



Appeal Decision

Site Visit made on 21 January 2021

by Rory MacLeod BA(Hons), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 January 2021

Appeal Ref: APP/Q1445/W/20/3260657

Avon Court, 12 Dallington Road, Hove, BN3 5HS

- 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 Lekan Saromi against the decision of Brighton & Hove City Council.
- The application Ref BH2020/02060, dated 5 August 2020, was refused by notice dated 21 September 2020.
- The development proposed is roof alterations to form 1 studio and 1no. 1 bedroom flat.

Decision

1. The appeal is allowed, and planning permission is granted for roof alterations to form 1 studio and 1no. 1 bedroom flat at Avon Court 12 Dallington Road, Hove, BN3 5HS in accordance with the terms of the application, Ref BH2020/02060, dated 5 August 2020, subject to the conditions in the attached schedule.

Applications for costs

2. The appellant has made an application for costs against the Council. This is the subject of a separate Decision.

Preliminary Matters

3. There is an extant permission for a two bedroom unit in the roof. This involves the raising of the roof ridge and construction of two dormers to the front roof slope (ref BH2020/00325), which is almost identical to the current appeal proposal. The current proposal however provides an additional unit in the roof and replaces the 3 consented rear dormers with 2 larger rear dormers.

Main Issues

4. The main issues are (a) the effect of the rear dormers on the character and appearance of the building and surrounding area, and (b) the adequacy of the living conditions for future occupiers in relation to the bedroom size for unit 1.

Reasons

Character and appearance

5. Avon Court comprises 4 flats set in a two storey building with a central ridge to its pitched roof parallel to the road. It is located within a terrace of houses of similar profile. There are closely spaced two storey terraced and semi-detached houses to both sides of Dallington Road and neighbouring roads, including in Milnthorpe Road the houses in which back on to the appeal site. The locality is predominantly residential in character and includes flat roofed buildings and some current redevelopment sites to provide higher buildings.

6. Several houses near to the site have been enlarged by flat roofed rear dormers which occupy most of the width of the dwellings. The proposed rear dormers would both have a similar box appearance to these other dormers but would be noticeably wider, filling most of the rear roof slope, and would include a large expanse of vertical walling between the windows. On these points, the rear dormers would not respect guidance in the Council's Design Guide for Extensions and Alterations (SPD 12) (2013) on large box dormers.
7. However, SPD 12 is several years old and has recently been updated. Text for a revised version was approved in 2020 but was not formally adopted until late in the appeal process. The revised text is nonetheless a material consideration. The appellant points out that the dormers would respect the new text in that the dormers would be set down from the ridge, set in from the sides, set up from the eaves and that the rear windows would align well with windows below. However, the dormers would not be "*generally well-proportioned to the roof space and not appear overly dominant*". As such, they would not relate well to all parts of the updated text.
8. The updated text notes that outside conservation areas the scale and design of rear dormer windows will have only a limited impact upon the character of an area or on the main property and that for this reason rear dormers including box-type dormers are generally acceptable. The width of the proposed rear dormers would adversely impact on the character of the area. But the dormers would barely be visible in public views from surrounding roads because of the tight spacing of the dwellings in Dallington Road and Milnthorpe Road. They would be conspicuous in private views from neighbouring dwellings and here they would be seen in the context of other dormers, albeit smaller.
9. My findings are that the width of both dormers would result in only limited harm to the character of the building and surrounding area. There would be limited conflict with Policy CP12 of the Brighton & Hove City Plan Part One (2016) and Saved Policy QD14 of the Brighton & Hove Local Plan (2005) which require such alterations to be well designed, sited and detailed in relation to the property to be extended, adjoining properties and to the surrounding area and to generally raise the standard of architecture. There would also be limited conflict with the recently adopted version of SPD 12.

