



Appeal Decision

Site visit made on 25 July 2024

by L J O'Brien BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31st July 2024

Appeal Ref: APP/Q1445/W/23/3328635

13 Third Avenue, Brighton, BN3 2PB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Ashley Bennett against the decision of Brighton & Hove City Council.
 - The application Ref is BH2023/01744.
 - The development proposed is Change of use of part of ground floor to form one self-contained studio flat (Class C3).
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether or not the proposed studio flat would provide satisfactory living conditions for future occupiers with particular regard to space.

Reasons

3. The appeal property comprises part of the ground floor accommodation at 13 Third Avenue. The proposal is for the creation of a self-contained studio flat. The proposed studio flat would consist of one room with a small kitchen area and space for a bed and small sofa, a storage cupboard and a small shower/toilet room. The proposed flat would be approximately 32sqm.
4. The supporting text to Policy DM1 of the Brighton & Hove City Plan Part Two, October 2022 (LP2) states that the importance of internal space and layout in the delivery of quality homes within the city has long been recognised by the Council. LP2 Policy DM1 states that planning applications for new residential development will be expected to meet the nationally described space standards (NDSS). The NDSS sets out minimum gross internal floor areas (GIA) for residential development.
5. I note the appellant's view that the NDSS refers only to "new" dwellings and should not therefore apply in relation to a residential conversion. However, the supporting text in relation to Policy DM1 of LP2 is clear that the Council expects all forms of residential accommodation to have regard to the standards. Furthermore, in my view, despite being a conversion as opposed to a ground up new build, the proposal would, nevertheless, result in the creation of a new unit of residential accommodation and, as such, there is no reason why the standards set out in the NDSS should not apply to conversions.

6. The NDSS does not refer explicitly to studio units. However, the larger room within the unit would be the room within which a bed would be placed and within which the occupants would sleep. Though I note that other activities and other domestic paraphernalia would also be placed within this room I do not think it unreasonable to, insofar as the NDSS is concerned, conclude that this room would be considered a bedroom.
7. The smallest size of unit within the NDSS is a one bedroom, one bedspace single storey unit. A unit of this type should have a GIA of 39sqm, reducing to 37sqm where a shower room is provided instead of a bathroom. There is no dispute between the parties that the proposed unit would have a GIA of 32sqm. Consequently, the proposal would fall significantly short of the space standards and would fail to comply with the NDSS and conflict with Policy DM1 of LP2 in this respect.
8. As a self-contained unit the proposed studio flat would have to accommodate all of the occupants' personal belongings, as well as a bed, an area within which to sit and eat or relax, a kitchen, an area within which to do laundry and circulation space. In my view, the proposed unit would not be large enough to comfortably cater for all of the future occupants' day to day activities and living needs. I consider that the proposal would not provide satisfactory living conditions for future occupiers with particular regard to space.
9. As such, even if I had found that the space standards contained within the NDSS did not apply, I consider that the proposed studio flat would be unduly cramped and would not provide a good standard of living conditions for the potential future occupiers.
10. As such, the proposal would fail to meet the requirements set out within the National Planning Policy Framework (the Framework) which states that developments should create places which promote health and well-being with a high standard of amenity for future occupiers.
11. I accept that the high ceilings and bay window would provide ample light provision and would help to increase the sense of spaciousness within the unit. However, this would not be to such a degree so as to overcome the harm I have identified.
12. I note that the supporting text of LP2 Policy DM1 suggests that a range of housing is required and states that there may be some instances where an exception to an element of the requirements might be justified. However, the example given is in respect of a listed building which is not the case with this proposal. In this particular instance I have not been provided with compelling evidence which sets out precisely why such an exception is warranted.
13. I accept that circumstances on site are such that providing additional space to the residential unit would be very challenging. Nonetheless, this is not sufficient reason to justify approving a scheme which would provide an inadequate standard of living for a future occupier.
14. I acknowledge the examples of studio flats which have been provided by the appellant. However, I do not have specific details of these and do not know the planning history or circumstances. In any event, each case must be treated on its own merits within the policy context at the time. The existence of other

small properties does not provide justification for the creation of a residential unit which I consider would be unsatisfactory.

15. For the reasons set out above the proposal would fail to provide satisfactory living conditions for future occupiers with particular regard to space. Consequently, the proposal would conflict with Policy DM1 of LP2 which states that all residential units should meet the NDSS.

Other Matters and Planning Balance

16. I note that the appellant has made changes to a previously refused scheme with the aim of overcoming the harm which was identified. However, in my view, the revised scheme would, nevertheless, provide a poor standard of living for potential future occupiers.
17. There is no dispute between the parties that the Council cannot demonstrate a five year housing land supply. As such, the Framework advises that planning 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 proposal would provide one additional unit of residential accommodation in a highly sustainable location which would assist, to a very limited degree, in boosting the supply of housing in the area. This would be a benefit of the scheme. This benefit is, however, limited by the small scale of the proposal and must be considered in that context. On the other side of the balance, I have found that the proposal would provide cramped and unsatisfactory living conditions for future occupiers and the unit of housing which would be provided would not be of a high quality.
19. As such, in my view, the adverse effects of the proposal would significantly and demonstrably outweigh the benefits.

Conclusion

20. For the reasons set out above, the proposal is contrary to the development plan. There are no material considerations that indicate that permission should be granted. Therefore, taking all other matters raised into account, the appeal is dismissed.

L J O'Brien

INSPECTOR