



Appeal Decision

Site visit made on 11 December 2018

by **Tim Crouch MSc DipUD MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 23rd January 2019

Appeal Ref: APP/Q1445/W/18/3206295 **66 Buckingham Road, Brighton, BN1 3RQ**

- 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 Ms Louise Stagnetto of Marindia Traders Ltd against the decision of Brighton & Hove City Council.
 - The application Ref BH2018/00482, dated 14 February 2018, was refused by notice dated 27 April 2018.
 - The development proposed is extension and conversion of Class C4 maisonette into two Class C3 studio flats.
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Decision

1. The appeal is allowed and planning permission is granted for extension and conversion of Class C4 maisonette into two Class C3 studio flats at 66 Buckingham Road, Brighton, BN1 3RQ in accordance with the terms of the application, Ref BH2018/00482, dated 14 February 2018, 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: D.02, D.03, D.05 and D.06.
 - 3) No construction of the roof shall commence until samples of the materials to be used in the external surfaces of the extension hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved samples.
 - 4) The windows hereby approved shall be painted timber double hung vertical sliding sashes with no trickle vents and shall match the original sash windows to the building, including their architrave, frame and glazing bar dimensions and mouldings, and subcill, masonry cill and reveal details, and shall have concealed sash boxes recessed within the reveals and set back from the outer face of the building to match the original sash windows to the building, and the windows shall be retained as such at all times thereafter.

Procedural Matter

2. The site visit procedure was altered from an access required site visit to an unaccompanied site visit as the appellant's representative was not present when I arrived at the appeal site during the pre-arranged period. Taking into account the as yet unbuilt nature of the conversion, I am satisfied that I was able to see all I needed to from public land.

Main Issues

3. The main issues are firstly, whether the proposal comprises the loss of accommodation suitable for family occupation, and secondly, whether the proposed development would provide acceptable living conditions for its future occupiers.

Reasons

Family accommodation

4. No 66 Buckingham Road is a converted former shop with 4 storeys of accommodation. The ground and lower ground floors are flats with no changes proposed. The first and second floors comprise a 3 bed maisonette proposed to be converted to 2 bedsits facilitated by roof alterations including a mansard roof and new windows. I understand that these external changes are the same as permitted under a previous consent and are therefore not a matter of contention, including its effect on the Conservation Area.
5. The existing maisonette is used as a small house in multiple occupation (HMO), a C4 use. This use dates back over 12 years and there is no dispute that it is lawful. The Council's position is that the proposal conflicts with saved Policy HO9 of the Brighton & Hove Local Plan 2005 (BHLP), which seeks to resist conversions which would involve the loss of smaller dwellings suitable for family accommodation. The appellant contends that the policy does not apply to C4 use and has provided an appeal decision¹ to support this suggested position.
6. The policy refers to the conversion of 'dwellings' and the retention of smaller dwellings. Rather than contending that the policy does not apply to C4 use, the Inspector in that previous decision assessed whether the existing unit was a smaller dwelling suitable for family occupation. As the definition of a dwellinghouse is a matter of fact and degree I consider this to be the appropriate assessment.
7. The change of use from an HMO (C4 use) to a single dwellinghouse (C3 use) is possible as permitted development (PD), and the policy would clearly be relevant should this be a likely scenario, especially in an accessible location close to relevant amenities. In this case though, there is little to indicate this to be a reasonable expectation. It is a longstanding use with permission to increase the bedroom sizes in this regard. Whilst first floor (and above) living is not unsuitable for families per se, the particular characteristics of the building, with no ground floor storage, no outside living space and, as I saw from my site visit, a significant distance to walk to public open space, make such a change, in my view, unlikely.

¹ Appeal Decision APP/Q1445/W/15/3140605

8. I note the Council's concerns of creating a loophole, should this appeal be allowed, where C3 dwellinghouses, which are, or would be, suitable for family occupation, could become short term C4 units under PD (C3 to C4 can also be permitted development) to circumvent the requirements of Policy HO9. However, this is not the basis on which I have assessed the proposal, and each application needs to be considered on its own merits. This property has clearly been a long term HMO with professional managing agents and would have significant limitations as a smaller family dwelling.
9. Therefore, the proposal would not involve the loss of a smaller dwelling suitable for family occupation, even potentially, and therefore there is no conflict with Policy HO9 of the BHLF.

Living conditions

10. Reference by both parties has been made to the government's 'Technical housing standards – nationally described space standard', although full compliance with these is reliant on relevant Local Plan policy. In this case, the Council do not have an adopted policy on space standards. While I note the appellant suggests that these standards apply only for newly-built rather than converted dwellings, I disagree. Notwithstanding the reference in an earlier decision² where my colleague notes that the appellant points this matter out, while the standards refer to 'new dwellings' these can result from a change of use or conversion, as well as newly erected dwellings. The standards nonetheless provide some guidance as to the acceptability of space for future occupants, although it is noted that the existing arrangement across the building is below the standard set out.
11. Both proposed new dwellings would be slightly below the guidance. However, as bedsits they would benefit from reduced internal walls and both would have windows front and rear, with somewhat flexible layouts. Significant evidence has been provided by the appellant of other recent sales of such accommodation at comparable, and in some cases, smaller floorspace. The Council has not commented on this evidence, which nonetheless suggests that such small dwellings are meeting a housing need in the area.
12. With the particular layout, open plan design and dual aspect windows I do not consider that the layout would result in a significantly cramped and oppressive standard of living for future occupiers. The second floor unit would be the smaller with a part sloping roof. Whilst the windows are not large for this unit, the open layout between them would allow light into the living area. As a dwelling within the roof of a converted older building there would be a degree of expectation of angled roofs and a somewhat reduced living area.
13. For these reasons the dwellings would provide acceptable living conditions for future occupiers in compliance with Policy QD27 of the BHLF, which requires development to provide suitable amenity for its future users.

Other matters

14. Following a recent appeal decision³ both parties agree that the Council cannot currently demonstrate 5 year housing land supply. The precise level of shortfall

² Appeal Decision APP/Q1445/W/17/3173703

³ Appeal Decision APP/Q1445/W/17/3177606

is unclear. However, I have found no significant harm from the proposal against the policies within the development plan.

Conditions

15. The Council has suggested conditions should the appeal be allowed, to which I have had regard. In addition to the standard implementation time limit, I have imposed a condition specifying the relevant drawings as this provides certainty. Conditions are also necessary to secure external materials and window detailing to ensure a satisfactory appearance and to preserve the character and appearance of the Conservation Area.

Conclusion

16. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be allowed.

Tim Crouch

INSPECTOR