



Appeal Decision

Site visit made on 12 September 2023

by V Simpson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 September 2023

Appeal Ref: APP/Q1445/W/23/3318937

280 Dyke Road, Brighton, BN1 5BA

- 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 Beglin of Inglo Ventures Ltd against the decision of Brighton & Hove City Council.
 - The application Ref BH2022/03675, dated 25 November 2022, was refused by notice dated 2 February 2023.
 - The development proposed is the extension of existing basement and conversion of ground floor flat to form two self-contained units, 1 x 1 bed flat and 1 x 2 bed maisonette, together with demolition of the existing garage.
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Decision

1. The appeal is allowed and planning permission is granted for the extension of existing basement and conversion of ground floor flat to form two self-contained units, 1 x 1 bed flat and 1 x 2 bed maisonette, together with demolition of the existing garage at 280 Dyke Road, Brighton, BN1 5BA in accordance with the terms of the application Ref BH2022/03675, dated 25 November 2022, subject to the following 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: TA1458/03 rev A, TA1458/10 rev A, TA1458/11 rev A, TA1458/12, TA1458/13 rev A, TA1458/14 rev A, and TA1458/15 rev A.
 - 3) Prior to the occupation of the development hereby permitted, a scheme for the provision of secure bicycle parking facilities shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be fully implemented prior to the first occupation of the development. The cycle storage space shall thereafter be kept available for the parking of bicycles.
 - 4) Prior to the occupation of the development hereby permitted, details of both hard and soft landscape works shall be submitted to and approved in writing by the local planning authority. These details shall include:
 - i) details of all hard and soft surfacing to include the type, position, design, dimensions, materials and details of any sustainable drainage systems;
 - ii) details of all boundary treatments to include type, position, design, dimensions and materials;
 - iii) a schedule detailing species, sizes and numbers/densities of all proposed trees/plants; and

iv) a planting scheme.

The landscaping works shall be carried out in accordance with the approved details before any part of the development is first occupied. If, within 5 years from the completion of the development, any trees or plants which have been planted in accordance with the approved details, die, are removed, or become seriously damaged or diseased, these shall be replaced in the next planting season with others of similar size and species.

- 5) The development hereby permitted shall not be occupied prior to the bin storage area indicated on the approved plans being completed and made available for use. The bin storage area shall thereafter be kept available for the storage of refuse.

Preliminary Matters

2. The appellant has requested that I consider an amended proposed floor plan as part of my consideration of this appeal. The plan indicates that unit 2 would have a WC rather than a study area at ground floor level.
3. The Procedural Guide: Planning Appeals – England advises that if an appeal is made, the appeal process should not be used to evolve a scheme, and it is important that what is considered by the Inspector is essentially what was considered by the LPA and interested parties at the application stage.
4. Although I am satisfied that the amendments do not materially change the proposal, I cannot be certain that no parties would be prejudiced were I to take the amendments into account. This appeal has therefore been determined based on the plans submitted in support of the application and upon which the Council's decision was made. I have had regard to the tests outlined in the *Holborn Studios Ltd* ruling¹ and the degree of engagement for all parties, in coming to this view.

Main Issue

5. The main issue is the effect of the proposed development on the supply of dwellings suitable for family occupation in the Borough.

Reasons

6. The appeal site comprises a spacious unit of residential accommodation within a larger building. It is within a predominantly residential area.
7. Based on the evidence I accept that the larger host building has been previously subdivided to form more than one unit of residential accommodation. However, given the absence of conclusive evidence regarding the original layout of the building, the proposal is considered against the existing layout of the parts of the building subject of this appeal.
8. That the relevant parts of the building have an existing internal floor area which is less than 120sq.m is not disputed by either the Council or the appellant, and I have been provided with no reason to take an alternative view. The development proposal would not therefore conform with criteria a) of

¹ *Holborn Studios Ltd v The Council of the London Borough of Hackney* [2017] EWHC 2823 (Admin)

policy DM3 of the Brighton and Hove City Council City Plan Part Two dated 2022 (the City Plan Part 2). However, DM3 is a permissive policy, that does not preclude development proposals that do not meet the stated criteria. Significantly, the aims of this policy, as set out within the supporting text, are to ensure that conversions provide a high standard of accommodation, and, retain housing choice in the city. Furthermore, the supporting text indicates that there remains a high level of demand for smaller dwellings suitable for family accommodation.

