



Appeal Decision

Site visit made on 20 January 2009

by **Colin Tyrrell MA(Oxon) CEng MICE FIHT**

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

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Decision date:
26 January 2009

Appeal Ref: APP/Q1445/A/08/2085025

44 Hangleton Way, Hove, East Sussex BN3 8AG

- 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 Mr I and Mrs L Fabb against the decision of Brighton & Hove City Council.
- The application Ref BH2008/00522, dated 8 February 2008, was refused by notice dated 7 April 2008.
- The development proposed is the alteration of an existing shop garage, storerooms and maisonette to form a new flat at ground floor and two separate flats from the maisonette, retaining the shop at ground floor.

Decision

1. The appeal is dismissed.

Procedural Matters

2. The proposed development consists of the conversion of the existing first-floor/second-floor maisonette to form two flats and the conversion of the ground-floor garage and storerooms to form one flat. The Council's decision notice (paragraph 2 line 8/9) erroneously refers to the development as the conversion to a flat and maisonette. The appellants invite me to consider the development without the alterations to the ground floor and/or with an alternative layout to the proposed top-floor flat, perhaps with additional roof lights or a dormer.
3. As the ground-floor works are physically separate from the proposed conversion of the maisonette, I am able to consider these separately. I am not, however, able to consider a series of choices for the maisonette conversion and I will determine the appeal on the basis of the proposals shown on the drawing.

Main Issues

4. In my opinion, the main issue in respect of the proposed ground-floor flat is whether the proposed layout would be adequate for the needs of future occupiers, including those with disabilities. In relation to the maisonette conversion, I consider that the main issues are whether the Council's policy to retain the existing stock of small family dwellings would be adequately protected and whether the proposed layout would be satisfactory for the needs of future occupiers.

Reasons

Proposed Ground-floor Flat

5. The floor area available for this flat would in my opinion be adequate for a one-bedroom flat, and the outlook to east and west (though somewhat degraded to the east) would not be unreasonable for a small starter home. The access to the only external door, however, would be via the very narrow alleyway to the side of the property. The existing floor levels vary substantially across the area of the proposed flat, with one existing storeroom set well below the garage level, one set slightly above, and the garage floor itself sloping up to the garage door.
6. The drawings do not illustrate how these level differences would be overcome. Nor do they show how reasonable access could be achieved, including for wheelchair users, via the narrow alleyway, front door and narrow entrance lobby.
7. The design in these respects fails to make proper provision for future occupiers of the flat, as required by saved Local Plan Policy QD27, or to make reasonable provision for Lifetime Homes standards as required by saved Local Plan Policy HO13. It seems to me that for a ground-floor flat such reasonable provision should include easy access into and throughout the property for the wheelchair-bound.

Proposed First-floor and Second-floor Flats

8. Saved Local Plan Policy HO9 is a permissive policy, stating among other things that planning permission will be granted for residential sub-division where the original floor area is greater than 115 sq m or the dwelling has more than 3 bedrooms as originally built. It is silent as to whether planning permission will be granted for dwellings which do not meet one of these criteria, though the supporting text makes it clear that the intention of the policy is to retain the existing stock of smaller dwellings suitable for family accommodation.
9. No planning history for the site is reported by the Council, though the appellants state that they extended the building soon after they moved in in 1977. Judging by the roof detailing, internal layout and the appearance of the other end of the shopping parade, it seems to me that the works probably consisted of a two-storey side extension under the new hipped-end roof which now accommodates the living-room, balcony and bedroom 3 of the maisonette above the store and part of the garage alongside the shop. The original floor area as built was therefore likely to be below 115 sq m, and included no more than 3 bedrooms.
10. On this basis, the maisonette does not come within the criteria for which permissive Policy HO9 states that permission for subdivision will be granted. However, it seems to me that a first-floor/second-floor maisonette without a garden is not ideal for family occupation. Its subdivision would not in my opinion materially jeopardise the Council's objective to retain the existing stock of smaller dwellings suitable for family accommodation, and would not directly contravene the permissive wording of Policy HO9.

11. The living room for the proposed top-floor flat would be provided with only the two small roof lights which serve the existing bedroom. In my opinion, the main room of a flat needs better provision of windows than this. I therefore consider that the development would fail to provide a reasonable level of amenity for future residents of this flat, contrary to the requirements of Policy QD27.
12. I am not persuaded, however, that it would be reasonable or practicable to incorporate Lifetime Homes standards into the conversion of an existing maisonette which is served only by a flight of stairs, including a right-angle turn. I consider, therefore, that the requirements of Policy HO13 do not have any practical implications in this instance.

Other Considerations

13. Saved Local Plan Policy HO5 requires the provision of private useable amenity space in new residential development, but is silent as regards to any requirement for amenity space in residential conversions such as the appeal proposals. The appellants state that the rear balcony available for the existing maisonette would be retained for the two-bedroom flat, and in my opinion the lack of private amenity space for the other flats would not be materially detrimental for such small units in a residential conversion.
14. The Council has suggested that the proposals would not accord with saved Local Plan Policy TR1 in that they would not "provide for the demand for travel they create". This appears to be a coded reference to the potential need for a s106 planning obligation contribution towards transport infrastructure. No information is provided as to how the Council considers such an obligation would be directly related to the proposed development, as required by the Secretary of State's Policy Tests in ODPM Circular 05/2005. Without such information I am unable to conclude as to whether the proposals would accord with Policy TR1.
15. I consider that arrangements for cycle parking could be dealt with by condition, if I were minded to allow the appeal. All construction work would be within the envelope of the existing building, with very limited demolition. In these circumstances, I believe that the Council's concerns in relation to sustainability and waste reduction could also be adequately dealt with by condition.

Conclusion

16. Notwithstanding my conclusion that these other considerations do not in themselves warrant that the appeal should be dismissed, I consider that the poor conditions for future residents of the ground-floor and the top-floor flats, together with the lack of provision for Lifetime Homes standards in the ground-floor flat, would result in material harm and would be contrary to the development plan. I therefore dismiss the appeal in relation to both the ground-floor flat and the maisonette conversion.

Colin Tyrrell

INSPECTOR
