



Appeal Decision

Site visit made on 23 July 2019

by Christopher Butler BA (Hons) PG Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 August 2019

Appeal Ref: APP/Q1445/W/19/3227892

Glenside, Wincombe Road, BRIGHTON BN1 5AR

- 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 and Mrs Colin Blowers against the decision of Brighton & Hove City Council.
 - The application Ref BH2019/00509, dated 19 February 2019, was refused by notice dated 17 April 2019.
 - The development proposed is a resubmission for conversion of existing single dwelling house to form 5no self-contained flats together with roof alterations, further to planning refusal reference BH2017/02712.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council refers to the Nationally Described Space Standards (NDSS) published in March 2015 in their Planning Officer's Report (POR) related to the Council's decision on this proposal. However, there is no reference to the NDSS within the Council's grounds of refusal contained in their decision notice. The Council have also referred to their intention to adopt the NDSS as part of the draft City Plan Part 2 (Draft CPP2) in their POR. Additionally, in the appellant's Full Statement of Case (FSOC) reference is made to policies DM1 and DM3 of the Draft CPP2, as well as the pre/post-amble text relevant to those policies. However, no specific evidence of the Council's intention to adopt the NDSS or update in regard to the status of the Draft CPP2 have been provided to me as part of this appeal. As such I give limited weight to the emerging Draft CPP2.

Main Issue(s)

3. The main issues are the effect of the development on:
 - The character and appearance of the streetscene;
 - The living conditions of:
 - Future occupiers, with particular regard to the living space and outlook of Flat 5; and
 - Adjoining occupiers, with particular regard to the properties at 234 Dyke Road, 236 Dyke Road and The Cottage.

Reasons

Character and appearance of the streetscene

4. Wincombe Road measures some 60 metres in length and runs between Dyke Road and Reigate Road. The properties in these roads are predominately detached and semi-detached two storey dwellings set in large plots. Some of the properties in the vicinity of the appeal site have extended into the roof space with rooflights and dormer window additions of varying styles. Overall the nature and design of the properties in the area provide an attractive streetscape, the only exception to this is a three-storey flat roofed block of flats located in Reigate Road, which face south-west directly opposite the junction of Reigate Road and Wincombe Road.
5. The appeal property is a large two storey dwelling located on the south-eastern side of the road. It is rendered at ground floor and tile hung above. The roof is tiled and fully hipped. The footprint of the property generally takes the form of a 'U', with the bottom of the 'U' facing the properties at numbers 236 and 236A Dyke Road. The left-hand portion of the 'U' shape fronts onto Wincombe Road.
6. The right-hand portion of the 'U' shape forms the rear south-eastern elevation of the property and faces into the rear garden/patio area. This portion of the 'U' shape projects up to the common side boundary, on the north-eastern side of the site, with 'The Cottage'. However, the roof takes the form of a 'Cat-Slide' roof and drops significantly from two storeys in height to a single storey at the point where it is closest to the boundary.
7. The central part of the 'U' is infilled with, a predominately, flat roofed part single / part two storey element. To the rear of the catslide roof, on the north-eastern and south-eastern boundaries of the site there is a small flat roof rear addition that faces into the rear garden / patio area, whilst to the front side of the catslide roof is a carport structure. This structure comes level with the infill element within the 'U' Shape, but at the time of my visit it had no roof.
8. In terms of character and appearance the Council objects to additional features proposed as part of the development, such as the front balcony, and the increased roof height of the proposed development. In terms of the additional features, the ground of refusal only references the front balcony, whilst the Council's POR also refers to the proposed obscure glazed screen to the first-floor roof terrace area, which would be accessed via the lobby to Flat 5. Whilst there are no other identical features in the immediate streetscene, I do not consider that either the front balcony or proposed obscure glazed screen would be unacceptable in terms of their impact on the character and appearance of the surrounding area or result in a contrived or unattractive development when viewed from the wider streetscene.
9. With regard to the increase roof height, the appellant's FSoC advises that they are "...proposing to raise the roof by 780mm to improve the proposed roof space unit whilst maintaining the existing arrangement of hipped sections and pitches." I do not consider the proposed increase in height to be significant in and of itself. However, the submitted plans clearly demonstrate that a large area of flat roof would be formed, albeit hipped ends lead up to the flat roof element on all sides. The mass and the bulk of this form of roof, which would be increased in its prominence by virtue the proposed increase in roof height, would be visible from adjoining public vantage points, especially Wincombe

Road. As a result of this, I consider the development would be overly dominant, out of context with and disruptive to the streetscene and the wider character and appearance of the area in general.

