



Appeal Decision

Site visit made on 11 February 2020

by Ian Harrison BA Hons DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 March 2020

Appeal Ref: APP/Q1445/W/19/3241437

8 Clermont Road, Brighton BN1 6SG

- 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 Mrs Bridget Allen against the decision of Brighton & Hove City Council.
 - The application Ref BH2019/01442, dated 14 May 2019, was refused by notice dated 15 October 2019.
 - The development proposed is the change of use of 4 storey house to form 2 bedroom flat in lower ground area with separate 3 storey maisonette above.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the development on:
 - The living conditions of future occupiers, with particular regard to outlook and the provision of garden space.
 - The character and appearance of the site and the Preston Park Conservation Area.

Reasons

Living Conditions of Future Occupiers

3. The terraced dwelling at the appeal site features accommodation over 4 floors, including within the roofspace and at lower ground level. To the front of the building is a garden area, with a parking space to one side and steps that lead to the lowest floor. At the rear of the dwelling is a long garden, with low brick walls to each side and a slightly raised deck adjacent to the dwelling, which is partially divided by steps that lead down to the lowest floor.
4. The proposal would see the adaptation of the building to enable its use as 2 flats, including a 6 bedroom flat over the top 3 floors (Flat 8) and a 2 bedroom flat at lower ground level (Flat 8A). The existing lowered ground that abuts the building would be enlarged to create a courtyard to the rear, which would be accessed from the bedrooms of Flat 8A, and a front garden.
5. The small rear courtyard serving Flat 8A would be surrounded by the higher terrace and gardens serving Flat 8, with a glazed walkway covering part of the courtyard. These features would cause a significant sense of enclosure within the courtyard and would have an imposing effect on the outlook from the

- bedrooms at the rear of Flat 8A. Moreover, the presence of the terrace serving Flat 8 would result in actual and perceived overlooking of the courtyard and the positioning of the courtyard would result in it being in shade for extensive parts of the day. In combination, these factors would result in the bedrooms having an unduly limited outlook and the courtyard being unappealing to an extent that would discourage its use. The stepped retaining wall and the orientation of one of the bedrooms in the direction of the garden serving Flat 8 are not sufficient to address these concerns.
6. Views into the garden area to the front of the building would be possible from the street and surrounding properties, including Flat 8 above. Whilst the garden area to the front would be more open and would receive more light, the lack of privacy afforded to this garden area would be likely to result in users being overlooked to an extent that it would not represent private garden space, which would reasonably be expected of a 2 bedroom flat in the context of this site.
 7. The openness provided by the garden space to the front of the building and the orientation of Flat 8A would enable the reception room at the front of the flat to be served by an acceptable level of light and outlook. However, the combination of the limited outlook at the rear of the flat and the absence of a sufficiently private and useable garden, would result in the living accommodation being of poor quality overall.
 8. The Technical Housing Standards - Nationally Described Space Standard are quantitative standards and are therefore not the only factor of relevance to an assessment of the adequacy of living conditions. Therefore, whilst the appellant has indicated that the proposal would comply with those standards, this does not compensate for the other shortcomings of the proposed accommodation.
 9. Although there are other flats at lower ground level within the locality, I have not been provided with sufficient details of those flats or the planning policies in effect at the time that they came into existence to be able to afford their presence more than minimal weight. In any event, their presence would not justify unacceptable living conditions being provided at this site.
 10. For these reasons, the proposal would have an unacceptable effect on the living conditions of future occupiers, with particular regard to outlook and the provision of garden space. The development would, therefore, be contrary to policies HO5 and QD27 of the Brighton and Hove Local Plan (BHLP) which combine to resist developments that would cause a loss of amenity to proposed residents or occupiers and seek the provision of private useable amenity space in new residential development where it is appropriate to the scale and character of the development.

Character and Appearance

11. Most buildings within Clermont Road are in residential use. The ground levels of the locality fall from the higher ground surrounding Preston Park Station towards the lower ground at the opposite end of the road. The built form on the side of the street that includes the appeal site follows a consistent building line and generally steps down in height in correlation with the changing ground levels. Most of the buildings appear to provide accommodation over 3 or 4 storeys, including at roof and lower ground level. Forward of the built form is a

mixture of gardens, parking spaces and lowered ground that provides access and light wells to the accommodation at lower ground level. The terraced buildings appear to feature a mixture of dwellings and flats.

