

## Appeal Decision

Site visit made on 30 January 2017

by **Grahame Gould BA MPhil MRTPI**

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

Decision date: 22<sup>nd</sup> February 2017

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**Appeal Ref: APP/Q1445/W/16/3161116**

**Beechwood, 8 Woodside Avenue, Brighton BN1 5NF**

- 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 Nigel Gosden against the decision of Brighton and Hove City Council.
  - The application Ref BH2016/02970, dated 9 August 2016, was refused by notice dated 4 October 2016.
  - The development proposed is erection of a four-bedroom two storey dwelling with an undercroft and associated landscaping.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues are the effect of the development on: the character and appearance of the area; and the living conditions of the occupiers of the host property (No 8) and 1 Tivoli Copse (No 1), with regard to privacy, outlook and the availability of garden space.

### Reasons

#### *Character and Appearance*

3. The development would involve the construction of a two storey house, with part basement, within the rear garden of the No 8. The new house would be of a contemporary design and would have an elongated and irregular floorplan.
  4. No 8 is a quite modestly proportioned house and because of the steeply sloping nature of this property's rear garden the new house would be sited up slope of the existing house. While I find that the design of the new house to be unobjectionable in itself, the siting and scale of the building relative to No 8 would mean that it would loom above the existing house and I consider it would have a domineering appearance that would not be in keeping with the area's character.
  5. The scheme would in effect be a form of backland development and in the instances of this development type it is normal for the backland dwelling to be subservient to the host property, something that would not arise in this case. I am mindful of the fact that there has been some residential infilling in the vicinity of No 8, for example at No 9b, however, this other development has
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not been of a backland nature and the siting relationship of the other host and new dwellings is therefore not comparable with the appeal development. I also consider that a direct comparison cannot be drawn with No 1 because that is a single property in a spacious plot.

6. Although No 8 is situated in a section of Woodside Avenue that is a private street, this street is still accessible to the public and forms part of the route between Woodside Avenue and Withdean Road, which includes the public footpath that runs between Nos 8 and 1. I recognise, having walked up and down the public footpath, that its gradient and under foot conditions might limit its use, nevertheless it is still capable of being used by members of the public and views of the development for users of this route would be possible at the bottom of the new dwelling's plot. I therefore consider that some public appreciation of the development would be possible.
7. I consider that the quality of the dwelling's architectural design, including the use of a green wall, does not provide a justification for a development that would dominate No 8 and appear out of place because of the backland relationship with the host property.
8. For the reasons given above I conclude that the development would be harmful to the character and appearance of the area. There would therefore be conflict with the National Planning Policy Framework (the Framework), most particularly paragraphs 17 (the fifth core planning principle), 58 and 64 because the development would not take account of the character of the area and would therefore fail to improve or add to the area's overall quality. Given the nature of the harm that I have identified I find paragraph 65 of the Framework provides no particular support for this development.

#### *Living Conditions*

9. The windows in the rear elevation of No 8 look out onto an embankment immediately behind the house. The rearward outlook from the interior of No 8 is therefore already very limited and I find that the development would not adversely affect that situation. While it would be possible to look down on No 8 from the new house's first floor terrace, I consider that the line of sight that would be possible relative to the position of the windows that No 8 has would be such that the occupiers of the host property would not experience any unacceptable loss of privacy. The position of No 8's retained garden relative to the new house would mean that no unneighbourly overlooking from the latter would be possible.
10. While the development would leave No 8 with a greatly reduced garden area it would be of practical utility for the occupiers of this property. Although the Council has raised a concern in this regard it has not drawn attention to any standards that it applies to the consideration of this issue. On the available evidence I therefore consider that the retained garden area for No 8 would be of an area commensurate with a property of No 8's size.
11. No 1 in its extended form is a substantial property and some views of the new house would be possible for No 1's occupiers. However, I consider that the separation distance between No 1 and the new house and their respective orientations would mean that the development would not have an overbearing presence when viewed by the occupiers of No 1.

12. I therefore conclude that the development would not be harmful to the living conditions for the occupiers of Nos 8 or 1. There would therefore be no conflict with saved Policies QD27 and HO5 of the Brighton and Hove Local Plan of 2005 because there would be no ‘... loss of amenity ...’ to existing residents and the retained private garden space would be of an appropriate scale for use by the occupiers of No 8.

### **Other Matters**

13. The development would make a very modest contribution to the supply of housing within the Council’s area, would allow greater use to be made of part of No 8’s grounds and would be in a sustainable location for housing. I also recognise that the house has been designed to be energy efficient and would utilise green roofs and a green wall. In those respects the development would provide some social, economic and environmental benefits.
14. The appellant contends that the Council cannot currently demonstrate the availability of five year supply of deliverable housing sites (HLS), a matter contested by the Council, given the recent examination of the Brighton and Hove City Plan Part One and the output from the Council’s Strategic Housing Land Availability Assessment (July 2016). Even if I was to accept that there is no HLS I consider that the development’s benefits, most particularly the provision of one dwelling, would be insufficient to outweigh the harm that I have identified. I therefore find this to be an unsustainable development for the purposes of the Framework and accordingly the presumption in favour of sustainable development does not apply.
15. Comparisons have been made between the appeal proposal and a number of other developments in the area. However, each and every case must be considered on its individual merits and that is what I have done in this instance.

### **Conclusions**

16. While I have found that the development would not be harmful to the living conditions of the occupiers of Nos 8 and 1, there would be harm to the character and appearance of the area and I consider that harm could not be overcome by the imposition of reasonable planning conditions. The appeal is therefore dismissed.

*Grahame Gould*

INSPECTOR

