

Appeal Decision

Site visit made on 21 July 2020

by N Holdsworth MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 August 2020

Appeal Ref: APP/Q1445/W/20/3248037

4 Pembroke Gardens, Hove, BN3 5DY

- 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 Ms Julia Hamblin against the decision of Brighton & Hove City Council.
 - The application Ref BH/2019/03448, dated 18 November 2019, was refused by notice dated 22 January 2020.
 - The development proposed was originally described as change of use of existing building from two existing flats to four proposed flats and associated external alterations.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. Amended plans were submitted with the appeal. These make changes to the appearance of the proposal in response to the first reason for refusal.
3. The changes primarily involve a reduction in the number of rooflights, the relocation of the bin store and alterations to the appearance of the front balcony. These are minor design alterations that do not substantively evolve the scheme, beyond the proposal that was originally subject to public consultation. They can be accepted without prejudicing the interests of any party.

Application for costs

4. An application for costs was made by Ms Julia Hamblin against Brighton & Hove City Council. This application is the subject of a separate Decision.

Main Issues

5. The main issues are
 - Whether or not the proposed top floor flat would provide satisfactory living conditions, particularly in terms of headroom and outlook; and
 - The effect of the proposal on the character and appearance of the Pembroke and Princes Conservation Area.

Reasons

Living conditions

6. The top floor flat would be set within a rebuilt hipped roof. The sloping walls would fall on each side of the roof, therefore enclosing a substantial portion of every room in the top floor flat. The overall amount of roof space above 1.8 metres in height across the entire unit would be limited. The area with the highest clearance would be primarily occupied by the internal staircase providing access to the flat, and the walls that surround it.
7. The lack of headroom would create practical problems for future occupants. The toilet and bathroom sink would be situated beneath a sloping wall between 1.5 m and 1.8 m in height, from floor level. As many adults exceed 1.8 metres in height, they would find it difficult to use these facilities. In the kitchen, the work island would be set close to the sloping roof, with the clearance from the ground to the roof at only just over 1.8 metres in height, around this area. Taller people would find it difficult to access the hob and the kitchen sink, given the proximity of the sloping walls to the work island.
8. Consequently, the headroom within this flat would be inadequate for day to day living. The resultant harm to the living conditions of future occupants would be exacerbated by the fact that nearly all the windows in the flat are rooflights. The outlook from these windows would be restricted as the windows are set at an angle, flush with the sloping roof. Because of this awkward aspect, the resulting outlook would be inferior to that provided by vertical windows, contributing further to the general sense of enclosure arising from the sloping walls.
9. It is argued that sloping walls and rooflights are common in loft apartments in Brighton and elsewhere. However, the arrangement here would be unusually poor. In terms of total floor area, the proposal would comply with the relevant Nationally Described Space Standard. But the sloping walls and reliance on rooflights would detract from the overall standard of living accommodation to a significant and unacceptable degree, to the point where the layout is practically unworkable for day to day living.
10. In conclusion the layout of the top floor flat would fail to provide satisfactory living conditions, particularly in terms of headroom and outlook. The proposal conflicts with saved policy QD27 of the Brighton and Hove Local Plan 2005 ("Local Plan"), which requires that planning permission must not be granted where it would cause loss of amenity to proposed residents. This harm relates to the principle of the proposed layout and cannot be overcome by planning conditions.

Character and Appearance

11. The host property falls within the Pembroke and Princes Conservation Area. This is comprised of large, primarily residential, properties set in spacious plots. Many appear to date to the late nineteenth and early twentieth century. The size of the buildings and the landscaped space between them helps to create a sylvan, garden suburb atmosphere. Within this context, the properties along Pembroke Gardens are individually designed buildings that have a degree of commonality in materials, particularly the use of brick and render, and there is a prevalence of hipped roofs along this road.