10. I note reference in the appellant's FSoC to other developments within the vicinity of the site, which they consider justify their proposal in design terms, including existing blocks of flats in Reigate Road. However, I am not aware of the planning history in relation to those developments, nor has any specific evidence been provided to me in regard to them. Furthermore, none of them are directly comparable to the proposal before me and in any event, I am required to determine the appeal as currently before me.
11. In the light of the above, I consider that the design of the roof of the development, would be overly dominant, out of context with and disruptive to the streetscene and the wider character and appearance of the area in general. As such the development would be unacceptable in terms of its impact on the character and appearance of the streetscene contrary to Saved Policy QD14 of the Brighton and Hove Local Plan 2005 (Local Plan), which amongst other criteria requires extensions and alterations to existing buildings to be well designed.

The living conditions - Future occupiers, with particular regard to the living space and outlook of Flat 5

12. The Council in their POR consider that Flats 1 to 4 (inclusive) are acceptable for the number of occupiers proposed, their room sizes and the overall floorspace provided within each of those flats. Flat 5, which the submitted plans show to be a 2 bed / 3-person residential unit, remains in contention in terms of the living conditions of future occupiers.
13. The living space for Flat 5 is principally provided within the roof space proposed to be extended and converted. When converted the floor area of Flat 5 which has a floor to ceiling height that is above 1.5 metres, would be significantly less than I consider reasonable, necessary or acceptable in terms of providing a functional and acceptable level of accommodation for the occupiers of a 2 bed / 3-person residential unit. As proposed, Flat 5 would be cramped and confined in its feel and would be limited in terms of circulation space, when bearing in mind the level of a 2 bed / 3-person residential unit would have.
14. Furthermore, Flat 5 would rely on a total of 9 roof lights to provide natural light to its habitable rooms. I note that the appellants have drawn my attention to similar rooflights in the area, but I have not been provided with any specific details in relation to those rooflights. In any event I am required to determine the planning merits of the case before me and whilst I consider that rooflights would provide adequate light to the rooms, they would only have limited outlook and this would not be satisfactory in the case of habitable rooms.
15. In summary, whilst I find adequate light would be provided by the 9 rooflights proposed, I do not consider the development would be acceptable in terms of the living conditions of future occupiers of Flat 5 in terms of floorspace provided or outlook. The proposed development therefore fails to comply with Saved Policy QD27 of the Local Plan, in this regard, which seeks to protect the amenity of an area, its users, residents and occupiers, including a development's future users, residents and occupiers.

The living conditions - Adjoining occupiers, with particular regard to residential properties at 234 Dyke Road, 236 Dyke Road and The Cottage

234 Dyke Road

16. The rear elevation of the appeal property faces south-east and currently looks out over the rear garden and rear elevation of Number 234 Dyke Road. The number of residential units within the development that would have views out of the rear elevation will increase from one to three, when counting the Flat being created in the roof space.
17. The rear elevation of the property currently has 6 windows (3 at ground floor and 3 at first floor). Two windows within both the ground and first floor currently serve habitable rooms, whilst the third ground floor level window serves a kitchen and the third first floor level window serves a utility room. No restrictions in regard to the uses of these rooms have been drawn to my attention and in the absence of such restrictions the owner could change their use into habitable rooms without a formal planning permission being required.
18. In regard to the new rooflights proposed within the roof space these are shown to be installed at a level where direct overlooking and / or loss of privacy would be unlikely to occur.
19. Bearing in mind the above, I do not consider that the development would result in an unacceptable level of increased occupancy or cause overlooking or loss of privacy, as they would not increase to such a degree, over and above that which currently occurs, so as to harm living conditions.

236 Dyke Road

20. Number 236 Dyke Road is located to the south-western side of the application site and the Council raises concerns in regard to increase overlooking and loss of privacy arising from both increased occupancy and from the second-floor windows.
21. With the exception of the rooflight windows in the second floor, no new windows are proposed in the south-west facing elevation of the development. The proposed ground and first floor windows in this elevation that serve habitable rooms are all secondary windows and therefore a condition could be imposed that would meet the standard tests as set out in the National Planning Practice Guidance related to the 'Use of Planning Conditions' (Paragraph: 003 Reference ID: 21a-003-20190723), requiring those windows to be obscure glazed and fixed shut. In regard to the new rooflights proposed within the roof space these are shown to be installed at a level where direct overlooking and / or loss of privacy would be unlikely to occur.
22. Bearing in mind the above, I do not consider that the development would result in an increased level of overlooking or loss of privacy to such a degree, over and above that which currently occurs, so as to harm living conditions in this instance.

