

## Appeal Decision

Site visit made on 17 January 2017

by **L Gibbons BA (Hons) MRTPI**

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

Decision date: 16 February 2017

---

### Appeal Ref: **APP/Q1445/W/16/3159461** **18 Bankside, Brighton BN1 5GN**

- 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 BH2016/01977, dated 27 May 2016, was refused by notice dated 1 September 2016.
  - The development proposed is the construction of 3 storey detached dwelling.
- 

### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues are the effect of the proposed development on the character and appearance of the area, and on the living conditions of the occupiers of No 18 Bankside in respect of outlook and privacy and No 23 Highbank in respect of outlook.

### Reasons

#### *Character and appearance*

3. The appeal site is located within a residential area. The area is steeply sloping with houses built on the slopes, generally on one side of the road. The houses are varied in type and design and set within very long and sloping gardens. The site is within the rear portion of the rear garden of No 18 Bankside. The garden is typical of the area and is long and steeply sloping.
  4. There are some other houses on the south side of the road where Highbank curves to the northeast. There is a spacious quality to these houses as they are set slightly further back from the road with a staggered building line. Where the houses are closer to the road they tend to be set down a little. Highbank is narrower closer to the appeal site than it is to the north east, and it feels slightly more constrained and enclosed as a result.
  5. Nos 21 and 23 Highbank immediately to the east of the appeal site were the subject of appeals which were allowed. I agree with the appellant that the principle of development on this side of the road is well established and that each case should be determined on its own merits. The proposal is for a three storey house built into the slope of the garden of No 18 with access from Highbank. The house would have a contemporary design and be constructed using similar materials to Nos 21 and 23. The proposed dwelling would have a
-

similar shape to No 23 when seen from Highbank. However, I consider the scheme before me would be very different from Nos 21 and 23 Highbank in a number of respects.

6. Due to their small size on the upper floor, Nos 21 and 23 are very discreet features which do not have a dominant presence in the street scene of Highbank. In contrast, the proposed dwelling would be across much of the width of the site with its side elevation very close to No 23. The height of the roof would be greater than Nos 21 and 23. The bulk and height of the dwelling on the upper floor would result in a larger scale and greater proportions than either of the recently completed dwellings. Given the proximity of the dwelling to the adjoining property, and its overall size and bulk I consider this elevation would be a very prominent feature that would be detrimental to the appearance of the area as seen from Highbank.
7. Nos 21 and 23 Highbank can be seen from Barn Rise and the open space to the south east of the appeal site although intervening vegetation and development partly obscure them. The upper part of the proposed dwelling would be visible in a similar way to these houses. The view is from some distance away and whilst the white render would be in contrast to the darker materials of other houses, the house would be seen in the context of other dwellings rising above Highbank. It would therefore be acceptable in this particular respect. However, this is not sufficient reason to overcome the harm I have identified.
8. For the reasons given above, I conclude that the proposal would cause harm to the character and appearance of the area. It would be in conflict with Policy CP12 of the Brighton and Hove City Plan Part 1 (CCP1) 2016. This amongst other things seeks new development which will be expected to establish a strong sense of place by respecting the diverse grain and character of the city's identified neighbourhoods.

#### *Living conditions*

9. The Council consider that the separation distance between the proposed dwelling and the rear of No 18 Bankside would be approximately 18.5 metres; this is not disputed by the appellant. I accept that the Council do not have any standards relating to separation distances. Nevertheless, the rear elevation of the proposed dwelling would come considerably forward of the rear building line, and it would be closer to Bankside than other properties.
10. Nos 21 and 23 have rear elevations which are broken up by their design, with the upper floor appearing as small additions, and they therefore do not appear overly imposing from the rear. However, due to the width across the plot and its simple design without any significant features to break up the rear elevation, the scheme before me would have the appearance of a much more solid block of development along the upper floors. In combination with its closer proximity to the rear No 18, it would have a very dominant appearance which would be detrimental to the occupiers of No 18.
11. The ground floor would be screened from the rear elevation of No 18 as there would be a boundary fence. The upper floor rear window would be at a high level and it would not be possible to see down towards Bankside. However, the occupiers of the proposed dwellings would be able to see down towards the bedrooms of No 18 from the intermediate floor. This was an arrangement which was considered acceptable at Nos 21 and 23 Highbank. However, the

distance between the existing and proposed dwelling would be closer than elsewhere. The windows would be for bedrooms in which future occupiers would be likely to spend some amount of time. Although they are not large windows, they would still be large enough to allow clear views towards No 18, given the direct relationship between the two properties. Landscaping is proposed within the garden of the proposed dwelling. However, this would take some time to mature. Furthermore, there is no planting within the garden to provide additional screening as there is with No 16 Bankside. I consider the scheme in this case would give rise to a loss of privacy that would be detrimental to the occupiers of Bankside.

12. I note that in the case of No 21, a separation distance of 21 metres from rear elevation to rear elevation was considered acceptable by that inspector and this was achieved by the imposition of a condition. I note that No 23 is also in line with the rear elevation of No 21. From the information before me, I am not persuaded that a distance of 21 metres could be achieved with this particular scheme without having an effect on other matters such as the internal layout, taking account of the difference in the length of the garden, and the narrowing of the road at this point.
13. In terms of the effect of the proposed development on the occupiers of No 23, the proposed rear elevation would also come forward of the rear building line of that house. However, the garden of No 23 is south facing and is fairly bright, and with an open aspect particularly to the east. Taking these factors into account, I consider that the proposed dwelling would not give rise to a significant increase in a sense of enclosure to the occupiers of No 23, and would be acceptable in that regard. However, this does not outweigh the harm I have found.
14. For the reasons given above, I conclude that the proposed development would cause harm to the living conditions of No 18 Bankside in respect of outlook and privacy. It would be in conflict with saved Policy QD27 of the Brighton and Hove Local Plan (LP) 2005, which seeks to protect the amenity of adjacent users and future occupiers.

#### *Other matters*

15. Concern has been raised about the effect of the proposal on parking and highway safety. Highbank is narrow at this point, although traffic is able to pass along the road and speeds of traffic are slow. The scheme would provide a car port. The Council does not object to the proposal in terms of the access and parking provision, subject to suitable conditions. Based on the evidence before me and observations on the site visit, I see no reason to disagree with the Council on this matter.

#### **Conclusion**

16. The appeal site is located within an area which has some services and facilities. The proposed scheme would involve the addition of 12 solar panels and would make a contribution to the housing supply in the area. These would be a minor benefit of the scheme. However, the proposed development would cause harm to the character and appearance of the area. It would also cause harm to the living conditions of the occupiers of No 18 Bankside in respect of outlook and privacy and these are sufficient reasons to dismiss the appeal.

17. For the above reasons and having regard to all other matters raised, I conclude that the appeal should be dismissed.

*L Gibbons*

INSPECTOR