12. The existing building shares the use of brick and render on its front elevation with neighbouring properties. However, whilst its hipped roof is of a similar form to surrounding buildings, it is of a noticeably shallower pitch and a different colour. It has multiple chimney stacks, one of which is in a prominent position to the front of the property. These architectural features, which appear to date back to its original construction, add to the quirkiness and overall attraction of the building. It is therefore a unique and distinctive building with an individual design. It contributes positively to the special character and significance of the Conservation Area.
13. The proposed replacement roof would recreate the existing hipped roof form, rising to a similar overall height to other existing buildings along the same road. In this respect, the proposal would blend in with other buildings in the Conservation Area. The front facing conservation rooflights and front balcony in the amended scheme would broadly replicate other similar features visible on other properties within the wider Conservation Area. They would not unduly clutter the building or its roof. Following amendment, the bins would also be stored away from the street frontage, thus preserving the appearance and status of the host building when viewed from the road.
14. However, the existing shallow roof and its front facing chimney are unique features that would be lost, as a consequence of the proposal. The demolition of these features means that the building would have a less distinctive appearance than at present. As such, there would be harm to the appearance and character of the host building and consequently the overall significance of the Conservation Area, to which I attach considerable importance and weight.
15. The host property backs on to land that is currently the subject of a major redevelopment¹. However, that site is outside the Conservation Area, so the schemes are not directly comparable. It is implied that the precedent of harm to the Conservation Area has been established by this approved development, but this is not a convincing reason to set aside the statutory protections that exist in relation to development within such areas.
16. Consequently, the proposal conflicts with policies QD14 and HE6 of the Local Plan, alongside CP12 and CP15 of the Brighton and Hove City Plan Part One (2016) which require, amongst other things, that development preserves or enhances Conservation Areas within the city. The proposal would also conflict with the supplementary planning document entitled SPD 12 'Design guide for alterations and extensions' (2013) to the extent that it seeks to discourage inappropriate alterations to roofs within Conservation Areas. Having regard to paragraph 196 of the National Planning Policy Framework ("the Framework"), the harm to the Conservation Area would be less than substantial. This is a matter that I will consider further in the planning balance section.
17. The host property is opposite the Hove Museum, which is a large, well preserved public building set in spacious grounds. However, the road forms a significant visual barrier between the site and this locally listed building. Consequently, the appearance of the reconstructed roof, together with the other alterations proposed, would not significantly affect its setting.

¹ Council reference BH2018/02126

Planning Balance

18. It is common ground that the Council are unable to demonstrate a 5-year housing land supply. The most recent evidence before me indicates that the current housing supply position is 4.0 years. This is in the context of an ongoing under delivery of housing, reflected in the recent Housing Delivery Test results, and there appears to be limited potential for this shortfall to be addressed in the near future. The Framework states that, in these circumstances the policies which are the most important for determining the application are out-of-date. In these circumstances, the presumption in favour of sustainable development, as set out in paragraph 11 d) of the Framework, is engaged.
19. I have identified less than substantial harm to the Pembroke and Princes Conservation Area through the loss of the existing roof and chimney stack. This must be weighed against the public benefits of the proposal. The proposal involves the adaptation of the existing building, which comprises 2 flats, in to 4 flats, so a net gain of 2. In numerical terms this would help boost the supply of housing, where there is a deficit at present. It would also provide smaller units in addition to a family sized unit, which is a good mix.
20. The site also falls within an excellent location for additional housing, close to the centre of Hove. Services, facilities and good public transport links are all within easy walking distance of the site. This would support the creation of strong, vibrant and healthy communities. The proposal would make effective use of land, and there are environmental benefits of increasing density in existing urban areas, which helps the development of a low carbon economy. The building would meet modern standards of thermal insulation and efficiency in terms of energy and water use. There would also be economic benefits through increased Council tax revenue and the potential for a new homes bonus.
21. These are all public benefits that weigh in favour of the proposal. However, they are insufficient to outweigh the less than substantial harm to the Conservation Area. For the purpose of paragraph 11 d) i) of the Framework, this amounts to a clear reason to refuse the development proposed. As such, the weighted balance, as set out in paragraph 11 d) ii) of the Framework does not on this occasion apply.

Conclusion

22. In addition to the identified harm to the designated heritage asset, the proposed top floor flat would also fail to provide satisfactory living conditions, particularly in terms of headroom and outlook. For this combination of reasons I conclude that the proposal conflicts with the development plan and there are no other considerations, including national planning policy, that outweigh this finding. The appeal should be dismissed.

Neil Holdsworth

INSPECTOR