



Appeal Decision

Site visit made on 17 November 2021

By Guy Davies Bsc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 November 2021.

Appeal Ref: APP/Q1445/W/21/3274777

26 Warren Way, Brighton BN2 6PJ

- 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 Paul Hay against the decision of Brighton & Hove City Council.
 - The application Ref BH2021/00084, dated 7 January 2021, was refused by notice dated 5 March 2021.
 - The development proposed is the remodelling of existing building and extension at rear to provide for 4 additional flats.
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Decision

1. The appeal is allowed and planning permission is granted for remodelling of the existing building and extension at rear to provide for 4 additional flats at 26 Warren Way, Brighton BN2 6PJ in accordance with the terms of the application Ref BH2021/00084, dated 7 January 2021, and the attached schedule of conditions.

Main Issues

2. The main issues are the effect of the development on:
 - the character and appearance of the area with regard to size, density and housing mix; and
 - the living conditions of future residents, with regard to overlooking, overshadowing and noise.

Reasons

Character and appearance

3. The immediate area is a small local neighbourhood shopping centre containing a mix of uses. Buildings in the shopping centre exhibit a variety of styles and materials with no prevalent design or layout although most are of somewhat larger scale than the surrounding more regularly laid out housing estates. The appeal building itself is an unremarkable 3-storey building with a garage behind on a site that slopes to the rear.
4. The proposed remodelling and extension of the existing building would significantly enlarge and alter its appearance from one with a domestic character to one with a more urban character with flat roofs, a greater proportion of glazing to wall, and the introduction of terraces at the rear. However, given the presence of larger buildings in the shopping centre, in particular the block of flats immediately to the east of the appeal site and the parade of shops opposite, the enlarged building would not appear out of scale

or overly dominant within its setting. Spacing between buildings would remain the same, and it would continue to maintain a height between that of the higher block on one side and the lower building on the other. The resultant building would be deeper in plan form than the existing building, but not to any greater extent than the flanking buildings, and would not appear over-dominant or overbearing in relation to them. Its more modern appearance and use of materials would also not appear discordant or out of place having regard to the wide variety of building styles and use of materials in the vicinity.

5. The density of units on the site would increase from 3 to 7 flats. By its nature density is a relatively crude measure of the increase in built form as it is dependent on unit size as well as number. In this case the 7 proposed units could be accommodated within a building that would not appear as an overdevelopment, and while making a more intensive use of the site would meet the Council's standards on size and amenity space. The increase in density is not by itself a justifiable reason for resisting the proposal.
6. Policy CP19 of the Brighton & Hove City Plan Part One 2016 requires an appropriate mix of housing to improve housing choice. While the Council has applied this policy on a site specific basis, the frame of reference for the policy is wider in that it seeks to achieve an appropriate mix across the city, or at least a local area basis. As shown by the urban study¹, the Woodingdean neighbourhood is dominated by family housing. The provision of a small number of additional flats would therefore widen housing choice in the neighbourhood rather than reduce it. There is in any case a pressing need for all types of housing in Brighton, and the development would help meet the demand for smaller flats. I consider the mix of unit sizes proposed is appropriate within the context of the neighbourhood and the housing needs of the wider city.
7. I conclude that the proposal would not result in a development whose size, density or housing mix was harmful to the character or appearance of the area. It would therefore accord with Policies CP12 and CP14 of the Brighton & Hove City Plan Part One 2016 and Policy QD14 of the Brighton & Hove Local Plan 2005, which seek to achieve well designed development of an appropriate density and mix.

Living conditions

8. Unit 1 would occupy the front of the building on the lower ground floor. I see no reason why the side facing kitchen window would need to be obscured glazed as suggested by the Council. It would not lead to a loss of privacy for other properties, and it would be for future occupiers of the unit to decide what level of privacy they wished from other residents passing by on the communal side passage, which could be achieved through the use of blinds or other screening. The window could be opening to allow cross ventilation. Because of the location of the unit on the lower ground floor the front windows would be partly overshadowed by the higher ground to the front but would be similar to the existing lower ground floor flat, which also has windows facing forward.
9. Units 4 and 6 would be provided with terraces, which would stand above parts of the ceilings to units 2 and 4 respectively. As this part of the building would be new build, the intervening floors would be constructed to avoid any undue

¹ Brighton & Hove Urban Characterisation Study, January 2009

noise disturbance or vibration from the use of these terraces, as would be the case with the internal intervening floors. Noise may be heard externally between adjoining terraces, balconies or gardens, but that would be no different to the use of such spaces in most other domestic settings.

10. I conclude that the living conditions for future occupiers of the development would not be harmed by reason of undue overlooking, overshadowing or noise, and it would therefore comply with Policy QD27 of the Brighton & Hove Local Plan 2005, which seeks to prevent material nuisance from new development to proposed users, residents or occupiers.

