



Appeal Decision

Site visit made on 19 August 2019

by **L McKay MA MRTPI**

Inspector appointed by the Secretary of State

Decision date: 01 November 2019

Appeal Ref: APP/Q1445/W/19/3229436 17 Circus Street, Brighton BN2 9QF

- 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 Ross Douglas against the decision of Brighton & Hove City Council.
 - The application Ref BH2018/02088, dated 26 June 2018, was refused by notice dated 27 November 2018.
 - The development proposed is described as 'Garage converted into two x one bedroom apartments'.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The description in the heading above is taken from the application form. The Council described the proposal as, 'Demolition of existing garage and store and erection of two storey dwelling incorporating 2no one-bedroom apartments (C3)'. It is apparent from the appellant's submission that the proposal is to demolish the existing buildings and erect a new building comprising 2 one-bedroom flats. I therefore find that the Council's description is more accurate and I have considered the appeal on that basis.

Main Issue

3. The main issue is whether the proposed development would provide satisfactory living conditions for future occupiers in respect of light, outlook and the size and configuration of the internal accommodation.

Reasons

4. While the lounge would be served by a full length window, the sole bedroom for the proposed ground floor flat would be served only by a lightwell, as would the bathroom. The proposed kitchen would rely on borrowed light from the lounge. As such, there would be limited natural light to the majority of the accommodation.
5. The bedroom of the proposed ground floor flat would have only very restricted outlook up through the narrow lightwell and the kitchen would have no outlook at all. The lounge window would look directly onto the footway of Circus Street and towards the substantial mixed-use development on the other side of the road. It is therefore likely that future occupiers would install blinds, curtains or

- some other form of screening to achieve some privacy. Consequently, the outlook from the proposed ground floor flat would be very limited and it would be an oppressive and significantly compromised living environment for future occupiers.
6. The sole bedroom and bathroom of the proposed first floor flat would only be lit by roof lights or light wells, so would have limited natural light and outlook only towards the sky. While the lounge/kitchen would benefit from a large full length window, nevertheless access to natural light and outlook in the rest of the flat would be compromised.
 7. The kitchen of the proposed ground floor flat would effectively be part of a corridor. Even with the bespoke furniture suggested by the appellant, it would be very limited in size and functionality. Both proposed flats would have very small bathrooms in the awkwardly shaped rear element and it is unclear how these could be laid out to accommodate the facilities that would be expected in the sole bathroom of a dwelling. Due to their small size and awkward layout, the proposed accommodation in both flats would be cramped and contrived.
 8. I therefore conclude that the proposed development would not provide satisfactory living conditions for future occupiers in respect of light, outlook and the size and configuration of the internal accommodation. As such, conflict would arise with saved Policy QD27 of the Brighton and Hove Local Plan 2005 which seeks to resist development which would, amongst other things, cause a loss of amenity to proposed residents.
 9. The appellant contends that 'loss of amenity' does not apply to this case as Policy QD27 is designed to protect existing amenity. Policy QD27 clearly and specifically refers to development that would cause loss of amenity to the proposed, as well as existing, residents and occupiers. Furthermore, the supporting text in paragraph 3.118 refers to protecting the amenity of a development's future residents and occupiers. I therefore do not agree with the appellant's contention, and consider that Policy QD27 is relevant to the proposal before me. In any event, there would also be conflict with paragraph 127 of the National Planning Policy Framework (the Framework) which seeks to achieve a high standard of amenity for future users.
 10. The appellant also suggests that the proposed flats are in line with guidance for one-bedroom flats set out in the Government's 'Technical housing standards - nationally described space standards' (NDSS). The National Planning Policy Guidance (PPG) makes it clear however, that such standards can only be applied where there is a relevant local plan policy. Draft Policy DM1 of the Draft City Plan Part Two (CPP2) seeks to apply the NDSS to all residential units. While this shows a direction of travel for the Council, it is not adopted policy at this time. In any event, both proposed flats would have a double bedroom, so could reasonably be expected to accommodate 2 people. While various different figures for the floorspace of each flat have been provided, all are less than the 50sqm minimum standard in the NDSS for one storey, 2 person dwellings. As such, the NDSS does not weigh in favour of the proposal.
 11. The Council has previously granted planning permissions in 2016¹ and 2017² for a single dwelling on the appeal site. The 2017 permission is for a building of