The Cottage

23. Concerns have been raised in regard to the proximity of the development to this property, including in regard to increase comings and goings from an intensified use. Other concerns raised include: disturbance from the roof

- terrace, at first floor level, and potential elevated noise arising from its use; negative impact on outlook, especially from bedroom windows; and overlooking and reduce privacy arising from the additional windows at second floor level.
24. The existing front door access to the appeal property is accessed off the driveway and is located to the north-eastern side of the house. The Council's POR notes the adjoining property, The Cottage, has habitable room windows that overlooks the drive and front door access to the appeal site. I noted this on site but do not consider that the development would increase comings and goings to such a degree so as to materially increase the impact on the living conditions of the occupiers of 'The Cottage' in this regard.
25. In terms of the proximity of the first-floor roof terrace, I consider it to be adequately screened so as to avoid overlooking. This roof terrace area is only accessible from the lobby area to Flat 5 and I do not consider that a level of use would be likely to occur which would result in an unacceptable level of noise disturbance arising from its use. The occupiers of The Cottage already have an outlook facing over the appeal site and the proposed development would not change that outlook to such a degree so as to have an unacceptable impact.
26. Turning to the concern related to overlooking and reduce privacy arising from the additional windows at second floor level, these are rooflight windows that would serve Flat 5. They are shown to be installed at a level where direct overlooking and / or loss of privacy would be unlikely to occur and as such I do not consider these windows would impact the living conditions of 'The Cottage' by virtue of overlooking or reduce privacy.
27. In summary, I do not consider that detrimental or adverse levels of impact would occur on the living conditions of adjoining occupiers, especially properties at numbers *234 Dyke Road, 236 Dyke Road and The Cottage*. The proposed development is therefore compliant with Saved Policy QD27 of the Local Plan, in this regard, which seeks to protect the amenity of an area, its users, residents and occupiers, including a development's future users, residents and occupiers.

Other Matters

28. The appellant's document entitled 'Response to Comments' indicates their prospective intentions in terms of continued ownership, rental and / or sale of the different residential flats created. This document also indicates that the appellant would possibly consider reducing the number of flats to four.
29. I note the appellants comment regarding the nature of tenure of the flats, but their intention to retain, rent or sell some, none or all of the flats is not determinative in my consideration of this appeal. In regard to a reduction in the number of flats, I am required to determine the appeal as currently before me and shall consider the appeal as originally made.

Planning Balance and Conclusion

30. The Council in their POR accepts a five-year housing land supply cannot be demonstrated and states this to be for 4.5 years. The presumption in favour of sustainable development as set out in paragraph 11 of the Framework is a material consideration. Where development plan policies are out of date in respect of housing supply this means my giving weight to granting permission

unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole.

31. The development would create some short-term economic benefits through construction related employment, and investment in the local economy following its occupation. Additionally, in social terms the proposed development would result in a net addition of 4 units of accommodation, making a small contribution to the city's housing need and the government's aim to significantly boost housing. I also find that the development would provide adequate light to the occupiers of Flat 5 and that the impact on the living conditions of adjoining occupiers, especially properties at numbers *234 Dyke Road; 236 Dyke Road; and The Cottage*, would also be acceptable. I attach moderate weight to these factors.
32. Irrespective of the above, when weighed against the harm that would arise from the design of the development; and the poor levels of outlook and quality of living accommodation within Flat 5, which lacks sufficient space to enable everyday living / socialising; the development is unacceptable in terms of its design and the provision of suitable accommodation. These are matters to which I attach significant importance and weight. Therefore, the adverse impacts of granting permission for the scheme as proposed would significantly and demonstrably outweigh the benefits of the scheme in this case.
33. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. I have found conflict with saved policies QD14 and QD27 of the Local Plan and therefore consider that the proposal conflicts with the development plan as a whole.
34. Overall, taking account of the Framework and the above considerations, including the benefits of the development, I find that material considerations do not indicate that planning permission should be granted for the development, which conflicts with the development plan.
35. For the reasons given above, I conclude that the appeal should be dismissed.

Christopher Butler

INSPECTOR