Other Matters

11. Although not included in the reasons for refusal, Policy HO9 of the Brighton & Hove City Plan Part One 2016 is referenced in the Council's statement of case and provides guidance on residential conversion and the retention of smaller dwellings. There is an argument that the proposal may conflict with the first criterion relating to allowing conversion to smaller units only where the original floor area of the host dwelling is greater than 115sqm or more than 3 bedrooms. However, as noted in the Council's application report, the principle of subdivision has already been established through the grant of a previous planning permission, which is still extant². The proposed development would in any case provide 2, 2-bedroom flats that would be suitable for family occupation. I therefore place little weight on this policy conflict.

Conditions

12. I have considered the conditions suggested by the Council in the light of the tests set out in paragraph 56 of the National Planning Policy Framework. I have imposed them where they meet those tests, subject to some rewording in the interests of consistency and clarity. Some have been combined where appropriate in the interests of simplicity.
13. In addition to the standard time limit condition, a condition listing the approved plans is necessary in the interests of certainty.
14. A condition requiring approval of external materials is necessary in the interests of the character and appearance of the area. The requirements of the condition as suggested by the Council have been modified to include submission and approval of external materials and finishes. This is because the approved plans do not show the extension to match that of the existing building, which is itself shown to be fully rendered as opposed to the part brick and part render finish at present.
15. A condition requiring obscured glazing to the ground and first floor bathroom windows facing east and the first floor kitchen and bathroom windows facing west is necessary in the interests of privacy. It has been modified to restrict windows opening below eye level. The restriction does not apply to windows on the lower ground floor as these would be screened by boundary treatments. It also has not been applied to the windows on the ground floor facing west as there is a reasonable degree of screen planting along the boundary with the neighbouring property. These windows also include a bedroom window that it would be oppressive to require to be obscured glazed.

² BH2019/03144

16. A condition requiring bin and bicycle storage is necessary to ensure the provision of these facilities in the interests of future occupiers and to encourage cycling as an alternative to driving. Two conditions suggested by the Council have been combined into one for simplicity.
17. A condition restricting the use of flat roofs for amenity purposes, other than for the terraces shown on the approved plans, is necessary in the interests of the privacy of future and neighbouring occupiers.
18. A condition requiring landscaping is necessary in the interests of the appearance of the site. It has been combined with a second condition suggested by the Council requiring approval of boundary treatments.
19. A condition requiring porous hard surfaces or as an alternative run-off water to be directed to a porous area is necessary in the interests of surface water drainage and to reduce the risk of flooding. A condition requiring a bee brick is necessary to secure biodiversity enhancement on the site and satisfy local policy requirements.

Conclusion

20. I conclude that the development would accord with the development plan when taken as a whole. The appellant has referred to the lack of housing land supply in the area. Given that the development accords with the development plan, there is no need for me to consider this argument in any detail, as in such circumstances the Framework advises that development should be approved without further delay. Consequently, I conclude that the appeal should be allowed.

Guy Davies

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:
 - 01 lower ground and ground floor plans as existing
 - 02 first and second floor plans as existing
 - 03 sections as existing
 - 04 elevations & site plan as existing
 - TA 1299/05 existing street scene
 - TA 1299/10 block & site location plans
 - TA 1299/11 proposed site plan
 - TA 1299/12 proposed lower ground and ground floor plans
 - TA 1299/13 proposed first and second floor plans
 - TA 1299/14 proposed northern elevation
 - TA 1299/15 proposed west side elevation
 - TA 1299/16 proposed rear elevation (south)
 - TA 1299/17 proposed east side elevation
 - TA 1299/18 proposed section

TA 1299/19 proposed street scene
TA 1299/20 comparative street scenes

- 3) Prior to the commencement of any works above slab level, details of external materials and finishes shall be submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved materials and finishes.
- 4) Prior to occupation of any of the dwellings numbered as 3, 5, 6 or 7 on the approved plans the ground and first floor east-facing bathroom windows, the first floor west-facing kitchen window and the first floor west-facing bathroom window shall be fitted with obscured glazing and no part of those windows that is less than 1.7m above the floor of the room in which it is installed shall be capable of being opened. The obscured glazing shall be retained thereafter.
- 5) Prior to occupation of any of the dwellings hereby permitted details of facilities for the storage of at least 14 refuse and recycling bins and the secure storage of at least 9 bicycles shall be submitted to and approved in writing by the Local Planning Authority. The facilities shall be installed prior to occupation of any of the dwellings hereby permitted and shall thereafter be retained.
- 6) The flat roofs of the development hereby permitted shall not be used as roof gardens, terraces, patios or similar amenity areas unless otherwise shown as such on the approved plans and access shall only be gained for maintenance or emergency purposes only.
- 7) Prior to occupation of any of the dwellings hereby permitted a scheme for landscaping of the site, including all boundary treatments, shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details prior to occupation of any of the dwellings hereby permitted. Any trees or plants which within a period of 5 years from planting die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 8) The hard surface materials used in the development hereby permitted shall be made of porous materials and retained thereafter, or provision shall be made to direct run-off water from all hard surfaces to a porous area within the curtilage of the development, and thereafter retained.
- 9) A bee brick shall be incorporated within an external wall of the development hereby permitted and thereafter retained.

***** End of Conditions*****