



Appeal Decision

Site visit made on 6 March 2024

by N Perrins BSc (Hons), MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28.03.2024

Appeal Ref: APP/Q1445/W/23/3329417
15 Victoria Terrace, Hove BN3 2WB

- 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 Roland Olukayode Balogun against the decision of Brighton & Hove City Council.
 - The application Ref: BH2023/01970, dated 12 July 2023, was refused by notice dated 5 September 2023.
 - The development proposed is change of use for basement flat from Use Class E to Use Class C3 to include new side door access.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. A revised version of the National Planning Policy Framework (the Framework) was published in December 2023. I have not considered it necessary to invite observations from the main parties as regards any relevance, this is in view of the determining issues at play.
3. The site is within the Cliftonville Conservation Area (CA). The duty under Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of Conservation Areas. Whilst not a matter of dispute between the main parties, both parties are aware of this statutory duty, referencing it in their evidence. I am, therefore, satisfied that both parties have had the opportunity to address this matter and there is no need to seek further information from them in this regard.

Main Issues

4. The main issues are the effect of the proposed development on:
 - (i) The living conditions of future occupiers, having particular regard to the size, layout, natural light, including sunlight, and outlook; and
 - (ii) The character and appearance of the Cliftonville Conservation Area.

Reasons

(i) Living conditions

5. The appeal property is located on the corner of Kingsway and Sussex Road and is part of a two storey terrace of buildings with ground floor commercial uses. The property, currently vacant, was previously used as a dry cleaner on its ground floor, with a basement providing ancillary floor space below.
6. The proposal would sub-divide the property and convert the basement into a 1no bed studio flat accessed through a new side door from Sussex Road. The side door would lead to a ground floor hallway with access to a proposed bathroom and the existing set of stairs to the basement below. The basement would comprise the bedroom and living area laid out in open plan form with a separate kitchen to the rear. To the rear of the basement is a door that leads out to a small courtyard, which would provide amenity space.

Size and layout

7. The studio flat would have a minimum gross internal floor area of 39sqm, which would meet the requirements for a one person single storey dwelling as set out in the Nationally Described Space Standards (NDSS)¹, and which have been adopted by the Council in Policy DM1 of the Brighton and Hove City Plan Part 2 2023 (CPP2). The proposal, however, would operate across two levels with the entrance and bathroom on the ground floor and the bedroom, living room and kitchen provided within the basement. The NDSS does not describe a minimum floorspace for two storey dwellings with a maximum occupancy of one person as is proposed here.
8. Table 1 of the NDSS requires additional floorspace for accommodation over two or more floors in likely recognition that multi-storey dwellings would require additional space for stairs, whereas a single storey dwelling would not. In any event, I am not satisfied that the proposal would create a suitable standard of accommodation for future occupiers. This is evidenced by the limited size and somewhat awkward layout, with the bathroom located at ground floor level, above the main living space and by the entrance door. Furthermore, the proposed kitchen area would be small and enclosed, and it is not clear that there would be adequate space for typical kitchen items, increasing the likelihood of the main living space being reduced to allow for storage of such items.
9. The main living area would also need to accommodate a bed as well as being the focal point for living and relaxation and for general storage. The size and layout would result in cramped and unsatisfactory accommodation, which would be exacerbated once furniture and other belongings are introduced, which would adversely affect the living conditions of future occupiers. The proposal would, therefore, conflict with Policy DM1 (housing quality, choice and mix) of the CPP2 and with Chapter 12 of the Framework, in this regard.

Daylight and sunlight

10. There is an obscure glazed window within the door that leads to the rear courtyard that provides some light to the rear section of the basement. Whilst I note the appellant proposes to replace this with a new glazed door, the

¹ Statutory guidance - Technical housing standards - Nationally Described Space Standards 27 March 2015

courtyard area is itself at lower ground and surrounded by built form on all sides. This would likely limit the amount of natural light into the basement from this direction even if the new door was installed.

11. There is a window in the small room at the rear of the basement that is proposed to be turned into the kitchen. This window provides adequate light to this small rear room in isolation, but again does not provide much in the way of light into the main basement beyond the area just outside the doorway due to the source being the rear courtyard discussed above. To the front is a small lightwell that allows some limited levels of light to enter the front section of the basement from the ground floor above. The centrally positioned staircase, which contains no openings to the outside other than the doorway at ground level, would provide no direct daylight to the basement area.
12. The effect of the existing openings, and as observed on my site inspection, is that the majority of the floorspace in the central part of the basement does not have any direct source of natural light and is likely to be dark for the majority of the day. This would require the majority of light to be provided by artificial sources, which is not an acceptable position to have to rely on when creating a new dwelling as proposed here. No light surveys or other compelling evidence have been provided to demonstrate the proposal would provide a satisfactory level of natural light. For these reasons, the proposal would adversely affect the living conditions of future occupiers, with particular regard to natural light, including sunlight. It would therefore, conflict with Policy DM20 (protection of amenity) of the CPP2, and with Chapter 12 of the Framework, in this regard.

