
Appeal Decision

Site visit made on 3 June 2014

by Simon Warder MA BSc(Hons) DipUD(Dist) MRTPI

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

Decision date: 17 June 2014

Appeal Ref: APP/Q1445/A/14/2214950
36 Baker Street, Brighton, BN1 4JN

- 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 Lotus Loan-Thu Nguyen against the decision of Brighton and Hove City Council.
 - The application Ref BH2013/01905, dated 11 June 2013, was refused by notice dated 7 October 2013.
 - The development proposed is demolition of rear basement structure and creation of 3 storey extension forming three residential units and associated external alterations.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The national Planning Practice Guidance came into force on 6 March 2014. However, it has not had a bearing on the considerations in this appeal.
3. The application includes alterations to the shopfront of the property. The Council does not object to that element of the scheme and I see no reason to disagree with its conclusion on this element of the proposal. I have framed the main issues accordingly. All of the proposed works were completed at the time of my site visit.

Main Issues

4. The main issues in this case are the effects of:
 - the proposal on the living conditions of future occupiers with regard to the adequacy of the outlook and natural light available and the amount of floorspace provided
 - the proposal on the living conditions of neighbouring occupiers at 37 Baker Street with regard to privacy and noise and disturbance and at 35 Baker Street with regard to outlook and loss of daylight
 - the rear extension and dormer window on the character and appearance of the host building.
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Reasons

Living Conditions of Future Occupiers

5. The proposal would create self contained studio apartments at basement and ground floor levels. The Council calculates the useable floor area of the basement apartment as some 30sqm and the total area of the ground floor apartment as 18.26sqm. The appellant has not disputed these figures.
6. Policy QD27 of the Brighton and Hove Local Plan (LP) requires development to protect the amenity of proposed occupiers. I have not been made aware of any local standards on the size of residential accommodation, although the Council has made reference to the London Plan which requires one person units to have a minimum gross internal area of 37sqm. Whilst the appellant has referred to the sustainability and dense urban character of the area and the urban living lifestyle and small household size of the local population, these characteristics could equally apply to many parts of London. Therefore, and in the absence of any suggested space standards from the appellant, I consider that the London Plan standard provides a reasonable yardstick against which to assess the proposal. The basement and ground floor apartments fall significantly below that standard.
7. Natural light to the basement apartment is provided by a double door and one window at the rear of the building. Both look out onto a very confined, courtyard which is partly below ground level. Consequently, the outlook from the door and window is poor and the amount of light they provide, particularly in the area of the apartment towards the front of the building, is limited. The appellant has suggested that the layout of the apartment could be re-arranged to put the kitchen at the front of the building. However, this would still leave the kitchen area with no outlook and very little natural light or ventilation. It would not therefore, offer a significant improvement over the existing arrangement.
8. Consequently, I find that the proposal would not provide future occupiers with satisfactory living conditions with regard to the amount of floorspace provided in the basement and ground floor apartments and the adequacy of the outlook and natural light available in respect of the basement apartment. It would, therefore, be contrary to LP policy QD27 and paragraph 17 of the National Planning Policy Framework (the Framework) which among other things, require a good standard of amenity for future occupiers of buildings.
9. The appellant has referred to an earlier planning permission (application reference 2007/04660) at the appeal property which included a basement apartment. I have not been provided details of that scheme which limits the weight to be attached to it.

Living Conditions of Neighbouring Occupiers

10. The proposal includes a terrace at second floor level accessed from the first/second floor maisonette. The terrace is reasonably large and, potentially, could be occupied by a considerable number of people over extended periods. I recognise that the area to the rear of the appeal property is densely developed and that the level of privacy available to occupiers is less than may be expected in other situations. However, the terrace offers very close range

views to the second floor windows of number 37 which appear to serve residential accommodation. As such, the terrace would significantly reduce the privacy of the occupiers of number 37 as well as, potentially, increasing the level of noise and disturbance that they experience.

11. The appellant has suggested that a condition could be used to prevent use of the terrace. However, this would leave the two bedroom maisonette with no external amenity space. This would be a material change to the proposal about which the Council and others might expect to be consulted. As such, it would be inappropriate to change the proposal in this way at the appeal stage. The appellant's suggestion that the doors leading to the terrace could be fitted with obscure glazing would not prevent overlooking from the terrace itself.
12. The three storey rear extension is located close to the boundary with number 35. Unlike some others in the row, that property has not been extended to the rear and, therefore, the appeal extension projects some 4m beyond its rear wall. This wall includes windows at basement and ground floor levels. Appendix A of the Council's *Design Guide for Extensions and Alterations Supplementary Planning Document (SPD)* advises that rear extensions of two storeys or more should not breach notional horizontal or vertical planes extending at 45 degrees from the quarter point of the nearest neighbouring window. The appeal extension would not meet this requirement. Given also that it is located to the west of number 35, it would overshadow that property's rear windows and courtyard. As such, I find that the rear extension would lead to an unacceptable loss of outlook and sunlight to the nearest basement and ground floor windows of number 35.
13. The appellant has referred to a planning permission for a rear extension to number 35 which, it considers, would overcome concerns over the impact of the appeal extension on the occupiers of that property. However, there is nothing to suggest that the appellant has control over whether the extension to number 35 will be built and, therefore, I must consider the situation as it currently exists.
14. Consequently, I find that the proposal would have a harmful effect on the living conditions of neighbouring occupiers at 37 Baker Street with regard to privacy and noise and disturbance and at 35 Baker Street with regard to loss of outlook and sunlight. As such, it would conflict with LP policies QD14 and QD27 as well as paragraph 17 of the Framework which, among other things, require a good standard of amenity for existing occupiers of buildings.

Character and Appearance

15. The three storey rear extension takes up the full width of the appeal property and, apart from a small courtyard area projects the full depth of the appeal site. It does not, therefore, comply with the design principles for the size of rear extensions in relation to the host property set out at section 3.1 of the SPD. Whilst other properties in the row have substantial rear extensions, none appear to be as large in relation to their respective host buildings and plots as the appeal proposal. By virtue of its height and bulk therefore, the extension dominates the rear of the property. I understand that the extension previously permitted (application reference 2007/04660) was smaller than the current extension.

16. The rear facing dormer window is also bulky in relation the roof slope it occupies. Together with the second floor terrace, it results in the loss of most of the eaves of the host building and leaves little of the original tiled roof slope on either side or above it. The dormer is also significantly larger in size than the dormers in the rear roof slopes of other properties in the row and the double sliding doors are out of proportion with the openings in those dormers. Considered along with the bulk of the rear extension therefore, it exacerbates the dominance of the alterations to the rear of the building.
17. Consequently, I conclude that the rear extension and dormer would have a detrimental effect on the character and appearance of the host property. As such they would conflict with LP policy QD14 which requires extensions, including the formation of rooms in the roof, to be well designed in relation to the property to be extended.

Other Matters

18. I recognise that the appeal site is sustainably located and that the proposal would provide additional residential units. However, those considerations do not outweigh the harms identified above or the conflicts with development plan and Framework policies.
19. The appellant has referred to the changing character and demography of the area and the predominance of younger urban dwellers. The Framework also identifies the need to deliver a wide range of housing to meet the changing needs of different groups in the community. However, I have not been made aware of any national or local policies which suggest that these needs should be met by relaxing the considerations outlined above.
20. There is nothing to indicate that the development plan policies referred to above are in conflict with the Framework.
21. I have had regard to the other concerns expressed locally, but none has led me to a different overall conclusion.

Conclusion

22. For the reasons outlined above, the appeal should be dismissed.

Simon Warder

INSPECTOR