Living conditions

10. The 'Nationally Described Space Standards' (2015) (NDSS) set acceptable minimum floor space for new build developments, and whilst not formally adopted into a Council Plan, the Council has used them as a guideline on acceptable unit and room sizes for future occupants. The Council accept that the gross internal area for both units would comply with the NDSS but contend that the bedroom size for unit 1 is non-compliant with a calculation of 11.26m² compared with the minimum standard of 11.5m² for double bedrooms. But even if the Council's calculation is correct the difference of 0.24m² would not be significant. Moreover, the bedroom would have a regular rectangular shape, convenient for the arrangement of furniture and would benefit from a large south facing window.
11. The bedroom would provide a satisfactory standard of accommodation for future occupiers. The proposal would not be contrary to Saved Policy QD27 of the Local Plan in that it would not cause material nuisance or loss of amenity for proposed occupiers.

Other Matters

12. The proposal would have the benefit of providing two small dwellings in a sustainable location. This would be one more than the extant permission but would not result in additional bedrooms. Nonetheless, the proposal would accord with the Government's objective "*to significantly boost the supply of homes*" at Paragraph 59 of the National Planning Policy Framework (the Framework) and to "*support opportunities to use the airspace above existing residential and commercial premises for new homes*" at Paragraph 118. The site also counts as a small 'windfall site' and Paragraph 68 applies great weight to the use of such sites that can often be built-out relatively quickly.
13. The Council's housing land supply position published in 2019 shows a five year housing supply shortfall of 1,200 (equivalent to 4.0 years of housing supply). As the Council is currently unable to demonstrate a five year housing land supply, the tilted balance set out at Paragraph 11 of the Framework applies.
14. I have noted the representations against the proposal. The front dormers have previously been approved and would not affect resident's privacy opposite. Noise transmission would be addressed in the Building Regulations. Other matters raised have been addressed in the paragraphs above.

Conclusion

15. The units would both provide satisfactory living conditions for future occupiers. Whilst I have found limited harm in relation to the impact of the dormer sizes on the character and appearance of the building and surrounding area, the adverse impact of granting permission would not significantly and demonstrably outweigh the benefits of the proposal when assessed against the policies of the Framework taken as a whole.
16. For the reasons given I conclude that the appeal should succeed.

Conditions

17. Planning conditions are needed to limit the lifespan of the permission and to list the plan numbers in the interests of certainty and to enable the approval of minor material amendments should this be expedient. Conditions are needed to require external materials to match the existing building to ensure a satisfactory appearance to the building and to require that cycle parking spaces are provided in accordance with the plans in relation to sustainable travel aims. To ensure that the development does not result in overspill parking a condition is needed in relation to residents parking permits. Finally, in the interests of biodiversity, I concur with the need for the Council's condition on swift boxes.

Rory MacLeod BA(Hons), MRTPI

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 050A, 150B and 190C.
- 3) The external surfaces of the development hereby permitted shall match in material, colour, style and texture those of the existing building.
- 4) The development hereby permitted shall not be occupied until the cycle parking space shown on the approved plans has been fully made available for use. The cycle parking facilities shall thereafter be retained for use by the occupants of the development at all times.
- 5) Within 6 months of commencement of the development hereby permitted or prior to occupation, whichever is the sooner, arrangements shall have been made to secure the development as a car-free development in accordance with a detailed scheme or agreement which shall have been approved in writing by the local planning authority. The approved scheme or agreement shall ensure that: no occupiers of the approved development shall apply for, obtain or hold an on-street parking permit to park a vehicle on the public highway within the administrative district of the local planning authority (other than a Blue Badge or disabled person's badge issued pursuant to section 21 of the Chronically Sick and Disabled Persons Act 1970 or similar legislation); and any occupiers of the approved development shall surrender any such permit wrongly issued or held. Such scheme or agreement shall be implemented prior to the occupation of the development hereby permitted and shall be retained and operated for so long as the use hereby permitted continues.
- 6) Three swift boxes shall be placed on the external walls of the development hereby approved and shall be retained thereafter.

