



Appeal Decision

Site visit made on 28 September 2018

by **N A Holdsworth MCD MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 5th October 2018

Appeal Ref: APP/Q1445/W/18/3198211

76 Upper Gloucester Road, Brighton, BN1 3LQ

- 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 Harwood Properties Ltd against the decision of Brighton & Hove City Council.
 - The application Ref BH2018/00349, dated 2 February 2018, was refused by notice dated 14 March 2018.
 - The development proposed is erection of additional storey on top of existing structure and conversion of existing 1no 2 bedroom flat (C3) to form 2 no one bedroom flats (C3) with associated roof alterations and revised fenestration.
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Decision

1. The appeal is allowed and planning permission is granted for erection of additional storey on top of existing structure and conversion of existing 1no 2 bedroom flat (C3) to form 2 no one bedroom flats (C3) with associated roof alterations and revised fenestration at 76 Upper Gloucester Road, Brighton, BN1 3LQ in accordance with the terms of the application, Ref BH2018/00349, dated 2 February 2018, subject to the following conditions:
 - 1) The development hereby permitted shall begin no later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: DC/76UGR/01 rev A, DC/76UGR/02.
 - 3) The external wall finishes of the works hereby permitted shall match in material, colour, bonding and texture those of the existing building.
 - 4) All new and replacement rainwater goods, soil and other waste pipes shall be in cast iron and shall be either be painted black or in a different colour agreed in writing with the Local Planning Authority, and retained as such thereafter.
 - 5) The development hereby permitted shall not be occupied until the cycle parking facilities shown on the approved plans have been fully implemented and made available for use. The cycle parking facilities shall thereafter be retained for use by the occupants of, and visitors to, the development at all times.

Preliminary Matter

2. I have used the description of development from the Council's decision notice. This is also the description used by the appellant on the appeal form.

Main Issues

3. The main issues are i) whether or not the proposed residential units would be big enough to provide satisfactory living conditions for its future occupants; and ii) whether or not there is a justification for the loss of family sized housing, having regard to policies in the development plan and other material planning considerations.

Reasons

4. Two units would be created in the enlarged building. Each unit would have a reasonable standard of natural light and outlook, together with a shower room, bedroom and living area with kitchen facilities, with sufficient circulation space. The existing building is located in Brighton City centre, in close proximity to shops and other amenities.
5. The Council argue that both flats do not meet the government's *technical housing standard – nationally described space standard*. However, there is no evidence before me that these standards have been enacted by the Council through a planning policy. The smallest unit measures around 35 square metres, but I consider that there is enough space it to provide acceptable living conditions. The internal layout of both flats would be fairly typical of converted flats in City centres, and would not be unduly cramped.
6. These considerations lead me to the view that the proposed residential units would be big enough to provide satisfactory living conditions for future occupants. There is no conflict with saved policy QD27 of the Brighton and Hove Local Plan 2005 ("Local Plan") which requires that development must not cause loss of amenity to proposed residents. Nor is there conflict with the relevant parts of the National Planning Policy Framework (2018) ("The Framework"), which shares similar objectives.
7. Turning to the loss of family sized housing, saved policy HO9 of the Local Plan states that planning permission will only be granted for the conversion of dwellings into smaller units of accommodation when the original floor area is greater than 115 sqm, or the dwelling has more than 3 bedrooms as originally built. The supporting text of the policy explains that this is because there is a high level of demand for smaller dwellings suitable for family accommodation within the City. The proposal conflicts with this policy, as the existing flat is a 3 bedroom unit, below 115 sqm in size. Furthermore, neither of the one bedroom units being proposed would be suitable for occupation by a family.
8. However, the existing flat is set above a shop, with no external amenity space, in a busy part of the City. I observed that there is constant noise and activity from the road and town centre uses that surround it. These factors limit the extent to which the existing accommodation can be reasonably regarded as desirable family accommodation. I therefore consider that it is unlikely that the unit would be occupied by a family in the future, in the event that the appeal does not succeed.
9. Furthermore, the building is located within the West Hill Conservation Area. The character of the Conservation Area is derived from a mixture of mid and late 19th Century houses, on two or three floors, interspersed with public houses and small shops. Many of these buildings retain their timber sliding sash windows. Under the proposals, the existing array of UPVC windows of various

designs would be replaced with sash windows. The building would have a more coherent, symmetrical appearance, consistent with the appearance of surrounding historic buildings within the Conservation Area.

10. I note that the proposed fenestration pattern was supported by the Council's Heritage team on the basis that it is an improvement to the streetscape. I agree that, having regard to the test set out in Section 72 of the Planning (Listed Building and Conservation Areas) Act 1990, the proposal would enhance the West Hill Conservation Area. I consider that this is a public benefit of the proposal that weighs significantly in its favour.
11. Overall, I consider that the harm that would arise through the loss of family sized housing is mitigated by the fact that, due to its layout and location, this particular unit would be unlikely to be occupied by a family. It is outweighed by the public benefits arising from the enhancement to the character and the appearance of the West Hill Conservation Area through the improvement to the fenestration of the building. Overall, whilst the proposal conflicts with saved policy H09 of the Local Plan which seeks to protect family sized housing, there are other material planning considerations on this occasion that justify the development, and the decision should be taken other than in accordance with the development plan.

Other Matters

12. Having visited the site and considered the evidence before me, I agree with the Council's view expressed in the officer's report that there would be no harm to the living conditions of residents or other occupants of neighbouring properties, arising from this development.
13. The Council suggest a condition that would prevent future occupants from applying for resident's parking permits. However, it has not provided detailed supporting evidence that any additional parking demand arising from the development would lead to material harm to highway safety, or would otherwise conflict with other development plan policies. On the evidence before me, such a condition would not meet the tests of reasonableness and necessity set out in paragraph 55 of the Framework.

Conditions and Conclusion

14. Conditions are necessary in the interests of compliance with statutory requirements relating to the commencement of development [1] and certainty [2]. Other conditions are necessary to ensure that the proposal results in an enhancement to the Conservation Area [3 and 4] as it is has been justified on planning terms on this basis. A condition is also necessary to ensure appropriate provision for cycle storage is made [5] having regard to development plan policies relating to cycle parking provision in new development. For the reasons given above and having had regard to all other matters raised I conclude that the appeal should succeed.

Neil Holdsworth

INSPECTOR