9. The implementation of the proposed development would result in the creation of 2 separate units of residential accommodation. Unit 2 would take the form of a 2-bedroom maisonette with accommodation over 2 storeys. Policy DM1 of the City Plan Part 2 identifies minimum space standards for such accommodation. The amount of built-in storage within the proposed unit 2 has not been quantified. However, from the evidence, the gross internal floor area within unit 2 would exceed the combined minimums for internal floor area and storage as identified within policy DM1. Furthermore, a larder/utility room is proposed, and there is adequate space for wardrobes within both bedrooms.
10. The kitchen forming part of unit 2 would be irregularly shaped. However, I have no cogent reason to doubt that it would be of sufficient size and proportions to enable it to function both as a kitchen and dining area with a decent amount of circulation space, as part of a small family home.
11. An off-road parking space, as well as exterior refuse and bike storage areas would be provided within the appeal site. In addition, an outdoor space would be provided immediately adjacent to unit 2. Although this area would be small and have a ground level a little lower than the nearby street, it would afford future occupiers of unit 2, space to sit outside and relax or space for children to play. Furthermore, the evidence indicates that Preston and Dyke Parks are within 0.5km of the appeal site and contain a range of high-quality open spaces and sports facilities. Given their proximity, and in the absence of any compelling evidence to the contrary, I have no reason to doubt that they could be safely and readily accessed by future occupiers of the development. Given the levels of on-site amenity space and the facilities available within the nearby parks, future occupiers of unit 2 would be able to achieve a reasonable amount and standard of outdoor amenity space, which would be suitable for family use.
12. Although the cited appeal at 4 Rochester Gardens² was dismissed, that decision was made prior to the Council's adoption of the City Plan part 2. Furthermore, and unlike in this case, the Inspector found that the proposed 2-bedroom family unit would have no access to private amenity space. The 2 cases are not therefore directly comparable.
13. For the reasons given, unit 2 would provide a decent standard of accommodation suitable for family occupation, and as such the development would not have a harmful effect on the supply of dwellings suitable for family occupation in the Borough. Consequently, and in respect of this main issue, the development would not conflict with policy DM3 of the City Plan part 2, and it would comply with the aims of the policy.

² APP/Q1445/W/19/3231995

Other Matters

14. Although effective engagement between the appellant and the occupiers of neighbouring properties may have been beneficial to both parties, there is no requirement for such engagement to take place.
15. The construction phase of the development could potentially be disruptive to occupiers of neighbouring properties. However, any construction-related disturbance is likely to be short-term. Furthermore, there are separate regulations to ensure construction works would not cause unacceptable harm to the living conditions of occupiers of neighbouring properties.
16. Concern has been raised that the building is not structurally capable of accommodating the proposals, and that the use of the development would be harmful to the living conditions of the occupiers of neighbouring properties with particular regard to noise and vibration. It has also been suggested that the proposals would result in the overdevelopment of the site, and, that it would have a harmful effect on local property prices. Whilst I take these matters seriously, I have not been presented with compelling evidence to demonstrate that the appeal proposal would result in unacceptable effects in relation to any of these matters. Consequently, they do not lead me to a different overall conclusion.

Conditions

17. The wording of conditions suggested by the Council has been amended where appropriate. This is for the purposes of clarity and to meet the six tests outlined within paragraph 56 of the Framework.
18. The statutory condition which specifies the time period for the implementation of the permission is imposed. For clarity, a plans condition is also imposed which identifies the plans to which this permission relates.
19. The Council has requested an additional 3 conditions. The appellant had the opportunity to comment on the conditions suggested by the Council but did not do so. Conditions related to cycle parking facilities and refuse storage areas are necessary. This is to encourage travel by means other than private motor vehicles and to ensure that the development does not cause harm to the character and appearance of the area. A landscaping condition is also necessary to compensate for the proposed removal of trees/shrubs within the site, and to also ensure that the development does not cause harm to the character and appearance of the area.

Conclusion

20. For the reasons set out above and having regard to the development plan as a whole and any other relevant material considerations, I conclude that this appeal should be allowed and planning permission be granted subject to the conditions identified above.

V Simpson

INSPECTOR