



Appeal Decision

Site visit made on 4 December 2018

by Paul T Hocking BA MSc MCMi MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 January 2019

Appeal Ref: APP/Q1445/W/18/3202383 145 Sackville Road, Hove BN3 3HD

- 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 Jalal Darroudi against the decision of Brighton & Hove City Council.
 - The application Ref BH2017/03523, dated 20 October 2017, was refused by notice dated 8 January 2018.
 - The development proposed is a change of use from A2 to A5 and installation of extraction system.
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Decision

1. The appeal is allowed and planning permission is granted for a change of use from A2 to A5 and installation of extraction system at 145 Sackville Road, Hove BN3 3HD in accordance with the terms of the application, Ref BH2017/03523, dated 20 October 2017, and the plans submitted with it, 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: Location Plan; DP3094/JC/RG/01; DP3094/JC/RG/02; DP3094/JC/RG/03; DP3094/JC/RG/04; DP3094/JC/RG/05.
 - 3) The use hereby permitted shall not be carried out except between the hours of 1100 and 2200 on Mondays to Sundays, including Bank or Public Holidays.
 - 4) Noise associated with plant and machinery incorporated within the commercial development shall be controlled such that the Rating Level, measured or calculated at 1 metre from the façade of the nearest existing noise sensitive premises shall not exceed a level of 5dB below the existing LA90 background noise level. Rating Level and existing background noise levels to be determined as per the guidance provided in BS 4142:2014.

Procedural Matter

2. The Revised National Planning Policy Framework (the Framework) came into force during the course of the appeal. The parties have been given the

opportunity to comment on the implications of the revised guidance on the appeal and I have also taken it into account in determining the appeal.

Main Issue

3. The main issue is the effect of the extraction system on the character and appearance of the area.

Reasons

4. The appeal proposal is for a change of use from A2 (financial and professional services) to A5 (hot food take-away) along with the addition of an extraction system at the rear of the premises. The Council do not object to the principle of the change of use having refused the proposal solely on the basis of the extraction system.
5. The appeal site comprises a unit within a parade, predominantly of shops, but also with estate agent, hairdresser and restaurant. The parade itself is formed of a three storey building with residential accommodation above the ground-floor units. To the rear, the appeal site is accessed via Conway Place a short stretch of road that terminates close to the appeal site. There is also a large commercial warehouse and block of flats within the immediate environs of Conway Place. Therefore the area has a mixed and varied character and appearance.
6. The rear of the parade, which is rendered, is fairly typical of an arrangement which comprises shops/units with residential accommodation above. It is therefore quite unevenly fenestrated with a number of small extensions and accesses as well as some limited car parking in the road.
7. I find the scale, positioning and height of the extraction system to be commensurate in appearance as it would exit the building from a ground floor lean-to and run parallel alongside two small windows and finish at a lower height than the ridge line of the building. Given the overall context of the appeal site I conclude the addition of the extraction system would not be harmful to the appearance of the building nor would it appear out of place in the area which has a varied character and appearance.
8. In reaching these conclusions I acknowledge the comments with regard to an extraction system at the rear of No 147 Sackville Road. However, irrespective of whether this has planning permission or not, even if it was not in place the character and appearance of the area would remain mixed and varied.
9. The extraction system would therefore accord with saved Policy QD14 of the Brighton and Hove Local Plan, as retained in March 2016, as well as Policy CP12 of the Brighton and Hove City Plan Part One - Brighton and Hove City Council's Development Plan, March 2016, owing to its scale, positioning and height. These policies, amongst other things, require proposals to respect the urban grain and secure well sited development in the interests of protecting the character and appearance of the area. For the same reasons the proposal would also accord with the good design aims of the Supplementary Planning Document 12 – design guide for extensions and alterations.

Other Matters

10. I acknowledge that concerns were raised by interested parties in respect of the principle of the use, light and noise pollution and litter. These matters are however not disputed between the Council and the appellant. The appeal site is within a parade of commercial premises and in close proximity to a busy road and I have no substantive evidence that the appeal proposal would cause more environmental harm or disturbance. I concur with the Council that subject to conditions, the proposed use of the appeal site would not harm the living conditions of nearby residents.

Conditions

11. The conditions are those which have been suggested by the Council. In addition to the standard timescale condition I have imposed a condition to ensure the proposal is carried out in accordance with the approved details in the interests of certainty.

12. I have also imposed conditions to ensure the premises are only open during reasonable hours and noise emissions are kept to acceptable levels in the interests of safeguarding the living conditions of nearby residents.

Conclusion

13. For these reasons and having regard to all other relevant matters raised, I conclude that the appeal should be allowed.

Paul T Hocking

INSPECTOR

