



Appeal Decision

Site visit made on 9 December 2019

by Rachael Pipkin, BA (Hons), MPhil, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th January 2020

Appeal Ref: APP/Q1445/W/19/3235077

1B Upper Hamilton Road, Brighton, BN1 5DF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Ms Ann King against the decision of Brighton & Hove City Council.
 - The application Ref: BH2019/00554 dated 25 February 2019, was refused by notice dated 23 April 2019.
 - The application sought planning permission for change of use from shop (A1) to residential self-contained one bedroom flat (C3) without complying with a condition attached to planning permission Ref: BH2018/03521 dated 10 January 2019.
 - The condition in dispute is No. 2 which states that:
Within 6 months of commencement of the development hereby permitted or prior to occupation, whichever is sooner, a scheme shall be submitted to the Local Planning Authority for approval to provide that the residents of the development, other than those residents with disabilities who are Blue Badge Holders, have no entitlement to a resident's parking permit. The approved scheme shall be implemented before occupation.
 - The reason given for the condition is:
This condition is imposed in order to allow the Traffic Regulation Order to be amended in a timely manner prior to first occupation to ensure that the development does not result in overspill parking and to comply with policies TR7 & QD27 of the Brighton & Hove Local Plan and CP9 of the Brighton & Hove City Plan Part One and SPD14: Parking Standards.
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Decision

1. The appeal is allowed and the approval Ref: BH2018/03521 for a change of use from shop (A1) to residential self-contained one-bedroom flat (C3), at 1B Upper Hamilton Road, Brighton, BN1 5DF, granted under the provision of Schedule 2, Part 3, Class M of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), on 10 January 2019, by the Council, is varied by deleting condition No. 2.

Main Issue

2. The main issue is whether or not the condition is necessary and reasonable having regard to the effect of the proposed development on the availability of on-street parking and the subsequent effect on highway safety and the living conditions of nearby neighbours.

Reasons

3. The appeal site is located within a predominantly residential area. Upper Hamilton Road and surrounding streets are covered by a Controlled Parking Zone (CPZ) which is operational during the daytime, 7 days a week.
4. The disputed condition restricts future occupiers of the new residential unit from obtaining a parking permit unless they are a Blue Badge Holder so they would not add to parking demand within the surrounding area which could affect highway safety and inconvenience local residents. The removal of this condition would enable future occupants to apply for a parking permit.
5. The existing shop use has access to 2 parking permits. These would be given up following the change of use which would reduce demand for on-street parking. Even if the condition were to be removed, there would still be a reduction in the overall number of parking permits associated with the appeal site.
6. I accept that parking demand for residential uses is likely to be higher during the evening and weekends when people are home from work. However, I also note that the appellant has indicated that the appeal site includes workshop space and is used by the tenant at various times, including evenings and weekends. On this basis, the difference between the level of parking demand associated with both the existing and proposed uses seems likely to be limited.
7. I acknowledge that the appellant did not provide a parking survey to demonstrate that there would be capacity for additional parking within the immediate vicinity of the site. However, given that the existing use already has 2 permits, and the proposed use is seeking just 1 permit, I am not persuaded that a parking survey would provide conclusive evidence in relation to the availability of on-street parking associated with the appeal proposal.
8. The Council has provided permit uptake data which indicates that there is significant demand for on-street parking within the CPZ as a whole. However, this does not demonstrate that the area within the immediate vicinity of the appeal site is under this same level of pressure. Furthermore, it is not clear whether these figures include the current permits associated with the shop use. From my own observations on site, although only a 'snapshot', I observed that there were a few spaces within the vicinity of the appeal site during the daytime when the CPZ is operational.
9. Given the proposal would lead to a net reduction in the number of parking permits and in the absence of any conclusive evidence to the contrary, I find that the development would not lead to an unacceptable increase in overspill parking or demand for on-street parking and would not therefore harm highway safety or cause inconvenience to local residents.
10. I conclude that the condition is not necessary and reasonable having regard to the effect of the proposed development on the availability of on-street parking and the subsequent effect on highway safety and the living conditions of nearby neighbours. It would therefore comply with Saved Policies TR7 and QD27 of the Brighton & Hove Local Plan 2005 and Policy CP9 of the Brighton & Hove City Plan Part One 2016. These policies, together and amongst other things, seek to ensure development reduces the impacts of traffic, provides safe access for highway users and does not cause material nuisance to other

occupiers. It would also accord with the Brighton & Hove City Council Parking Standards Supplementary Planning Document 2016 which sets out that residential development within CPZs may be eligible for parking permits subject to capacity for on-street parking.

Conclusion

11. For the reasons given above I conclude that the appeal should be allowed. I will vary the planning permission by deleting the disputed condition.

Rachael Pipkin

INSPECTOR