

Appeal Decision

Site visit made on 30 January 2017

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

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

Decision date: 21 February 2017

Appeal Ref: APP/Q1445/W/16/3158308

Land to the rear of 45 Brunswick Place, Hove, East Sussex BN3 1ND

- 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 Joe Knoblauch against the decision of Brighton & Hove City Council.
 - The application Ref BH2016/01089, dated 23 March 2016, was refused by notice dated 18 May 2017.
 - The development proposed is replacement of two single garages with one dwelling.
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Decision

1. The appeal is dismissed.

Procedural matter

2. At my visit I viewed the appeal site from the inside of the ground floor flat and from the back garden at 45 Brunswick Place.

Main issue

3. The main issue in this appeal is the effect that the proposed development would have on the living conditions of the occupiers of the ground floor and basement flats at 45 Brunswick Place, with regard to outlook, and sunlight and daylight.

Reasons

Outlook

4. The appeal site includes a pair of flat-roofed garages that would be demolished, which are reached from Farm Road. The garages adjoin the end of the shallow back garden of the mid-terrace building at 45 Brunswick Place, which has been divided into flats. To roughly north is the 2-storey dwelling at 47 Farm Road. To the south of the garages a gate leads to a narrow access to the back garden, beyond which is a wall with another garage very close by.
 5. In line with most other buildings in the terrace, the building at 45 Brunswick Place includes a rear outshut, the end of which is fairly close to the back wall of the garages. Narrow French doors with side lights in the bay in the end wall of the outshut provide the only natural light to the room at the back of the ground floor flat. Because of the difference in level, the back wall of the garages looks about half a storey tall from that nearby room and from the back garden. A compact shrub in the garden that is close to the back of the garages partially filters the view from the flat and the garden towards the terraced buildings on the opposite side of Farm Road.
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6. The French doors to the basement flat open onto a modest light well. They are set back in line with the main part of the terraced building and reached by a flight of steps down from the garden. So, although these French doors are further from the back of the garages, they are at a much lower level, and the outlook from them is partly enclosed by the tall outshut at 45 Brunswick Place, the flight of steps up to the garden, the way between the fire escape stairs from the upper floors to the gate in Farm Road, and the tall rear outshut at 43 Brunswick Place that broadly aligns with the common boundary.
7. The proposed dwelling and its modest outdoor space would take up nearly all of the land between the back of the garages and the back edge of the highway in Farm Road, and would be about as wide as the existing garages. Whilst part of the dwelling would be as deep as the plot, its L-plan form would enclose the modest outdoor space in the south east corner by the common boundary with 45 Brunswick Place. So, part of its back wall would be set back a little from the common boundary. The ridge and parapets of the proposed dwelling would be a little lower than the ridge, eaves and parapet of the dwelling at 47 Farm Road, broadly in line with the downward fall from north to south in Farm Road.
8. Even so, due to its siting, height, form and bulk, the 2-storey pitched-roofed dwelling would harmfully enclose the back garden. Whilst views to roughly south from the garden would stay about the same, the proposal would unacceptably block the fairly open roughly westward outlook from the ground floor and basement flats at the back of 45 Brunswick Place and from the back garden. Thus, the proposal would have an unacceptably oppressive and overbearing effect that would significantly harm the outlook of the occupiers of the ground floor and basement flats, in their homes and in the garden.
9. Therefore, I consider that the proposal would harm the living conditions of the occupiers of the nearby ground floor and basement flats at 45 Brunswick Place, with regard to outlook. It would be contrary to Policy QD14 of the *Brighton & Hove Local Plan 2005* (LP) which aims to only permit proposals that would not result in significant loss of outlook or amenity to neighbouring properties, LP Policy QD27 which aims to not permit development where it would cause material loss of amenity to adjacent residents and occupiers, and the *National Planning Policy Framework* (Framework) which seeks a good standard of amenity for all existing and future occupants of land and buildings.

Sunlight and daylight

10. The appellant's *Sunlight, Daylight & Overshadowing Report* states that the proposal would comply with Building Research Establishment guidance in *Site Layout Planning for Daylight and Sunlight A guide to good practice*, second edition. Thus, it is argued that the proposal would not have a materially damaging effect on the nearby occupiers' sunlight and daylight, and that it would not cause detrimental overshadowing. Due the openness above the boundary wall to the south of the back garden, and the relationships between the proposal and the nearby flats at 45 Brunswick Place, I see no reason to disagree.
11. I consider that the proposal would not harm the living conditions of the nearby occupiers of the ground floor and basement flats at 45 Brunswick Place with regard to sunlight and daylight. It would satisfy LP Policy QD14 which aims to only permit proposals that would not result in significant loss of daylight or sunlight, LP Policy QD27, and the Framework.

Other matters

12. The appeal site is within the Brunswick Town Conservation Area and within the setting of the listed building of which 45 Brunswick Place is part. Whilst the Council has not raised concerns about the setting of the listed building or the Conservation Area, I am required to exercise my statutory duties.
13. Although the appearance of the dwelling would be more sympathetic to the historic architecture of the listed building than the existing garages, its scale and bulk would erode the important openness at the back of the listed building which allows its significance as a historic terrace to be enjoyed by its occupiers and by passers-by in views from Farm Road. So, on balance, the setting of the listed building would be preserved. The use of traditional forms and materials would respect the historic appearance of nearby historic buildings in the Conservation Area. The siting of the dwelling would maintain the present sense of enclosure that contributes positively to the Farm Road street scene, and to the character of the Conservation Area. Thus, the character and the appearance of the Conservation Area, and its significance as an area of historic townscape, would be preserved.
14. The *Brighton & Hove City Plan Part One* was recently found to be sound, the Council can presently demonstrate a 5 year supply of land for housing, and relevant saved LP Policies are broadly in line with the Framework. Even so, whilst the proposal would achieve economic gains including construction jobs, and social gains including a new home, these gains would be substantially outweighed by the environmental harm that the scheme would cause to the outlook of occupiers of the ground floor and basement flats at 45 Brunswick Place. Thus, the scheme would not amount to sustainable development.
15. The Council has explained that other dwellings permitted on the same side of Farm Road, including at the back of 31 and 33 Brunswick Place, where the plots are larger, and at 30 Farm Road, where the single storey extension at the back of 67 Brunswick Place broadly fills the plot, differ from the proposal. So, I have dealt with the proposal before me on its merits, and in accordance with its site specific circumstances and relevant local and national policy.

Conclusions

16. Whilst the proposal would not harm the living conditions of the occupiers of the ground floor and basement flats at 45 Brunswick Place, with regard to sunlight and daylight, the harm that it would cause to their living conditions, with regard to outlook, is a compelling objection to the scheme. For the reasons given above and having regard to all other matters raised, the appeal fails.

Joanna Reid

INSPECTOR

