

Appeal Decision

Site visit made on 21 June 2016

by Andrew Steen BA(Hons) DipTP MRTPI

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

Decision date: 8 July 2016

Appeal Ref: APP/Q1445/W/16/3146426
23 Third Avenue, Hove 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 Jonathan Stern against the decision of Brighton & Hove City Council.
 - The application Ref BH2015/04075, dated 11 November 2015, was refused by notice dated 5 February 2016.
 - The development proposed is conversion of garage to studio.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. I was able to see inside the garage and storage rooms to the rear during my visit, along with rooms facing the site within the neighbouring ground floor flat.
3. I understand that this is a resubmission following refusal of a similar development by the Council. I have been provided with limited details of that case and have considered the appeal scheme on its own merits.
4. The Brighton & Hove City Plan Part One (CP) was adopted during the course of this appeal and policies within this plan supersede a number of policies contained within the Brighton & Hove Local Plan (LP). The Council provided a policy update along with copies of CP Policies that superseded LP Policies with the appeal questionnaire. Policies HE6 and QD27 of the LP referred to in the reasons for refusal have not been superseded and remain part of the adopted development plan. I have based my decision on the current adopted policies.

Main Issues

5. The main issues in this appeal are:
 - the effect of the proposed dwelling on the character and appearance of the existing building and surrounding area with particular regard to the Avenues Conservation Area;
 - the effect of the proposed dwelling on the living conditions of neighbouring occupiers in the flats at 23 Third Avenue with particular regard to noise and privacy; and
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- whether prospective occupiers would enjoy satisfactory living conditions.

Reasons

Character and appearance

6. The Avenues Conservation Area mainly comprises large terraced and semi-detached properties on wide avenues stretching to the seafront. Development surrounding the appeal site on Third Avenue comprises a number of detached properties with two storey garage wings to the side, including the appeal property, that provide a rhythm to development in this part of the street.
7. The proposed development would result in the conversion and extension of the garage, including demolition of the outbuilding to the rear, to create a studio flat. The front elevation would comprise the replacement of the garage door with a front door and timber panel with windows above. Other than the door, this would not be opening, such that there would not be visibility into the building from the front of the property. The appearance of the front elevation and rear extension would reflect the existing building and the character and appearance of the surrounding Conservation Area.
8. The Council raise concern that, given the lack of an outside amenity area, the residential use of the garage is likely to spill out to the front such that it would introduce domestic activity and paraphernalia onto the driveway and that would harm the character and appearance of the existing building and surrounding area. I note that the lease of the flat may not permit such use, but this is uncertain and beyond planning control. Although a condition could be imposed requiring the space be kept available for parking, the drive is much larger than the amount of space required for parking in relation to this small dwelling. I consider that, given the lack of other outside amenity space and the limited space within the proposed flat, such use is likely to occur and the storage of domestic paraphernalia and the use of this prominent space to the front of the building would harm the character and appearance of the existing building and surrounding area, including the Conservation Area.
9. In my judgement, the harm to the conservation area and listed building is less than substantial. In accordance with paragraph 134 of the Framework, the only public benefit is the contribution of a single dwelling to the supply of housing. Consequently, the public benefits are not sufficient to outweigh the harm that I have found.
10. For the above reasons, I conclude that the proposed conversion of the garage to a studio flat would harm the character and appearance of the existing building and surrounding area, and would not preserve or enhance the character and appearance of the Avenues Conservation Area. As such, the proposal is contrary to Policy HE6 of the LP that seeks to preserve or enhance the character and appearance of the Conservation Area.

Living conditions of neighbouring occupiers

11. The flat in the ground floor of the main building has two windows in the elevation overlooking the driveway that serve a front living room and the kitchen. That to the front living room is obscure glazed, but that to the kitchen includes clear glazing and is closest to the front elevation of the garage.

12. Consequently, the use of the area in front of the proposed studio flat as an outdoor amenity area and for access into the proposed flat would allow residents and visitors to see into the kitchen window of the ground floor flat, affecting the privacy within that room. Whilst the door to the proposed flat is to the opposite side of the building from the window, overlooking by residents and visitors coming and going would still harm the privacy of the existing ground floor flat.
13. The use of this area as outside amenity space and as access to a separate residential dwelling would also result in greater noise and disturbance than the existing use of the garage and driveway. Whilst such noise and disturbance is not unusual in a residential area, this outside space in such close proximity to the neighbouring flat would result in more noise and disturbance to neighbouring occupiers than can be considered reasonable directly outside those windows.
14. The use of the driveway for parking would not have any additional effect on neighbouring occupiers than the existing situation. Noise and disturbance from within the flat would be controlled through the Building Regulations such that this would not harm the living conditions of neighbouring occupiers. The window to the kitchen is proposed to be small and in close proximity to a rear window of the ground floor flat. Given its size and that it would be opaque, the nature of the windows ensures that it would not cause overlooking or other harm to occupiers of that neighbouring flat.
15. Therefore, I conclude that the proposed studio flat would cause harmful additional noise, disturbance and loss of privacy to neighbouring occupiers of the ground floor flat at 23 Third Avenue, adversely affecting their living conditions. As such, the development would be contrary to Policy QD27 of the LP that seeks to ensure development would not cause material nuisance and loss of amenity to occupiers of neighbouring properties.

Living conditions of prospective occupiers

16. The proposed flat would comprise a studio room to the front with kitchen and shower room to the rear. The kitchen and shower room would be lit with rooflights and a single window into the kitchen that would be obscure glazed. These would allow sufficient sunlight and daylight into those parts of the flat.
17. The studio room would have windows to the front, facing onto the driveway. This would be dominated by a fence directly to one side and the two storey main part of the building to the other along with parking to the front, providing an oppressive outlook to the front of the proposed flat. The main house, including floor above the garage, would severely restrict the amount of sunlight to the front of the flat and studio room. Whilst daylight would light the room, this lack of sunlight would contribute to the oppressive nature of the main part of the proposed living accommodation.
18. I understand that other flats in the area may provide living conditions with less daylight and sunlight than those proposed in this case. However, I have been provided with limited information on these cases and do not know the circumstances in which they may have been approved.
19. For these reasons, I conclude that the proposed development would not provide satisfactory living conditions for prospective occupiers of the proposed

studio flat by reason of poor outlook and lack of sunlight. As such, the development would be contrary to Policy QD27 of the LP that seeks to ensure adequate living conditions for occupiers of development.

Other matters

20. I understand that similar garages have been converted to living accommodation, but these were incorporated into larger units and, as such, they had a different effect on the character and appearance of the Conservation Area and on occupiers of neighbouring properties. I note that the appellant wants to provide a flat for their daughter, but while I have sympathy with the circumstances described, they are not sufficient to outweigh the harm and policy conflict identified.
21. The National Planning Policy Framework (the Framework) sets out a presumption in favour of sustainable development, defined as development in accordance with the Framework as a whole. Sustainable development has three dimensions that must be considered together, being economic, social and environmental. In this case, there would be limited economic benefits during the conversion of the garage into a dwelling and residents would support local and accessible services once it is occupied. The provision of a single dwelling would have a positive social impact in contributing in a small way to the need for homes and mix of housing in the area, making use of previously developed land and would increase the amount of new homes bonus received by the Council. However, these minor positive economic and social benefits would not outweigh the environmental harm arising from the effect on the character and appearance of the area including the Avenues Conservation Area and on living conditions of prospective and neighbouring occupiers of the proposed development.

Conclusion

22. For the above reasons and taking into account all other matters raised, I conclude that the appeal should be dismissed.

Andrew Steen

INSPECTOR