



Appeal Decision

Site visit made on 18 March 2019

by J Slominski BA(Hons) MCD

an Inspector appointed by the Secretary of State

Decision date: 10th July 2019

Appeal Ref: APP/Q1445/W/18/3218821

Basement, 84 Portland Road, Hove, BN3 5DL

- 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 Osman Quisar against the decision of Brighton and Hove City Council ("the Council").
 - The application Ref BH2018/01615, dated 29 May 2018, was refused by notice dated 26 November 2018.
 - The development proposed is Change of use of basement level from take-away storage (A5) to form 1no. residential unit (C3) incorporating revised fenestration & associated alterations.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The development was described differently on the application form, decision notice and appeal form. I have adopted the Council's description as it most accurately describes the proposal.

Main Issues

3. The main issue is whether the proposed dwelling would provide an adequate standard of accommodation for future residents.

Reasons

4. The proposed development would be a new two bedroom basement flat located beneath an existing takeaway.
5. The takeaway operates until midnight and would potentially result in significant noise and disturbance to the flat below, not only from customers but also from plant and equipment. As a result future residents would experience both ambient and impact noise. I am aware that there are residential units near to the takeaway, and that it is sometimes possible for various uses to co-exist successfully when well designed. The appellant has advised that a sound insulating ceiling could be provided in order to mitigate the noise impact. However no details have been provided to me which demonstrate how a sound insulating ceiling would adequately mitigate the impact of the takeaway above and therefore I am not convinced that adequate noise levels could be achieved at the proposed development. That being the case, it would not be reasonable to impose a planning condition which may not be able to be complied with. In

- the absence of appropriate mitigation, the occupants of the proposed dwelling would suffer from unacceptable noise and disturbance from the takeaway above.
6. The Council does not have an adopted policy on minimum floorspace requirements for new dwellings. However, the proposed dwelling would provide cramped accommodation. There would be two small bedrooms, a very small kitchen, and a living room which would be partly taken up by the steps to the entrance door. No dedicated storage for household paraphernalia, for example drying clothes, or storing appliances, is proposed.
 7. Although the proposed living room window would face south and would therefore allow part of the flat to experience direct sunlight, the dining area would be mostly in shade and the kitchen window would be within a lightwell offering limited daylight. The positioning of the windows would not allow cross ventilation. The bedrooms would have no external windows, and therefore only very limited amounts of borrowed internal light with no natural ventilation. Mechanical ventilation is proposed, but that would not address the poor sunlight and daylight to the bedrooms and the noise impacts of the mechanical ventilation would only exacerbate the noise impacts identified above.
 8. As a result, the proposed accommodation would be cramped and poorly lit, offering a poor standard of accommodation.
 9. Externally, a small amount of private amenity space is proposed. I acknowledge that as the proposal is the conversion of an existing building, it is constrained and only a limited amount of external space can be provided. However, that space would be below the kitchen of the takeaway above and adjacent to a vehicular access route to the east, and would not provide an attractive or pleasant amenity space. The appellant has advised that a privacy screen could be erected, but that would only worsen the limited amount of natural light reaching the interior of the flat.
 10. As a result of the combination of the development's location below a takeaway, its poor layout and limited natural light and ventilation, and its limited access to amenity space, it would fail to provide a satisfactory standard of accommodation for future residents contrary to Policies QD27, HO5 and SU10 of the Brighton and Hove Local Plan which together seek to ensure a high standard of amenity including private useable amenity space for future residents, free from excessive noise nuisance.
 11. I acknowledge that the provision of an additional dwelling is a benefit, but due to its very poor standard of accommodation the proposal would not represent a sustainable form of development.
 12. For the reasons above, and having had regard to all other matters raised, the appeal is dismissed.

Jan Slominski

INSPECTOR