

## Appeal Decision

Site visit made on 12 December, 2016

by **C. Jack, BSc (Hons) MA MA(TP) MRTPI**

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

Decision date: 31<sup>st</sup> January, 2017

---

### Appeal Ref: **APP/Q1445/W/16/3157589**

### **77 St Aubyns, Hove, BN3 2TL**

- 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 A Stuart of Art Stuart Property Limited against the decision of Brighton & Hove City Council.
  - The application Ref BH2015/03171, dated 27 August, 2015 was refused by notice dated 10 June, 2016.
  - The development proposed is the demolition of garages and construction of a detached family dwelling.
- 

### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues are the effect of the proposed development on i) the character and appearance of the area, including the Old Hove Conservation Area, the setting of the adjacent Cliftonville Conservation Area, and the effect on trees and ii) the living conditions of nearby occupiers, with particular regard to privacy and outlook.

### Reasons

3. 77 St Aubyns (No 77) is a mid-terrace property, typical of the area, which is converted into five flats. At the rear there is a garden area, a pair of single garages, and an off-street parking area, accessed from Seafield Road. No 77 lies within the Old Hove Conservation Area (OHCA). The properties on the opposite side of Seafield Road fall within the Cliftonville Conservation Area (CCA), which abuts the OHCA. St Aubyns and Seafield Road are predominantly residential, generally characterised in the vicinity of the site by rows of attractive, fairly uniform traditional terraced houses. Street trees are also a particular feature of the area.
  4. It is proposed to demolish the pair of garages and erect a three-storey dwelling of modern design at the rear of No 77, fronting Seafield Road. The house would be set back slightly from the road, behind a small forecourt area, and would have a courtyard to the rear. A reduced garden area would be retained for No 77. The existing Elm tree adjacent to the front boundary of the site is also proposed to be retained.
  5. The parties agree that the principle of residential development here is acceptable.
-

*Character and appearance*

6. The existing garages on the appeal site form part of a row of similar flat roofed garages with off-street parking spaces in front, which extends much of the way along this side of Seafield Road. Accordingly, the built form on this side of Seafield Road is low-rise and unobtrusive in the vicinity of the site. While the quality of the garage buildings is not high, this arrangement gives a spacious feel to the road, which forms a key part of its existing character. There is a notably wide separation between the front of the Seafield Road properties and the rear elevations of St Aubyns, which are generally open to clear view from Seafield Road and display various features such as balconies and fire escapes. The row of street trees that runs in front of the garages also makes a positive contribution to the appearance of Seafield Road. It is this general consistency, coupled with the traditional features appreciated in the relatively open environment, which defines the two conservation areas here.
7. The proposed house would be substantially larger than the existing garages, which would result in a prominent presence in the relatively open street scene. The three-storey, flat-roofed, boxy structure would cover the majority of the site area, abutting the boundary on one side, with just a narrow path provided along the other side of the house. Therefore, together with its proximity to the front boundary and its height and proximity in relation to the adjacent tree, the house would appear cramped and over-dominant within its plot. I accept that the height of the house would be lower than the eaves of the Seafield Road houses, nonetheless, its overall scale would be out of keeping with the low-rise and low-key built form to either side of it, giving it an incongruous and stark appearance in the wider street scene.
8. The proposed design, flat roof, and materials would also be out of keeping in this location, which is predominantly characterised by more traditional properties of fairly uniform appearance. This would compound the awkward and incongruous appearance of the building, which would be at odds with its surroundings. This would be to the detriment of the established character of the street scene and would fail to reflect the defining characteristics of the OHCA and CCA.
9. I note that there have been a number of planning permissions granted for residential development in Seafield Road and that several three-storey terraced houses have been built towards the far end of the road (numbered 66 - 74) relatively recently. A further two-storey detached house (Seafield Cottage) lies between that terrace and the extensive row of garages. These other additions are of more traditional design and materials and relate reasonably comfortably to the more historic built environment around them. There is also a large detached house at the Church Road end of the street, which relates closely to the adjacent buildings that front Church Road.
10. In contrast, the proposed house would be remote from these other properties, appearing as a standalone building in the street scene, inconsistent with the prevailing built form, and having a very different character and design. It would therefore be unduly prominent and have a significant impact on the open character of the street. Accordingly, I am not persuaded that these other developments add any significant weight in favour of the appeal proposal.

