



Appeal Decision

Site visit made on 20 April 2021

by Robert Parker BSc (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 May 2021

Appeal Ref: APP/Q1445/W/20/3262795

143-144 Islingword Road, Brighton BN2 9SH

- 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 Rob Hogley of ISSO Investments Ltd against the decision of Brighton & Hove City Council.
 - The application Ref BH2020/01393, dated 19 May 2020, was refused by notice dated 17 July 2020.
 - The development proposed is conversion and extension of shop and 3 flats into shop and 5 flats.
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Decision

1. The appeal is allowed and planning permission is granted for conversion and extension of shop and 3 flats into shop and 5 flats at 143-144 Islingword Road, Brighton BN2 9SH in accordance with the terms of the application, Ref BH2020/01393, dated 19 May 2020, subject to the conditions set out in the attached schedule.

Main Issues

2. The main issues are:
 - a) the effect of the proposal on the supply of smaller dwellings suitable for family accommodation; and
 - b) whether the development would provide an acceptable living environment for its occupants, with particular reference to the size of the accommodation.

Reasons

Supply of smaller dwellings suitable for family accommodation

3. The site comprises a shop and self-contained 1-bedroom flat on the ground floor, and two further flats above. The layout of the second floor flat has been altered since the plans were prepared, rectifying the under-sized kitchen and making both upper floor flats 2-bedroom. The proposal is to erect an extension on the rear of the building and to reconfigure the internal layout to create five 1-bedroom flats, all of which would be accessed using the existing entrance.
4. Policy HO9 of the Brighton and Hove Local Plan 2005 (LP) states that planning permission will be granted for the conversion of dwellings into smaller units of self-contained accommodation when, amongst other things, the original floor area is greater than 115m² or the dwelling has more than 3 bedrooms as

originally built; and at least one unit of accommodation is provided which is suitable for family occupation and has a minimum of two bedrooms.

5. The proposal would, as a matter of fact, conflict with these particular criteria as the existing flats are smaller than 115m² and none of the proposed units would be suitable for family occupancy. However, the supporting text for Policy HO9 explains that the intention is to retain the existing stock of smaller dwellings to help meet the high demand for small family accommodation. It is relevant to consider whether the proposal would conflict with this underlying policy aim.
6. The only access to the upper floor flats is via a steep, narrow staircase which includes a tight 180 degree bend. This is impractical for carrying pushchairs, prams and children's toys. Moreover, there is no storage space for such items within the communal hallway due to its width. The constrained access means that neither of the existing 2-bedroom flats are physically suitable for families. The lack of any private amenity space for activities such as outdoor play and clothes drying make the units even less attractive to households with children.
7. Accordingly, I conclude that whilst the proposal conflicts with LP Policy HO9, the loss of the existing 2-bedroom flats through their subdivision would not have an adverse impact on the supply of smaller dwellings suitable for family occupation within the City.

Quality of living environment

8. Each of the proposed flats would comprise an open plan kitchen and living area, together with separate bedroom and bathroom. The bedrooms would have a minimum size of 9m² with the units as a whole ranging between 38m² and 41m² in gross internal floor area. The proposal would therefore meet the technical requirements of the Nationally Described Space Standards for a 1 bedroom 1 person (1b1p) dwelling¹. The Council has not formally adopted the national standards, but it accepts that they provide a useful guideline. The intention is to adopt the standards within the emerging City Plan Part Two.
9. The Council states that one bed flats are generally expected to provide a double bedroom for 2 persons. It argues that the authority is not in a position to insist that the properties are restricted to single occupants, and for this reason the appeal could result in substandard, cramped accommodation. Whilst I note these concerns, the application was submitted on the basis of the proposed units being for single occupancy, devised to meet the national space standards for 1b1p dwellings. There is no reason why a condition should not be imposed to secure single person occupancy.
10. In all other respects the accommodation would be of good quality. The bedrooms and living areas would enjoy a pleasant outlook and good levels of natural light and ventilation. The furniture layout shown on the plans is only indicative, but it demonstrates that the development could function well with adequate circulation space. Residents would have access to a garden, cycle parking and waste and recycling storage. Overall, I conclude that the appeal scheme would provide an acceptable living environment for its occupants. There would be no conflict with LP Policy QD27 insofar as this seeks to protect amenity for future users of the development.

