



Appeal Decision

Site visit made on 25 November 2008

by **Andrew M Phillipson BSc CEng FICE MIHT**

an Inspector appointed by the Secretary of State
for Communities and Local Government

The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

☎ 0117 372 6372
email: enquiries@pins.gsi.gov.uk

Decision date:
17 December 2008

Appeal Ref: APP/Q1445/A/08/2080049 114 Hythe Road, Brighton BN1 6JS

- 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 Lindsay Shakoori against the decision of Brighton & Hove City Council.
- The application Ref BH2008/00500, dated 6 February 2008, was refused by notice dated 6 June 2008.
- The development proposed is the conversion of a four-storey dwelling into two maisonettes.

Decision

1. I dismiss the appeal.

Procedural Matters

2. The application is retrospective inasmuch as the premises have already been converted to two flats. The layout of these flats differs from that shown on the application plan, however, insofar as (i) the two bedrooms shown on the lower ground floor are currently used as a dining room (integral with the kitchen) and a living room; (ii) the lounge and dining room shown on the first floor are both used as bedrooms; and (iii) the living/dining room shown on the first floor comprises a living room and a separate bedroom. In determining the appeal I have assumed that, if planning permission is granted, the internal layout of the two flats would be altered to match that shown on the submitted plan.

Main Issue

3. The main issue is the effect the conversion would have on the City's stock of smaller dwellings suitable for family accommodation.

Reasons

4. The development plan for the area includes the Brighton and Hove Local Plan 2005. Policy HO9 deals with residential conversions. It aims, amongst other matters, to retain the City's stock of smaller dwellings suitable for family accommodation. To that end, it sets out a presumption against conversion of existing dwellings with an original floor area of less than 115m² into smaller units, unless the dwelling as originally built had more than three bedrooms.
5. There is no dispute that the house as originally built (i) had a floor area of less than 115m² and (ii) was suitable for family accommodation. Whether it had more than three bedrooms is in contention, and the appellant provided sales

particulars for the property describing four of the rooms within it as bedrooms. These particulars were prepared by a local estate agent, however, and as such are not definitive in this matter. The tally of four bedrooms is, moreover, only arrived at by describing the two rooms on the ground floor as "bedrooms" as well as those on the first floor. The "garden floor" (i.e. the lower ground floor) is described as having a "lounge" and an "open plan kitchen/diner".

6. Whilst, plainly, it would have been possible to have used the house in this way, it seems to me very unlikely that the intention when the house was built would have been to use both principal rooms on the ground floor as bedrooms. In my experience one at least of these rooms would in all probability have been used as a living room. If the other – or the front room on the lower ground floor – were used as a bedroom, the property would have had three bedrooms. My conclusions on this matter are reinforced by the plan produced on behalf of the appellant and submitted in 2007 to support her application for a lawful development certificate for the rear dormer. This shows three bedrooms in the property; one at the rear on the ground floor, and two on the first floor.
7. I therefore conclude that the sub-division proposed would conflict with policy HO9 of the Brighton and Hove Local Plan, criterion (a).
8. I move now to consider whether in this case there are material considerations that would indicate a decision otherwise than in accordance with the development plan.
9. In this regard, I accept that the floor area of the original property was close to 115m², and that, following the recent loft conversion, it now exceeds that figure. I accept also that converting the loft provided an additional bedroom. Had the house originally been built with a second floor bedroom, its conversion into two maisonettes would not have conflicted with criterion (a) of policy HO9. However, the policy is clear insofar as it only permits conversions where "*the original floor area is greater than 115m²*" or the dwelling had "*more than 3 bedrooms as originally built*" (my emphasis). Accordingly, the recent loft conversion does not overcome the policy conflict.
10. I accept also that the conversion proposed would provide a lower unit with two bedrooms and access to the garden. As such, I agree that it could provide suitable accommodation for a small family. Again, however, the policy is clear in that the requirement to provide at least one unit of accommodation suitable for family occupation (criterion (b)) is a requirement which conversion proposals normally have to meet; it does not remove the need to comply with criterion (a). Accordingly, this too does not overcome the policy conflict that I have found.
11. I accept finally that other properties in the road similar to the appeal premises have been sub-divided in the past. However, the evidence is that these were completed before the current policy in the Brighton and Hove Local Plan was adopted. As such, they do not constitute a precedent of significant weight in favour of allowing the appeal.
12. None of the other examples cited of conversions which have been permitted elsewhere in the City, apparently in conflict with Policy HO9 of the Local Plan, are to my mind directly comparable to the circumstances of the appeal proposal.

13. In conclusion, I find the proposal clearly contrary to Policy HO9 of the Brighton and Hove Local Plan. I further take the view that the various matters raised in favour of allowing the appeal do not individually or collectively constitute material considerations that would indicate a decision otherwise than in accordance with the development plan. I have therefore dismissed the appeal.

Andrew M Phillipson

Inspector