Outlook

13. No new basement openings are proposed, whilst the front lightwell does not provide any meaningful outlook. This means that outlook would be limited to what can be seen from the proposed kitchen and main living area through the proposed new glazed door. These openings look out to the enclosed and small courtyard, which would be akin to permanently looking out at a blank façade. This is not an acceptable outlook for future occupants.
14. For these reasons, the proposal would adversely affect the living conditions of future occupiers, with particular regard to outlook. It would, therefore, conflict with Policy DM20 (protection of amenity) of the CPP2, and with Chapter 12 of the Framework, in this regard.

(ii) Character and appearance of the conservation area

15. The CA extends from the seafront inland and contains a diverse range of buildings, many of which have had a stucco treatment. The street pattern is regular and generally consistent with the historical development of the area. The appeal building forms the end of a short terrace of 2-storey stuccoed properties facing onto Kingsway with retail units at ground floor. Kingsway is a broad street that runs roughly parallel to the seafront, with Sussex Road providing a link between them.
16. From the limited information before me and my own observations, the significance of the CA, insofar as it relates to this appeal, stems from its location close to the seafront, its historical development and the buildings and spaces to be found there.

17. The appeal building's contribution to the significance of the CA is that it forms part of a terrace of similar style properties with commercial use at ground floor. Its appearance has been compromised over the years and is in need of repair, which limits its overall contribution. The building, however, forms part of the Sussex Road frontage, which is a thoroughfare that leads to and from the sea and which retains some traditional and positive features. The elevation with Sussex Road has several windows, one of which is blocked up, and an existing doorway to No 15A.
18. The proposal would insert a new door in the side elevation along Sussex Road. This elevation is not overly large in its size and already includes various windows and the existing door to 15A. The design of the door would have four panels that would contrast with the existing door to 15A, which has six panels and a fanlight. Moreover, the door would not be consistent with other designs nearby along Sussex Road. The overall effect of the proposed door would be to create a more cluttered side elevation with inconsistency between the various window and doors openings, which would not assimilate positively with the general coherence of elevations along Sussex Road. The proposed door would, therefore, detract from the character and appearance of the host building. In doing so, it would detract from the significance of the CA to a limited extent, causing less than substantial harm.
19. The CA is a designated heritage asset. Paragraph 205 of the Framework states that when considering the impact of a proposed development on the significance of a designated asset, great weight should be given to the asset's conservation. Paragraph 208 of the Framework states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.
20. There would be economic and social benefits as a result of the construction of the proposal. However, these would be very limited due to the scale of the works and limited duration.
21. Whilst the building is currently vacant, there is no compelling evidence that a residential conversion would be its optimum viable use.
22. Given the Council can currently demonstrate only 1.8 years of deliverable housing supply, which is substantially below the level required, the addition of even one dwelling would normally be a public benefit to which I would give some weight. The occupation of the appeal property would also be more likely to avoid deterioration in its condition.
23. However, I have already concluded the proposed dwelling would adversely affect the living conditions of future occupiers in multiple regards and so in this case, I do not consider the provision of a single dwelling would be a public benefit. Even if I were to do so, the provision of just a single dwelling and any other public benefits, would not outweigh the harm I have identified.
24. For these reasons, the public benefits of the proposed development would not outweigh the less than substantial harm I have identified to the significance of the CA. It would, therefore, insofar as relevant, conflict with Policy DM26 (conservation areas) of the CPP2 and with the Framework, in this regard.

Conclusion

25. The proposed development would adversely affect the living conditions of future occupiers and would cause harm to the significance of the CA.
26. With reference to Footnote 8 of the Framework, the Council cannot demonstrate the required deliverable housing land supply and so the policies in the development plan most important for determining the proposal are deemed to be out of date.
27. However, with reference to footnote 7 of the Framework, the harm I have identified to a designated heritage asset provides a clear reason for refusing the development proposed, and so the presumption in favour of sustainable development is not engaged.
28. For the reasons given above, I conclude the appeal is dismissed.

N Perrins

INSPECTOR