not be occupied until the 1.8 m high acoustic fencing shown on plan 14/WD/102K has been erected as approved, and the approved acoustic fencing shall be retained as such thereafter.
- 16) The development hereby permitted shall not be occupied until details of secure cycle parking facilities for the occupants of and visitors to the development have been submitted to and approved in writing by the local planning authority, and the cycle parking facilities have been carried out as approved. The approved cycle parking facilities shall be retained as approved for use as such thereafter.
- 17) The day nursery in the development hereby permitted shall not be used as such until details of the acoustic treatment of the windows and the acoustic canopies have been submitted to and approved in writing by the local planning authority and the acoustic treatment of the windows and the acoustic canopies have been carried out as approved. The approved acoustic treatment of the windows and the acoustic canopies shall be retained as such thereafter.
- 18) The development hereby permitted shall not be occupied until details of the measures to achieve the sustainable use of water, energy and materials have been submitted to and approved in writing by the local planning authority and those measures have been carried out as approved. The approved measures shall be retained as such thereafter.
- 19) The development hereby permitted shall not be occupied until the walls and gates at the front of the site have been carried out as approved, and the approved walls and gates shall be retained as such thereafter.
- 20) The development hereby permitted shall not be occupied until a scheme of landscaping has been submitted to and approved in writing by the local planning authority including: details of hard surfacing, boundary treatment except for the acoustic fencing and front boundary walls and gates that are subject to separate conditions, and proposed planting including numbers and species of plants, and size and planting method for any trees. All hard landscaping and boundary treatment shall be completed in accordance with the approved details before the development hereby permitted is occupied. All planting, seeding and turfing comprised in the approved scheme of landscaping shall be carried out in the first planting season following the first occupation of the development or the completion of the development, whichever is the sooner, and any trees or shrubs which within a period of 5 years from the completion of the development die, are removed, or become seriously damaged or diseased shall be replaced in the next planting

season with others of the same size and species unless the local planning authority gives approval in writing to any variation.

- 21) Within 3 months of occupation of the development hereby permitted a Travel Plan (a document that sets out detailed measures and commitments tailored to the needs of the development, which aims to promote safe, active and sustainable travel choices for its users, including children attending the nursery, parents, carers, staff, visitors, residents and suppliers) shall be submitted to and approved in writing by the local planning authority and thereafter implemented as approved.

End of Schedule A

