

Appeal Decision

Site visit made on 27 March 2017

by **Nicola Davies BA DipTP MRTPI**

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

Decision date: 11 May 2017

Appeal Ref: APP/Q1445/W/16/3161249 106 Greenways, Brighton BN2 7BL

- 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 Ron Lewis against the decision of Brighton & Hove City Council.
 - The application Ref BH2016/01693, dated 12 May 2016, was refused by notice dated 28 September 2016.
 - The development proposed is a bungalow with parking.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues raised in respect of the appeal are the effect of the proposed development on:
 - (a) The character and appearance of the area; and
 - (b) The living conditions of existing and future occupiers.

Reasons

The character and appearance of the area

3. The area is predominantly residential in character comprising a mix of bungalows and detached two-storey dwellings that, in the main, have long rear gardens. The appeal property has a less conventional arrangement to that of surrounding properties in that its associated garden is to the side of the bungalow positioned alongside the junction of Greenways and Ainsworth Avenue. Nonetheless, this bungalow with its garden to the side maintains the rhythm of plot sizes of the properties in the area.
 4. The garden area narrows toward the junction. The proposed dwelling would be constructed very close to the site boundary at Ainsworth Avenue and would be positioned forward of the front building line of the existing dwelling, No 106 Greenways, and those dwellings south of the appeal site fronting Greenways. This would not reflect the established set back from the highway of the properties in the area. The proposed dwelling would therefore be out of character with the prevailing pattern of development in the area and the setback of dwellings from the highways.
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5. Furthermore, the proposed dwelling would be constructed in such close proximity to the boundaries of the site that it would appear cramped within this constrained site. In addition, the small gardens for both the existing and proposed dwelling would not be characteristic of the area. The proposed development would therefore represent an overdevelopment of the site and would be harmful to the character and appearance of both the appeal site and the streetscene. The appeal site is located in a particularly prominent position at the highway junction and the visual harm of the proposed development would be readily apparent in views from the surrounding area and to adjoining occupiers.
6. I acknowledge that the development along Greenways is varied and to this part of Greenways the bungalows are positioned close to each other. In addition, the design of the proposed bungalow would be similar to that of the present dwelling at the site. However, these matters do not outweigh or overcome the harm that I have identified above.
7. For those reasons set out above the proposed development would be harmful to the character and appearance of the area, and would be contrary to Policies CP12 and CP14 of the Brighton & Hove City Plan Part One, which seek residential development to be appropriate to the character of the neighbourhood, amongst other matters. The proposal would also conflict with the aims of paragraphs 17, 53, 56 and 58 of the National Planning Policy Framework (the Framework) that aims to ensure development responds to local character and resists inappropriate development of residential gardens where it would cause harm to the local area.
8. Whilst the proposed development is opposite the open land of the South Downs National Park it does not lie within it and I consider the proposal to be clearly visually related to the existing residential development. As such, I do not consider the proposal would significantly impact upon the setting of the National Park.

The living conditions of existing and future occupiers

9. The proposed dwelling would be in extremely close proximity to the side elevation of the existing dwelling which has two windows that provide outlook toward the side garden. I observed that a room to the front of the property has dual aspect with both front and side windows. Although the proposed dwelling would be constructed close to the side window of this existing habitable room, the large front window would ensure adequate light and outlook to this room.
10. The appellant indicates that the second window in the side elevation serves a third bedroom. This window is the only source of outlook and light for this room. The proposed dwelling in close proximity to this existing room would significantly reduce light to, and outlook from, this habitable accommodation. Although a bedroom, this is a room in which the occupiers could spend a reasonable amount of their time. The proposed development in such close proximity to this habitable room would be harmful to the living conditions of the existing occupiers.
11. The main garden area relating to the proposed dwelling would be to the front and side and be of a modest size. Although the appeal site is located in a visually prominent position at the highway junction, the existing side garden is

enclosed by an established wall topped by fencing. This would ensure privacy of this garden area in the same way as it does for the existing side garden. I therefore consider that the proposed development would provide an outdoor amenity space with an appropriate degree of privacy for the future occupiers of the proposed dwelling.

12. The existing property, as a result of the sub-division of the site, would have a smaller garden to the rear. The existing side garden remains important for use by the occupants of this dwelling as an outdoor amenity space. Such space would normally be used by occupants for sitting out, drying clothes, general outdoor recreation, and so on. The sub-division of the site along with the loss of the existing side garden area and retention of a small garden area would not provide adequate outdoor space for the occupiers of the existing dwelling.
13. Whilst I have found in favour of the appellant in terms of the effect on the living conditions of future occupiers, this does not overcome the harm identified to the living conditions of existing occupiers. For the above reasons the proposed development would be contrary to Policy QD27 of the Brighton & Hove Local Plan. This policy seeks to prevent the loss of amenity to existing occupiers, amongst other matters. The proposed development would also be contrary to paragraph 17 of the Framework that seeks to secure a good standard of amenity for existing occupiers of land and buildings.

Other matters

14. I note that the appeal site has been subject to a previous planning application (LPA ref BH2004/03357/OA) and subsequent dismissed appeal. Since then, the Framework has come into place. The Framework requires decisions to be made with regard to the presumption in favour of sustainable development. Accordingly I have considered whether the appeal proposal would be consistent with the social, economic and environmental dimensions of sustainable development, as set out in paragraph 7 of the Framework noting that the Council has indicated that it has a five year supply of housing sites. Paragraph 8 of the Framework specifies that these three elements of sustainable development need to be considered together and are mutually dependant and should be sought jointly.
15. I have found that the proposed development would harm the character and appearance of the area and the living conditions of existing occupiers, placing it in conflict with the environmental dimension of paragraph 7. Whilst the principle of residential development may be acceptable in this urban location, this does not outweigh the environmental harm that I have identified above. Furthermore, the visual harm and the harm to living conditions of occupiers arising from the development leads me to conclude that there is conflict with the development plan as a whole and I find the scheme is not sustainable development.

Conclusions

16. Having regard to the above findings and all other matters raised, including that of the size of the appeal site, the appeal should be dismissed.

Nicola Davies

INSPECTOR

