
Appeal Decision

Site visit made on 21 November 2013

by Timothy C King BA(Hons) MRTPI

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

Decision date: 13 January 2014

Appeal Ref: APP/Q1445/A/13/2203527

90 Hartington Road, Brighton, BN2 3PB

- 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 Lewis and Co Planning against the decision of Brighton & Hove City Council.
 - The application Ref BH2013/00530, dated 19 February 2013, was refused by notice dated 7 May 2013.
 - The development proposed is '*Conversion of house into 4 self contained flats.*'
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Application for Costs

1. An application for costs was made by Lewis and Co Planning against Brighton & Hove City Council. This application is the subject of a separate decision.

Decision

2. The appeal is dismissed.

Preliminary Matter

3. The proposal involves the conversion of a three storey dwellinghouse into four self-contained flats, comprising three 1-bed units and one 2-bed unit. The Council raises no objection to the conversion of the property, in principle, and appears satisfied that, save for the creation of a flat in the basement, the proposal is acceptable in all other respects. I agree with this approach.

Main Issue

4. The main issue in this appeal is whether the proposed development would provide for a satisfactory standard of living conditions for the future occupiers of the basement flat, with particular regard to outlook.

Reasons

5. The proposed one-bed basement flat would be a spacious unit, lit by the excavation of two lightwells, one to the front and one at the rear corner, and also with the creation of a sunken patio accessed via the flat's side entrance steps. This would allow for windows to be installed in the flank wall which would face across the 3m deep patio area.
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6. The appellant has provided a Daylight Report which indicates that the living and bedroom areas would receive adequate levels of daylight from the two light wells and side windows to accord with BRE standards and the Council does not challenge this. The concern relates, instead, to the outlook which the flat's occupiers could realistically enjoy.
7. The patio would be sunken to a depth of some 2.25m and would, itself, effectively act as a well. The living room's two windows would look out across the small patio to its surrounding wall whilst the side bedroom window would face directly onto the outside steps leading to the entrance door. Although the unit would also get natural light from the proposed front and rear lightwells, parts of the flat would receive comparatively little. Moreover, with such a limited aspect, the outlook afforded to the occupiers would be poor with a distinct sense of enclosure due to the flat's setting below ground level. These factors compound the objections. The inadequate outlook from the living room windows would be significantly below the standard of living conditions that future occupiers could reasonably expect from a self-contained unit of residential accommodation.
8. I therefore conclude that, due to the limited outlook and a resultant sense of enclosure, the proposed basement flat's living conditions would be of an unacceptable standard and the objectives of Policy QD27 of the Brighton & Hove Local Plan 2005 would not be met.

Other matters

9. The appellant refers to the National Planning Policy Framework (the Framework) and the presumption in favour of sustainable development in respect of applications for new housing. However, the presumption is not at the expense of complying with the requirements of other policies and, in this instance, I have identified a development plan objection.
10. I note also the references to the Council being unable to demonstrate a five year housing land supply and the two recent appeal decisions (*APP/Q1445/A/12/2183454* and *APP/Q1445/A/13/2191882*) produced by the appellant which concludes as such. Thereby the Local Plan (LP) is not up to date. However, in the latter appeal the Inspector commented that LP Policy QD27 is consistent with the Framework. He goes on to mention that para 14 of the Framework indicates that where a relevant policy is out of date planning permission should be granted unless any adverse effects would significantly and demonstrably outweigh the benefits when assessed against the Framework as a whole. Both the above appeals were dismissed on this basis and, similarly, in determining this appeal, I have concluded, accordingly.
11. The appellant also makes the point that the scheme has evolved as a result of amendments made from a previous proposal, and pre-application discussions had been favourable in this respect, meaning that the issue of outlook is finely balanced. Further, it is stated that the basement flat is well proportioned, of adequate size and the patio would provide outside amenity space for the flat. As I have mentioned, the principle of the conversion is not at issue and the proposal is in accordance with LP Policy HO9. However, I must determine the appeal on the basis of the proposal before me, and the harm I have found outweighs these other factors.

Conclusion

12. For the above reasons, and with regard to all matters raised, I conclude that the appeal should be dismissed.

Timothy C King

INSPECTOR