



Appeal Decision

Site visit made on 8 August 2018

by Grahame Gould BA MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th September 2018

Appeal Ref: APP/Q1445/W/18/3194772

6 Fallowfield Crescent, Hove BN3 7NQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr John Mosdell against Brighton and Hove City Council.
 - The application Ref BH2017/03811, is dated 15 November 2017.
 - The development proposed is conversion and extension of an existing double garage to form ancillary accommodation.
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Decision

1. The appeal is allowed and planning permission is granted for the conversion and extension of an existing double garage to form ancillary accommodation at 6 Fallowfield Crescent, Hove BN3 7NQ in accordance with the terms of the application, Ref BH2017/03811, dated 15 November 2017, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 1716 – 1:1250 scale Site Location Plan; 1716 – 1:500 scale Block Plan; 101 – Proposed Site Plan; 102A – Proposed Floor Plan; and 103A – Proposed Elevations.
 - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.
 - 4) The accommodation hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as 6 Fallowfield Crescent.

Procedural Matters

2. The Council has submitted that had it been in the position to determine the application, it would have refused permission for the development. That is because the Council contends the development would create an independent dwelling, affording its occupants with cramped living conditions, given the building's size. The putative reason for refusal being set out in the Council's officer report submitted as part of its appeal case.
3. Further to the parties submitting their cases the Government published the revised National Planning Policy Framework on 24 July 2018 (the revised

Framework). The appellant and the Council have been given the opportunity to comment on any implications the revised Framework might have for the determination of this appeal.

4. Reference has been made to a now expired planning permission (BH2010/00844) for the conversion of the detached garage at the premises (No 6) into a self-contained annex. However, neither the decision notice nor the drawings relating to that earlier permission were submitted with the originally made appeal. I consider that planning history is of some relevance to the determination of this appeal and for the purposes of clarification the appellant has been requested to provide a copy of the historic planning permission and the associated drawings.

Main Issue

5. Having regard to the Council's putative reason for refusal and the content of its officer report I consider the main issue is the effect of the development on the living conditions of the occupiers of neighbouring properties, with particular regard to noise, and the living conditions for the occupiers of the development, with particular regard to the size of the development.

Reasons

6. The development would involve an extension to and the conversion of the detached double garage at No 6. The extension would result in the building becoming physically attached to No 6. No 6 is a chalet bungalow, occupying a backland siting, between frontage dwellings in Fallowfield Crescent, Hangleton Road and Nevill Avenue. Vehicular and pedestrian access to No 6 is via a drive passing between Nos 4 and 8.
7. The enlarged building would have a living area, one bedroom, a kitchen and a bathroom¹ and it is intended that it would be occupied as accommodation ancillary to the host property. The resulting accommodation would have the attributes of what is often referred to as a 'granny annex' and hereafter I shall refer to the development as the annex. The Council has submitted that if the annex was to be occupied independently, it could go undetected by either it or neighbouring residents and that the standalone dwelling could subsequently become immune from enforcement action. Should that happen then it would seem likely that the independent occupation of the annex would have occurred on a very discrete basis, with adjoining residents being unaware of it, ie undisturbed by it.
8. If the independent occupation of a standalone dwelling was undetectable by adjoining residents, because for example the comings and goings to it were not disturbing, then I consider such occupation could not be said to be harming neighbouring residents' living conditions. Alternatively if the comings and goings were to be of a disturbing nature, then I consider it unlikely that a material change of use in the annex's occupation would go undetected for any significant period of time.
9. While the annex would have a front door there would also be an internal interconnecting door between its living room and No 6's kitchen. I recognise that the annex would have elements that could enable it to be occupied independently. However, for so long as there was an interconnecting door I

¹ As per the floor layout shown on drawing 102A 'Proposed Floor Plan'

consider that the potential for the annex to be independently occupied would be very limited.

10. Taking the above mentioned factors into account I am of the opinion that the annex's occupation could be restricted by condition so as to preclude it from being occupied independently (a restrictive condition). I consider that the imposition of such a condition would address the Council's further concern that the accommodation would be too small to function as a standalone dwelling, given its limited internal dimensions and the absence of any meaningful external space.
11. The Council contends that a restrictive condition would not be effective and in support of that position it has cited a dismissed appeal concerning a property known as Benison in Bracklesham Bay. The Benison case concerned the conversion of a garage into a dwelling². However, I consider Benison's circumstances to be distinguishable from the proposal for No 6 because for the former the building would have remained detached and there would have been no interconnecting door. The physical and functional features of the building subject to the Benison appeal led the Inspector to conclude that the resulting accommodation would not necessarily be dependent upon the host property's occupation. The Benison decision therefore does not persuade me that a restrictive condition would be unenforceable.
12. With the imposition of a restrictive condition I conclude that the development would not be harmful to the living conditions of either the occupiers of the neighbouring properties or the development. I therefore consider that there would be no conflict with saved Policies QD14, QD27 and HO5 of the Brighton and Hove Local Plan because firstly the occupation of the annex would not be harmful to the living conditions of the occupiers of neighbouring properties and secondly it would provide acceptable living conditions for its users. Conflict with Policy CP12 of the Brighton and Hove City Plan Part One of March 2016 has been cited. However, I consider that not to be the case as this policy addresses 'urban design' and I consider it to be of no particular relevance to the assessment of living conditions for a development of this scale.

Conditions

13. In addition to the above mentioned restrictive condition, I consider that for reasons of certainty and the safeguarding of the area's appearance that the development should be carried in accordance with the details shown on the submitted plans and that the external works should use materials matching those of the existing building. I have therefore imposed those three conditions together with the standard three year implementation condition.

Conclusion

14. For the reasons given above the appeal is allowed.

Grahame Gould

INSPECTOR

² APP/L3815/A/01/1079596

