



# Appeal Decision

Site visit made on 10 December 2008

by **M F Aldous BA (Hons), Dip Mgt, MRTPI**

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](mailto:enquiries@pins.gsi.gov.uk)

**Decision date:**  
**12 January 2009**

---

## Appeal Ref: APP/Q1445/A/08/2080396 27 Rugby Place, Brighton BN2 5JB.

- 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 Ms Amani Abbas against the decision of Brighton & Hove City Council.
- The application Ref BH2007/04464, dated 29 November 2007, was refused by notice dated 2 April 2008.
- The development proposed is the conversion of an existing 3 storey, 3 bed maisonette into one x 1 bed apartment and one x 2 bed maisonette.

---

### Decision

1. I dismiss the appeal.

### Main issue

2. The main issue is whether the proposal is consistent with adopted development plan policy regarding the retention of small family dwellings.

### Reasons

3. The appeal property is located within a long terrace of similar Victorian houses within Rugby Place. Originally built as family homes, many have subsequently been converted to form flats. The appeal property includes a self contained basement flat that is not the subject of this appeal. Effectively, the proposal relates to the conversion of internal accommodation at the upper levels to form the two units proposed.
4. There is a considerable planning history relating the property which I have noted. Essentially, this demonstrates a determination by the Council to secure the retention of a family unit at the property. The separation of the basement flat was permitted because, in the view of the Council, the upper level maisonette was still capable of providing for a family unit of accommodation. Having viewed the property, I concur with this view.
5. I am required to determine this appeal in accordance with the terms of the adopted development plan, unless other material planning considerations indicate that an alternative judgement can be made. I have also noted the various other planning appeal decisions drawn to my attention. I place particular weight on the decision made under APP/Q1445/A/06/2016950 because this related to a similar proposal in the same road and importantly, the decision was made after the Brighton & Hove Local Plan of 2005 (local plan) was adopted.

6. Saved policy HO9 of the local plan sets out specific criteria for the conversion of houses and the retention of smaller dwellings. Criterion a) requires that the original unextended floor area be over 115 sq metres or that it has more than 3 bedrooms as originally built. The proposal before me fails to meet this requirement by some margin.
7. Criterion b) requires that one family unit be retained under conversion proposals. In this case the upper maisonette would have two bedrooms arranged over two floors together with a living room / kitchenette. I consider this to be at the margin of what might constitute a family unit, although general limitations on space, stair access and no direct access to any outside amenity space are recorded.
8. The policy also includes a range of other criteria, which I consider to be either satisfied or capable of being met. This includes the provision of secure cycle storage, which although not a feature of the proposal, can I consider be achieved by the imposition of an appropriate planning condition.
9. However, the proposal remains in clear conflict with criterion a) of policy HO9. In my view no compelling justification for the subdivision proposed as an exception to this requirement has been made. The policy is clearly designed to retain a stock of small family houses, no doubt to meet part of the identified housing demand for accommodation of this kind within the city area.
10. The property has already been split to provide the basement flat, thereby responding to the need for small non family units. The proposal before me, which seeks further subdivision, would not adhere to the need to retain the type of family accommodation sought by the Council. In this regard I support the findings made by my colleague under the decision cited in paragraph 5 above. Other decisions drawn to my attention were in different locations and were taken before policy HO9 was fully adopted as part of the extant development plan.
11. The conflict between this proposal and policy HO9 would damage the Council's objectives of retaining genuine small family housing units. As such I deem it to be harmful and to justify resistance in these terms.
12. The Council's reasons for refusal also draw attention to the fact that the proposal fails to make provision for a financial contribution towards its sustainable transport strategy, given the inability of the site to make provision for car parking. It is not in dispute that the site lacks the ability to provide for car parking within an area which, as I observed on my site visit, is under considerable pressure of this kind.
13. However, there is no substantive evidence before me to demonstrate that the proposal is likely to generate any additional demands for parking than would be the case under the current arrangement within the building. If there were to any additional pressure of this kind it would be marginal in my view.
14. Furthermore, it has not been adequately explained how a financial contribution of this kind would be used to meet any extra demand for travel generated by the proposal or how this provision might reduce the demand for private motor car use within the city. Taking these findings into account I am not convinced

that the proposal would harmfully conflict with the requirements of saved policies HO9, TR1 or TR19 in this respect.

**Conclusions**

15. I have not identified any reason for resistance to this proposal with regard to cycle storage or harm to the Council's strategy for sustainable transport. However, the proposal is in direct conflict with the Council's clear policy of seeking to retain genuine family units of housing accommodation. The property has already been subdivided so that it provides for a small flat and a larger maisonette capable of responding to family needs. In my view this is the decisive factor which leads me to conclude that this proposal is not consistent with the adopted development plan.
16. For the reasons set out above, and having had full regard to all other matters raised, I therefore conclude that this appeal should not succeed.

*Michael Aldous*

INSPECTOR