¹ BH2016/02455

² BH2017/01638

very similar size to the appeal proposal, with two bedrooms and a bathroom on the ground floor and a WC and open plan kitchen/living accommodation on the first floor. While the second bedroom in that dwelling would be served only by a lightwell, the main bedroom and living accommodation would have good sized windows. Those windows are smaller than in the appeal proposal, but nevertheless the layout would be more spacious and more of the accommodation would benefit from natural light and outlook than in the proposal before me. Furthermore, the single dwelling would offer greater capacity for flexibility in the use of the accommodation than either of the smaller and more physically constrained units as proposed. The approved scheme would therefore provide a better standard of accommodation than the appeal proposal. Consequently, the existing permission does not justify the harm I have identified.

12. The appellant further contends that the proposed flats would offer more light than would be found in basement apartments or loft conversions. No examples have been provided of any specific developments to support this contention. The appeal proposal is for a new-build development where it is reasonable to expect that it would be designed to achieve satisfactory living accommodation. I do not therefore find the possible existence of other, poorer quality developments a compelling argument.

Other matters

13. The appeal proposal would not adversely affect the living conditions of neighbouring occupiers or be detrimental to human health and the impacts of additional pedestrian, cycle and vehicle trips could be managed by appropriately worded planning conditions. Although the appellant suggests that the Council's concerns relating to ventilation, fire safety and means of escape could be resolved, these are dealt with through other legislation and are not therefore matters that I need to address.
14. I have had regard to the location of the appeal site immediately adjacent to the Valley Gardens Conservation Area and to the Grade II listed building at 40 Grand Parade. There is no suggestion from either party that the appeal proposal would harm the setting of the listed building or the conservation area. From the evidence before me and from what I saw at my site inspection, I have no reason to disagree.
15. The evidence before me is that the Council can only demonstrate a 4.5 year supply of deliverable housing sites, when taking into account housing delivery over the last three years. Therefore the provisions of Paragraph 11(d)(ii) of the Framework are engaged.

Planning balance

16. The appeal proposal would contribute to the Framework objective of boosting the supply of homes. The Council's evidence indicates that an estimated 24% of the overall need/demand for housing over the plan period will be for 1-bedroom properties, compared to 34% for 2-bedroom properties. The appellant suggests there would be greater demand for two 1-bedroom properties than for a 2-bedroom house given the site's central location and lack of garden space. This is not however supported by any evidence. As such, while the proposal would contribute to meeting identified needs, the

contribution of 2 dwellings to housing supply would be small and consequently carries limited weight.

17. The proposed development would provide flats in a city centre location with good access to services and facilities, would improve the appearance of the area. The construction and occupation of the proposed dwellings would provide economic benefits. The proposal would accord with the objectives set out in the Framework to make efficient use of land, support the development of windfall sites in existing settlements, and achieve visually attractive development that is sympathetic to local character and history. It would however conflict with Framework policies which require development to be of good design that functions well and achieve high standards of amenity.
18. The proposed building would be a significant improvement on the appearance of the existing buildings and as such would enhance the street scene. Nonetheless, the proposal before me would be comparable in appearance to the previously approved scheme and I am not convinced that similar benefits could not be achieved by an alternative scheme without the harm that I have identified. I therefore accord this benefit only modest weight.
19. I have identified that the proposal would not provide satisfactory living conditions for future occupiers. I find that the proposed development would conflict with the development plan when read as a whole, and I give substantial weight to this conflict. Consequently, taking into account the scale of the shortfall in the five-year housing land supply, I conclude that these adverse impacts would significantly and demonstrably outweigh the benefits of providing two dwellings, when assessed against the policies in the Framework taken as a whole.
20. Overall, taking account of the Framework and the above considerations, including the benefits of the development, there are no material considerations that would indicate that the decision should be taken otherwise than in accordance with the development plan.

Conclusion

21. For the reasons given above, I conclude that the appeal is dismissed.

L McKay

INSPECTOR