11. The submitted Arboricultural Report sets out that, despite a considerable incursion into the rooting zone, the proposed development would have no significant effect on the adjacent Elm to be retained, subject to specified mitigation relating principally to tree protection measures and arborist supervision during construction. Such measures could have been secured by condition had the appeal been allowed. I am therefore satisfied that the proposal makes adequate provision for the protection of the tree, which is an important feature of the character and appearance of the area. In this respect it would therefore be consistent with the relevant criteria of retained Policy QD16 of the Brighton and Hove Local Plan 2005 (BHLP).
12. Notwithstanding, I conclude overall that the proposed development would be harmful to the character and appearance of the area. It would therefore conflict with adopted Policy CP12 of the Brighton and Hove City Plan Part One 2015 (BHCP), which among other things seeks to ensure that new development would respect the urban grain and conserve or enhance the city's built heritage and its settings. It would also conflict with adopted Policy CP14 of the BHCP, which seeks to ensure that the density of development is appropriate to the positive character of the neighbourhood, including by helping to maintain or create a coherent townscape.
13. In light of my reasoning above, I further conclude that the proposed development would fail to preserve or enhance the character and appearance of the OHCA and the setting of the CCA, contrary to the expectations of the National Planning Policy Framework, and of adopted Policy CP15 of the BHCP and retained Policy HE6 of the BHLP, which together seek to conserve and enhance the city's historic environment, including conservation areas and their settings. However, I quantify the extent of the resulting harm as being less than substantial in the context of paragraphs 133 and 134 of the Framework. Such harm needs to be balanced against any public benefits the proposed development might bring.
14. I recognise that there would be a number of associated public benefits arising from the proposed development, including the provision of one house that has been designed to meet Lifetime Homes standards, a windfall contribution to housing land supply, and making more effective use of previously developed land. However, these benefits are modest in connection with one additional dwelling and are therefore significantly outweighed by the harm that I have identified to the character and appearance of the OHCA and the setting of the CCA, which is a matter of considerable importance and weight in respect of these designated heritage assets.

#### *Living conditions*

15. The new house would be closer to the rear elevation of the flats at No 77 than the garages proposed to be replaced. This, and the additional height of the dwelling, would result in reduced outlook from those residential units by virtue of the reduced depth of the amenity space at the rear and the height of the house. This would result in a more dominant and imposing relationship with No 77. The introduction of this new structure would significantly increase the enclosure of the lower flats, resulting in a dominating and oppressive relationship, materially harming the outlook for residents of those lower level properties. The impact on the uppermost accommodation at No 77 would not be significant as it would still be possible to look out over the flat roof of the

new house and so those properties would not be enclosed in the same way as the lower flats. Nonetheless, overall the proposed house would be oppressive in relation to No 77 as a result of its scale and proximity, and the adverse impacts arising in relation to outlook would therefore result in harm to the living conditions of occupants of No 77.

16. The appellant is of the view that there would be no significant adverse effects arising from light and overshadowing, and that this factor is closely related to outlook, thereby indicating that the effect on outlook would be similarly modest. I accept that the effect on light would not be significantly harmful to living conditions, and that there can be some relationship between outlook and light. However, for the reasons set out above, I am not persuaded that an absence of significant harm in relation to light reliably translates in respect of outlook in this case. Furthermore, the retention of some degree of outlook to either side of the new house would not be sufficient to outweigh my significant concerns in this matter.
17. I note that elements of the proposed design are intended to help protect the privacy of nearby occupants, such as the first floor lounge being set back from the rear window and the slatted panels proposed to screen the second floor windows. However, I consider that overlooking would still be possible from the rear of the house and the effect of this would be accentuated by the limited back-to-back distance between the proposed house and No 77. Furthermore, there could be no guarantee that the privacy panels would remain closed or in place. The proposal would therefore have a significant adverse impact on privacy, which would be harmful to the living conditions of the occupants of No 77.
18. However, the relationship between the front of the proposed house and the front elevation of the properties on the opposite side of Seafield Road would be more akin to front-to-front relationships seen elsewhere in the vicinity. The width of the street plus a small set back on either side is not uncharacteristic of the wider area or uncommon in a relatively dense urban context such as this. Therefore, while the proximity of the new house may be very perceptible to the opposite occupants, the effect on privacy would not be sufficient to amount to harm to those occupants' living conditions in this context.
19. Notwithstanding, for the reasons given above, I conclude that the proposed development would be harmful to the living conditions of nearby occupiers, with particular regard to privacy and outlook. It would therefore conflict with retained Policy QD27 of the BHLP, which seeks, among other things, to ensure that development would not cause material nuisance and loss of amenity to the proposed, existing and/or adjacent occupiers.

### **Conclusion**

20. For the reasons given above, and having regard to all matters raised, I conclude the appeal should be dismissed.

*Catherine Jack*

INSPECTOR