



Appeal Decision

Site visit made on 3 December 2018

by **Paul T Hocking BA MSc MCMi MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 22 January 2019

Appeal Ref: APP/Q1445/W/18/3203068
10 Carden Avenue, Brighton BN1 8NA

- 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 Anthony Radmall against the decision of Brighton & Hove City Council.
 - The application Ref BH2018/00419, dated 8 February 2018, was refused by notice dated 24 April 2018.
 - The development proposed is creation of a self-contained two bedroom apartment with garden from existing extension with separate access.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Revised National Planning Policy Framework (the Framework) came into force during the course of the appeal. The parties are however not prejudiced as they would have had the opportunity to comment on the implications of the revised Framework on the appeal.
3. In October 2018, since the refusal of the appeal proposal, planning permission has been granted for alterations at No 10 and a change of use to a large House in Multiple Occupation (HMO) with up to 12 occupants, Ref: BH2018/01701.
4. I have therefore taken these matters into account in reaching my decision.

Main Issues

5. The main issues are the effects of the proposed development on the:
 - i. character and appearance of the area;
 - ii. living conditions of occupants of the small HMO;
 - iii. living conditions of occupants of the proposed apartment.

Reasons

Character and appearance

6. The appeal property is currently used as a small HMO. The appeal proposal seeks permission to convert an existing rear ground-floor extension to create a two bedroom apartment. The apartment would be accessed via a passage to

- the side of the property. A small area of private amenity space would be provided by sub-dividing the existing rear garden.
7. Carden Avenue was previously characterised by detached houses in well-proportioned plots. However, the area has changed substantially over recent years with the construction of a large care home, Maycroft Manor. A day nursery and other intensification have also occurred within the vicinity, including a dwelling at No 10a.
 8. The appeal proposal does not involve any change to the footprint or size of the rear extension. There is also backland residential development to the immediate rear of the appeal site. Whilst therefore some intensification of plots has taken place, including annexes, the prevailing character of residential properties remains that of detached dwellings set in good sized plots.
 9. The proposed subdivision would result in a small unit of accommodation and plot size by comparison. It would also be linked to the rear of an existing property and have no direct street frontage. I find this intensification of the appeal site would result in a cramped form of development that is out of keeping with the residential character of the area. Consequently the proposal would not respect the pattern or grain of residential properties in the area.
 10. I therefore conclude the proposal would be harmful to the character and appearance of the area. This would conflict with policies CP12 and CP14 of the Brighton and Hove City Plan Part One. These policies require, amongst other things, that urban grain be respected and for residential development to be of a density that is appropriate to the identified positive character of a neighbourhood.

Living conditions of occupants of the small HMO

11. In order to access the apartment occupants would use a passageway immediately adjacent to the windows of a room within the HMO as well as those of a shared kitchen and bathroom. In my view these movements would result in a harmful loss of privacy and the potential for disturbance to the occupants. The use of obscure glazing in mitigation would then result in the kitchen and HMO room being unacceptably enclosed.
12. The proposal would result in the subdivision of the rear garden and I saw during my site visit that fencing had already been erected. No 10 is a large property with a comparatively modest sized garden. The proposal results in the subdivision of approximately half the rear garden. Whilst the appellant says there is not a requirement to provide outdoor amenity space for HMO's, that is in relation to private sector housing requirements as opposed planning policy. The appellant has therefore provided an area in recognition of need for the occupants of No 10. However, as the existing HMO could accommodate up to 6 people, I am not satisfied that the small garden that would serve these occupants would provide them with adequate usable outdoor amenity space.
13. For these reasons I conclude the proposal would result in unsatisfactory living conditions for occupants of the small HMO contrary to policies QD27 and HO5 of the Brighton and Hove Local Plan (the BHLP). These policies, amongst other things, seek to ensure amenity space is appropriate in scale and that the amenities of occupiers are protected.

Living conditions of occupants of the proposed apartment

14. The rooms within the apartment would be adequate for undertaking day-to-day activities and would provide sufficient space for furniture and circulation. They would be served by large windows and due to their raised position would have adequate outlook over the fence towards Maycroft Manor. In these respects the apartment would provide adequate living conditions for future occupants.
15. However, the windows of the apartment would look towards and be in close proximity to the garden for the small HMO. This awkward relationship would mean that the use of the garden by up to 6 residents would be likely to result in noise and disturbance to occupants of the apartment. Whilst the appellant says the area is already noisy owing to the children's nursery and nursing home, these sites are not in as close proximity to the windows of the apartment as the HMO garden and so would not have the same effect.
16. Notwithstanding the adequacy of the accommodation in terms of size and outlook, I therefore conclude that the proposal would result in unsatisfactory living conditions for occupants of the proposed apartment owing to noise and disturbance arising from the use of the small HMO's garden. This would conflict with policy QD27 of the BHLF which seeks to protect the amenity of future occupiers.

Other Considerations

17. I accept that the planning permission for an enlarged HMO is likely to be implemented. However, it would not result in the subdivision of the plot, and so would not harm the character and appearance of the area. Furthermore, the rooms that would be in the rear extension could be accessed internally. That scheme would therefore not adversely affect the living conditions of current or future occupiers of the building. Consequently, the permission for a large HMO does not alter my findings in relation to the appeal proposal.

Conclusion

18. I have found that the proposal would be harmful to the character and appearance of the area and would result in inadequate living conditions for existing and future occupants.
19. For these reasons and having regard to all other relevant matters raised, I conclude that the appeal should be dismissed.

Paul T Hocking

INSPECTOR

