
Appeal Decision

Site visit made on 9 June 2017

by Cullum J A Parker BA(Hons) MA MRTPI IHBC

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

Decision date: 6th July 2017

Appeal Ref: APP/Q1445/W/16/3165878

1 Wellington Road, Portslade, Brighton and Hove BN41 1DN

- 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 Martin Mullany of Beaufort Developments Southern Ltd against Brighton & Hove City Council.
 - The application Ref BH2016/00461, is dated 9 February 2016.
 - The development proposed is change of use of one number ground floor retail unit to two residential units, and two opening lights in existing windows.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The Council did not determine the proposed scheme within an agreed timeframe, and therefore the appellant exercised their right of appeal. The Council has indicated that were it able to issue a decision notice it would have refused permission for the following reason:
 - a) *The proposed development is considered to provide an unacceptable standard of accommodation which by virtue of the layout, poor levels of natural light and outlook for the proposed residential units will adversely impact upon the level of amenity and quality of living accommodation which future occupants should reasonably expect to enjoy. Accordingly, the proposal is considered to be contrary to Policy QD27 of the Brighton & Hove Local Plan.*
3. It appears as though this is the main area of dispute between the parties and it has therefore informed my framing of the main issue.

Main Issue

4. The main issue is the effect of the proposed change of use on the living conditions of future occupiers.

Reasons

5. The appeal site comprises a two to four storey high building on the western edge of Station Road. The building was built around 2015, and consists of two commercial units on the ground floor with eight residential flats above. The appeal scheme seeks the change of use of the rear commercial unit from a Class A1/A2 Use to two residential bedsits.
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6. There are a number of decisions within the planning history, which are listed in the Council's Statement of Case on pages 2 to 3, which I need not reiterate here. Suffice to say I have taken these into account in forming my overall assessment of the appeal scheme.
7. Broadly speaking the Council considers that the proposal is acceptable in terms of the loss of retail unit, the lack of private amenity space, the potential impact from adjoining uses, the provision of cycle parking to the front of the building, and the possible use as residential dwellings. I see no reason not to concur on these points.
8. The change of use sought would result in the creation of two one bedroom dwellings. They would be served by a single west-facing window each to the front elevation which would provide the only source of natural light. The bedrooms, kitchen areas and en-suite bathrooms would not have any external openings to provide light or ventilation. In practice, this would mean that occupiers would have to gain all natural light from the window serving the living room area. This is likely to result in dark and gloomy living conditions for future occupiers as light penetration in the west facing elevation is unlikely to be significant until the latter part of the day and less so in the autumn and winter months.
9. From the submitted floor plans, it is clear that other residential units within the building benefit from at least two external openings, and some of these are dual aspect or corner windows. However, the light penetration issue here is not just limited to the lack of external openings serving the two proposed flats, but also the depth of the units, with internal partitions located where they would prevent light from the living room extending beyond the proposed bedroom walls.
10. I therefore conclude that the combination of both the very limited external openings and the depth of the proposed residential units in combination would result in an unacceptable and materially harmful effect on the living conditions of future occupiers by reason of the limited internal light penetration. It would therefore be contrary to saved Policy QD27 of the *Brighton and Hove Local Plan 2005* (retained in 2016), which, amongst other aims, seeks to ensure that a change of use will not be granted where it would cause loss of amenity to the proposed residents or occupiers.
11. It would also be contrary to the Policies of the *National Planning Policy Framework*, including the Core Planning Principles set out at Paragraph 17 which includes that planning should always seek to a good standard of amenity for all existing and future occupants of land and buildings.
12. I note the appellant's evidence which shows that there has been marketing of the unit for commercial premises without success. However, this does not outweigh the harm arising to the living conditions identified when assessed on the planning merits.
13. For the reasons given above, and having taken all matters raised into account, I conclude that the appeal should be dismissed.

Cullum J A Parker

INSPECTOR