
Appeal Decision

Site visit made on 2 June 2020

by Robin Buchanan BA (Hons), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 July 2020

Appeal Ref: APP/Q1445/W/20/3245898

39 Bonchurch Road, Brighton BN2 3PJ

- 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 David Thomson against the decision of Brighton & Hove City Council.
 - The application Ref BH2019/01939, dated 28 June 2019, was refused by notice dated 30 December 2019.
 - The development proposed is the conversion of an existing single dwelling to provide 2no two-bedroom maisonettes (C3).
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. The appellant submitted an amended floor plan with the appeal and has invited me to consider it, as well as the original floor plan on which the Council made its decision. However, an amended plan which seeks to overcome the Council's reasons for refusal should normally be the subject of a fresh planning application and the appeal process should not be used to evolve a scheme. I have therefore determined the appeal on the basis of the original floor plan considered by the Council.

Main Issues

3. The main issues are whether or not the proposed development would:
 - Retain the existing stock of smaller dwellings for small family accommodation;
 - Provide acceptable living conditions for future occupiers, having particular regard to the layout and size of both maisonettes and to outlook, daylight, ventilation and internal height in one maisonette; and
 - Provide a unit of accommodation which would be suitable for family occupation.

Reasons

Existing stock of smaller dwellings

4. 39 Bonchurch Road is a two storey mid-terrace house in a mixed residential area. The proposal would sub-divide the house into two 2-bedroom maisonettes. Saved Policy HO9 of the Brighton & Hove Local Plan 2005 'policies retained', March 2016 (the LP) refers to residential conversions and to the

retention of smaller dwellings. In criterion HO9(a) a larger dwelling for conversion is defined as being greater than 115m² original floor area or more than 3-bedrooms as originally built. Both main parties agree that the loft conversion is not original floor area and there is no clear or compelling evidence before me that the basement is original floor area or that it (or the loft) was originally built as a bedroom.

5. I note that existing or future floor area/bedrooms is not referred to in HO9(a), so do not help to establish a larger dwelling to begin with for the purposes of Policy HO9. In an appeal¹ existing bedrooms were a starting point because it was inconclusive whether that property was originally built as a dwelling or as flats; moreover, it was already in use as flats. In the current appeal it is common ground between the main parties that the house was originally built as a dwelling and remains so. In another appeal² an extant planning permission increased the number of bedrooms, so a smaller dwelling would not be retained (it would become a larger dwelling). This was a factor, combined with provision of an additional two units of smaller family accommodation, that justified an exception to Policy HO9 in the specific circumstances of that case. This fall-back position does not exist in the current appeal.
6. It has not therefore been demonstrated that the original floor area of the house is greater than 115m² or that it had 4 or more bedrooms as originally built. I also note that the City's existing housing stock has a particular concentration of certain dwelling types, including maisonettes, and a bias towards smaller dwellings which is also manifest in recent new development. Furthermore, the largest proportion of demand for market housing, albeit marginally, is for 3-bedroom properties and there is a lack of choice in property types and sizes available to current and future households, particularly for larger family dwellings.
7. Considering the above, the house is a smaller dwelling and not within the scope of conversion permitted under HO9(a) — it therefore already makes a positive contribution to meeting the Council's housing objectives, as Policy HO9 seeks to safeguard. Furthermore, while a 2-bedroom maisonette and a 3-bedroom house are both smaller dwellings for the purposes of this Policy and both could meet demand for small family accommodation, the proposal would nevertheless fail to retain the house which could accommodate a larger sized family and would therefore detrimentally reduce housing choice.
8. Consequently, the proposed development would cause harm to the existing stock of smaller dwellings and in this regard would not accord with LP Policy HO9. It would also conflict with the National Planning Policy Framework (the Framework) paragraphs 8(b) and 61 which seek to ensure a sufficient number, size and range of homes are provided to meet needs.

Living conditions

9. The Council does not have a development plan policy that makes use of the Government's Nationally Described Space Standards for internal living spaces. The proposed lower maisonette would have a large and conveniently shaped combined kitchen/dining area. Although reasonably small, the window at the dining end would nonetheless provide sufficient direct daylight, ventilation and

¹ APP/Q/1445/W/19/3231995.

² APP/Q/1445/W/18/3218740.

outlook. The kitchen end would have limited outlook but there would be indirect daylight from a new lightwell cover, including ventilation. There would be a modest size living room with a large bay front window giving a sense of spaciousness, good outlook and daylight, two good size bedrooms, a relatively small but functional bathroom, sufficient internal circulation and storage space and exclusive use of the rear garden.

10. The proposed upper maisonette would have no separate dining room but a relatively large living room with sufficient space for a small table and some chairs, or instead these could be provided in the kitchen. There would be a good size conventional bedroom, a small but serviceable bathroom and sufficient internal circulation and storage space. The loft room floor would be lowered to increase internal height and would provide sufficient space for a second bedroom or a study, including rooflights for daylight, outlook and ventilation. Furniture, such as a bed or a desk, could be positioned towards the lower ceiling slopes.
11. Considering the above, the proposed development would provide acceptable living conditions for future occupiers and would accord with LP Policy QD27. This Policy seeks to prevent the loss of amenity for occupiers of new development. It would also respect Framework paragraph 127(f) which seeks to ensure a high standard of amenity for future users.

Family occupation

12. Having regard to 'living conditions' above, the lower maisonette would provide a unit of accommodation suitable for family occupation, in particular because it would have two bedrooms, a separate living room and access to the garden. Moreover, it would not therefore be necessary for the upper maisonette to be suitable for family occupation, or for it even to provide two bedrooms — those requirements of criterion HO9(b) would otherwise be met by the lower maisonette. In this regard the proposed development would therefore accord with LP Policy HO9. It would also respect Framework paragraphs 8(b), 61 and 127(f), which seek to ensure a sufficient number, size and range of homes are provided to meet needs, including for families with children.

Other Matters

13. I appreciate that 39 Bonchurch Road is not a listed building (or near one) and not in a conservation area. The proposals would not significantly affect the character or appearance of the area, the living conditions of occupiers of other properties or any natural features. Cycles could be stored in landings, halls or corridors in each maisonette, in the garden outbuilding or there are secure public cycle stands nearby in Bonchurch Road. However, the absence of harm in these matters is a neutral factor in my decision and does not lead me to conclude differently in terms of the harm that I have identified in the main issues above.

Planning Balance and Conclusion

14. I recognise that the appeal site is closely located to many local facilities and services, including bus routes, and I saw that there are secure public cycle stands nearby in Bonchurch Road. I also acknowledge that the proposed development would result in a net gain of one residential unit, would add to the future stock of 2-bedroom smaller dwellings and would result in construction

and related work. Other benefits of the proposal suggested by the appellant relate to Council Tax receipts, a New Homes Bonus and efficient use of previously developed 'brownfield' land.

15. Furthermore, it is common ground between the main parties that the Council has not met the Government's Housing Delivery Test and cannot demonstrate a five year housing land supply (5YHLS). Consequently, the so-called 'tilted balance' of Framework paragraph 11 is engaged.
16. Notwithstanding my findings on living conditions and family occupation, the proposed development would cause harm to the existing stock of smaller dwellings. Consequently, the proposed development does not accord with the development plan overall. Even if I were to conclude that there is a 5YHLS shortfall on the scale argued by the appellant, given the modest scale of the development proposed, the identified benefits would be limited, such that the adverse impacts of granting planning permission would significantly and demonstrably outweigh those benefits.
17. For the reasons given, the appeal does not succeed.

Robin Buchanan

INSPECTOR