12. Clermont Road sits within the Preston Park Conservation Area which consists of the predominantly residential areas that surround 2 sides of the park. Most of the built form within this area sits within deep plots and is set back from the roads. Although there is variety to the appearance of the built form across the Conservation Area as a whole, the buildings appear to feature architectural detailing from a consistent palette and there is grouping of buildings and terraces of similar appearance. These features, along with the tree coverage that exists within the roads and residential plots, creates a pattern and a pleasant residential environment that are distinctive features of the Conservation Area and contribute to its significance. I have paid special attention to the desirability of preserving or enhancing the character and appearance of the area.
13. The presence of lowered ground adjacent to buildings and behind street level front gardens is an established feature of Clermont Road, with there being no uniformity to the size of these excavated areas. A small area of lowered ground already exists at the appeal site and the enlargement of this as part of the proposal would emphasise its existence and increase the prominence of the lower ground floor accommodation. However, the lowering of part of the frontage of the site would not prevent the retention of a large part of the higher garden and the boundary wall at the frontage of the site. These features at the forwardmost part of the garden would remain the dominant features of the frontage and a substantial front garden would be retained. As such the proposal would not cause the loss of a garden that contributes to the character of the area, in accordance with policy HE6 of the BHLF.
14. Whilst the alteration to the site would be visible from the public domain in front of the existing building, the nature of the proposal means that the effect would be very localised. The presence of several other examples of lowered ground within the street, some of which appear to serve basement flats, ensures that this element of the proposed development would not appear at odds with the locality. In this context, given the scale of the proposed works, the ability to retain the dominant features of the existing frontage and the variation that exists at the frontage of the buildings within Clermont Road, the development would preserve the character and appearance of the Conservation Area as a whole.
15. For this reason, the proposal would have an acceptable effect on the character and appearance of the site and the Preston Park Conservation Area. As such, the development accords with policies QD14, HE6 and HO9 (criteria g) of the BHLF and CP15 of the Brighton & Hove City Plan Part One (2016) which require that developments take account of the character of the area, preserve or enhance the character of the Conservation Area and enable the retention and protection of original features and gardens which contribute to the character or appearance of the area.

Planning Balance

16. The main parties agree that the Council is unable to demonstrate a five-year supply of deliverable housing sites in accordance with paragraph 73 of the

National Planning Policy Framework (The Framework). As such, the relevant policies related to the supply of housing should not be considered up-to-date. For this reason, and as the effect of the development on the designated heritage asset does not provide a clear reason to refuse the development proposed, paragraph 11 should be applied. It is, therefore, necessary for me to determine whether the adverse impacts of the development would significantly and demonstrably outweigh the benefits inherent in providing an additional dwelling.

17. The appellant has identified that the presence of additional residents at this site would improve the vitality of the local area, particularly through the use of shops and facilities. Furthermore, it has been identified that there would be additional local spending and employment in construction during the implementation of the proposed development and additional Council Tax revenues arising from the occupation of the flats. Whilst I have had regard to these aspects of the proposal, providing 2 flats in place of 1 dwelling means that the arising benefits are modest. The efficient use of land at a site that is close to public transport services and the inclusion of energy efficiency features within the development are also positive aspects of the proposal.
18. However, the avoidance of harm to habitats and the provision of cycle storage should be expected of all developments and as such I consider these to be neutral factors of the proposal. Moreover, whilst I note that the proposal would introduce a different mix of accommodation at this site, as no evidence has been provided that this mix would meet an identified need, I am not able to conclude that this represents a benefit of the proposal.
19. The evidence before me indicates that the extent of the housing supply shortfall is relatively minor and, as such, there would only be limited benefits in the provision of one additional dwelling. Conversely, paragraphs 124 and 127 of The Framework combine to highlight that good design is a key aspect of sustainable development and that places should be created that provide a high standard of amenity for future users. I therefore conclude that the harm that would be caused with respect to the living conditions of future occupiers would significantly and demonstrably outweigh the benefits of the development, when assessed against the policies in the Framework as a whole, including its presumption in favour of sustainable development.

Conclusion

20. For the reasons set out above, I conclude that the appeal should be dismissed.

Ian Harrison

INSPECTOR