¹ The national standards for 1b1p dwellings stipulate a minimum gross internal floor area of 39m² (37m² where the dwelling has a shower room) and single bedrooms with a floor area of at least 7.5m² and at least 2.15m wide.

Other Matters

11. The Council is satisfied that the proposal would not harm the character or appearance of the Valley Gardens Conservation Area. I have no reason to take a different view. The principal building façade would remain unchanged, whilst the proposed extension would be modest in depth, appropriately designed and discreetly located to the rear of the building.
12. An office tenant within the adjoining building has raised concerns regarding the impact of noise, both during construction and once the flats are occupied. Any disturbance during the build phase is likely to be short term. Moreover, there is no substantive technical evidence before me to demonstrate that the party wall is inadequate to prevent the transmission of sound between residential and commercial premises. Whilst I have taken the representation into account, the matters raised do not warrant dismissal of the appeal.
13. Comments have been made on behalf of the occupants of 1 Hanover Mews requesting maintenance and improvement works to the boundary treatment with their property. These works do not arise as a direct result of the proposed development and furthermore part of the boundary lies outside of the appeal site. Consequently, it would not be reasonable to impose a condition on any planning permission requiring those works to be carried out.

Conditions

14. I have imposed a condition specifying the approved plans, to provide certainty. The proposed flats are designed for single occupancy and therefore a condition restricting them as such is needed to ensure a satisfactory living environment. A condition is necessary to require the provision of the gardens, cycle parking and waste and recycling storage prior to occupation of the development. To protect the character and appearance of the area conditions are also needed to require matching materials for the external walls of the new extension and to restrict new pipework, flues or vents on the front elevation of the building.
15. The officer report moots a condition restricting future occupants' rights to resident parking permits for the two additional flats. The wording for such a condition has not been provided. Although there has been high uptake of parking permits in the Controlled Parking Zone, the data is more than 2 years old and I have no means of knowing the current position. Consequently, the available evidence does not meet the threshold for justifying imposition of a condition and therefore it does not pass the test of necessity.
16. The Council has tabled conditions to protect occupiers of the dwellings from noise generated by traffic or other external sources, and to secure adequate ventilation. The building is already in residential use and I have seen no firm evidence to indicate that noise is an issue, particularly bearing in mind that the building is set well back from the nearest main road. Consequently, I consider the suggested conditions to be unduly onerous and therefore unnecessary.

Planning Balance and Conclusion

17. The Council concedes that it is unable to demonstrate a 5 year supply of deliverable housing sites. The latest published position indicates a 4.0 year supply. Paragraph 11 (d) of the National Planning Policy Framework (the Framework) states that where the requisite land supply does not exist permission should be granted unless any adverse impacts of doing so would

significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

18. The housing land supply position of the Council renders Policy HO9 of the LP out of date. In any event, the proposal would not have an adverse impact on the supply of smaller dwellings suitable for family accommodation within the City and as such it would not compromise the objectives of the policy. I have therefore attached limited weight to the conflict with this policy.
19. The proposal would deliver an additional 2 dwellings and thereby contribute, albeit in a very modest way, to the supply of housing and remedying the significant shortfall against the housing requirement. The scheme would provide modern living accommodation, facilitate investment in the building fabric and assist in bringing the empty shop unit back into use. These are small but appreciable benefits. Overall, the proposal would not lead to any demonstrable adverse impacts that would significantly and demonstrably outweigh the benefits of the scheme. The proposal constitutes sustainable development in the terms of the Framework and therefore material considerations exist to justify a decision otherwise than in accordance with the development plan.
20. For the reasons given above I conclude that the appeal should succeed.

Robert Parker

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: Drawing nos. TA 1236/01A, TA 1236/10D, TA 1236/11A, TA 1236/12A, TA 1236/13, TA 1236/14A and TA 1236/15B.
- 3) The flats hereby permitted shall not be occupied until the gardens, secure cycle parking and storage for waste and recycling have been provided in accordance with the approved plans. These areas shall be retained for their intended purposes for the lifetime of the development.
- 4) The flats hereby permitted shall be for single occupancy and accordingly each unit shall be occupied by no more than one person as their main place of residence.
- 5) The materials used in the construction of the external walls of the extension hereby permitted shall match in colour and texture those used in the host building.
- 6) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no new pipework, flues or vents shall be installed to the front elevation of the building.

*** END ***