



Appeal Decision

Site visit made on 25 February 2019

by N Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 July 2019

Appeal Ref: APP/Q1445/W/18/3216644
135 Milner Road, Brighton, BN2 4BR

- 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 Alexis Rossett against the decision of Brighton & Hove City Council.
 - The application Ref BH2018/00387, dated 6 February 2018, was refused by notice dated 24 July 2018.
 - The development proposed is conversion of an existing 4 bedroom terraced property in to 2 no 2 bed flats.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - The effect on the aims to preserve the stock of smaller dwellings suitable for family accommodation; and
 - Whether the upper floor flat would provide adequate living conditions for its future occupiers, with particular regards to internal space and layout.

Reasons

Family housing

3. The appeal relates to a four storey house (the top storey the result of a roof extension) with a lower ground floor below street level. The appellant has provided existing floor plans to show that it currently has five bedrooms (including one in the extended roof).
4. Saved Policy HO9 of the Brighton and Hove Local Plan 2005 (the LP) describes the circumstances where the conversion of houses to smaller units will be acceptable. The starting point for that assessment is to determine whether the existing property should be regarded as a 'smaller dwelling suitable for family accommodation', for which the Council describes a need in the context of market pressures to provide smaller units for those other than families. The underlying purpose of the policy is to help retain the existing stock of smaller dwellings suitable for family accommodation.

5. In order for LP Policy HOU9 to support a conversion into smaller units, the existing property should have an original floor area greater than 115m² or have had more than three bedrooms, as originally built.
6. It is common ground between the parties that the minimum original space standard is not achieved. The Council says that there is no evidence to show that the property, as originally built, had at least four bedrooms. The appellant says that no such evidence exists because of the age of the building, but that it is most likely that it had at least four bedrooms and that in any event, it has been used in that way for a prolonged period of time.
7. There is no compelling evidence before me to demonstrate that the original layout of the property did have more than three bedrooms. I note that a previous Inspector concluded that the property should be regarded as a 'smaller dwelling' and I attach weight to that decision. There is no new substantive evidence before me that persuades me that I should reach a different conclusion.
8. In the absence of firm evidence to the contrary, I consider the proposal would result in the loss of a smaller dwelling suitable for family accommodation, in conflict with LP Policy HO9. There is no dispute that other requirements of that policy would be met, but that does not overcome my concerns as to the conflict that I have identified. Consequently, this proposal would result in harm through reducing the existing stock of smaller dwellings suitable for family accommodation.

Living conditions

9. Whilst the kitchen/living/dining space in the upper flat would be broadly the same size as that at the lower flat, it would not be supplemented by any additional living space. Given that four people could potentially live at the flat, I do not think that they could comfortably all cook, eat and relax in that space, particularly in the absence of garden access. I am further concerned that access to the bathrooms would be through bedrooms and that the amount of usable space in the top bedroom would be diminished by the slope of the roof.
10. Taking these matters in the round, overall, I am not satisfied that the top flat would provide an acceptable standard of living accommodation for future occupiers. Saved LP Policy QD27 seeks to protect the amenity of proposed residents and the proposal would conflict with that policy and I am mindful also of the requirement at paragraph 127 of the National Planning Policy Framework (the Framework) to secure a high standard of amenity for future users.

Planning Balance and Conclusion

11. I have taken into account that the development would result in an increase in one housing unit, the sustainable location of the site and that the site is previously developed. I have given weight to the Framework, including the three objectives towards achieving sustainable development. Whilst I acknowledge that the development could potentially result in economic and environmental benefits, I do not consider that the proposal would be socially sustainable because it would result in substandard living accommodation.
12. The Council has directed me towards paragraph 11 of the Framework, which it says is currently the test that should be applied. This says that planning permission should be refused where the adverse impacts associated with the

proposal would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework when taken as a whole.

13. For the reasons that I have described, that would be the case here and so I conclude that the appeal should be dismissed.

N Smith

INSPECTOR