
Appeal Decision

Site visit made on 10 January 2017

by Cullum J A Parker BA(Hons) MA MRTPI IHBC

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

Decision date: 26th January 2017

Appeal Ref: APP/Q1445/W/16/3155312

Flat 1, 63 The Drive, Hove, Brighton & Hove, BN3 3PF

- 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 Dan Fox against the decision of Brighton & Hove City Council.
 - The application Ref BH2016/00225, dated 22 January 2016, was refused by notice dated 20 May 2016.
 - The development proposed is conversion of two bedroom flat into two 1-bedroom flats.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposed development on the provision of living accommodation within the local authority area.

Reasons

3. The appeal building comprises No 63 The Drive, Hove; a semi-detached Grade II listed building subdivided into flats. Flat 1, which is principally located within the basement level, is currently occupied as a two bedroom flat, as I saw during my site inspection. The appeal scheme seeks the subdivision of this flat to create two one bedroom flats. Listed building consent has already been approved for the internal works, as set out in Appendix 1 of the appellant's Appeal Statement.
4. Policy HO9 of the *Brighton and Hove Local Plan* (BHLP) indicates that conversions will be granted when a number of criteria are met. In this case, the Council assert that criteria *a) the original floor area being greater than 115sqm* and *b) at least one unit of accommodation is suitable for family occupation and has a minimum of two bedrooms*¹ have not been met. In their view, the proposal would therefore fail to accord with the requirements of Policy HO9.
5. In terms of criterion a) the appellant asserts that the floor area, which was measured using CAD software, is about 128sqm. The LPA indicated at the application stage that they considered the floor area was roughly 112sqm. Upon a further request of information from the Inspectorate, the Council's figures changed so that when totalled, the figure came out at approximately

¹ These are summarised, for the full Policy text see the policy.

106sqm². It is unclear as to how the LPA came to its original figure as no method of how this was attained is given within the delegated report. In the absence of such sums from the Council, the assurance of the appellant's agent that the figures derive from the electronic drawings, and following my site visit, I am satisfied that the figure of roughly 128sqm is a reasonable one on which to consider the appeal scheme on. As such, the proposal would meet criterion a) of Policy HO9.

6. In terms of HO9 criterion b), the proposal would result in the loss of a two bedroom dwelling, through its conversion to 2, one bedroom dwellings. Policy HO9, and its supporting text, clearly indicates that the Council has identified a high level of demand for smaller dwellings suitable for family accommodation and that it is important to retain this stock. Clearly, the conversion of the building in this case to 2, one bedroom units will reduce the availability of this type of dwelling to those requiring more than one bedroom, including families with children, for example. The proposal would therefore result in the loss of a smaller family dwelling, albeit limited to one unit.
7. I acknowledge the appellant's point that, in their view, the Council is unable to demonstrate a five year supply of deliverable housing land. However, it is clear to me that irrespective of whether the Council is or is not able to demonstrate such a factor or if a supply is not present, the loss of the two bedroom flat in this case would have an adverse impact on housing land supply within an area specifically identified as needing dwellings of this size. Not only would the proposal appear to be contrary to this aspect of the Policy, but it would seek to undermine the Council's overarching ambition to ensure that there is the right level of housing, of the right type, in the right place at the right time. Although I accept that this is limited by the scope of the proposal resulting in the loss of 1 two bedroom dwelling, I do not find that this provides justification for overcoming the conflict with the adopted development plan.
8. The appellant has also directed me to Part i) of Policy HO9, which indicates that the requirement set out in b) will not apply when '*a different mix of units is essential to preserve the character of a listed building*'. I do not find that the provision of 2 one bedroom flats is 'essential', given my considerations above, including the need to retain suitable family occupation smaller dwellings. Clearly the existing use of the dwelling as a single two bedroom flat demonstrates that it can be used for such a use. When these factors are taken into account, I do not find that the mix of units is essential to preserve the character of the listed building.
9. I therefore conclude that the proposed development would have a materially harmful impact on the provision of living accommodation within the local authority area. Accordingly it would conflict with Policy HO9 of the BHLF, which amongst other aims, seeks to retain accommodation that is suitable for family occupation and has a minimum of two bedrooms when dwellings are converted into smaller units.

Other Matters

10. The officer report indicates that the proposal would result in less than substantial harm to the significance of the listed building due to the changes

² See email dated 13 January 2017 giving floor area figures of 28.79, 11.59, 10.89, 38.21, 4.98 and 11.93 roughly equating to 106.4sqm.

introduced by the blocking up of the corridor. I am fully aware of the provisions of the *Planning (Listed Buildings and Conservation Areas) Act 1990*, as amended, and the statutory duty it places upon decision-makers regarding listed buildings at Section 66(1) in terms of having special regard to the desirability of preserving the building, its setting or any features of special architectural or historical interest.

11. I also note that listed building consent for the internal works has already been approved by the local planning authority, so it does appear slightly strange that 'less than substantial harm' has been identified by the Council as a concern here. Nevertheless, as I have found that the proposal would clearly conflict with Policy HO9 of the adopted development plan, and no material considerations indicate a decision otherwise, I have not considered this matter further.

Conclusion

12. For the reasons given above, I conclude that the appeal should be dismissed.

Cullum J A Parker

INSPECTOR

