



Appeal Decision

Site visit made on 17 August 2023

by D Cramond BSc MRTPI

an Inspector appointed by the Secretary

Decision date: 14th September 2023

Appeal Ref: APP/Q1445/W/23/3319965

Wick Hall, Furze Hill, Hove, BN3 1NF

- 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 Baron Estate Management Ltd against the decision of Brighton & Hove City Council.
 - The application Ref BH2022/02736, dated 15 July 2022, was refused by notice dated 9 March 2023.
 - The development proposed is the conversion of meter and store room into 1no self-contained flat (C3) with associated alterations to fenestration and cycle parking.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposal on the facilitation of sustainable active travel.

Reasons

3. Wick Hall is a substantial 1930's block of over 100 flats and the appeal relates to a presently vacant area of lower ground floor which has had various uses over the years. The proposal is as described above with the reference to cycle parking being 3 Sheffield stands (6 spaces).

Sustainable active travel

4. There is considerable Council, Appellant and third party written material relating to the use of the floor area in question and what is clear is that it was used for many years pre 2021 as a residents' cycle store providing an amenity in this regard. In short, the Council and the residents consider the appeal scheme would unreasonably remove the ability to have this facility; whereas the Appellant argues that there were no lease-related terms or rights associated with the use but rather a previous management company informally let matters proceed for a period. There is the proposition put forward by some that the use became 'established' with a run of over 10 years. The Appellant argues that even if matters did run for over 10 years the break since 2021 would prevent any cycle storage use becoming authorised in planning terms.
 5. The matter is not clear cut and I am not in a position, nor do I have a role, to go down routes of considering any formal lease entitlement or A Certificate of Lawful Existing Use or Development (CLEUD). I do note that when the ability to use the space was halted by the Management Company in 2021, the Residents Association, or others, have not at any time sought a CLEUD. I
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would also comment that given the High Court case R (on the application of Ocado Retail Ltd) v Islington London Borough Council [2021] EWHC 1509 (Admin) I am not entirely convinced that the Appellant is legally correct that a stop in use (in this case since 2021) would necessarily prevent CLEUD rights. However, as I say, these matters are not within my remit.

6. In any event, the issue of good quality secure cycle storage for any new development is an important one. Setting aside all of the above, if I look at the current proposal in isolation, I am underwhelmed by the cycle storage provision. Policy CP9 of the City Plan Part One and Policy DM33 of the City Plan Part Two are pertinent. Taken together and amongst other matters they seek to encourage sustainable travel including by cycle and to secure good quality cycle storage associated with development. Policy DM33 calls for cycle parking facilities to be under cover, secure, convenient to use, well-lit and as close to main entrances as is possible. In policy terms uncovered cycle parking is limited to short stay visitor use and should be close to building entrances and benefiting from high levels of natural surveillance.
7. Taking all of this, I am of the firm view that the proposed three external Sheffield stands would be unacceptable cycle parking provision. I conclude that the appeal scheme would run contrary to the two policies which I cite.

Other matters

8. I fully recognise the housing supply shortfall in this Council area and the contribution that this proposal would make towards the five year housing land supply. However, to my mind the failure of this particular scheme to provide adequate secure cycle storage indicates that the appeal proposal would not qualify as sustainable development. It would not be sustainable in transport terms and would not sufficiently encourage non-car modes of transport. On the question of balance, a very small addition to the housing supply and any other consequent benefits, including economic ones, would not outweigh this factor.
9. I have carefully considered all the points raised by the Appellant but these matters do not outweigh the concerns which I have in relation to the main issue identified above.
10. I confirm that policies in the National Planning Policy Framework have been considered; and the Council's policies which I cite mirror relevant objectives within that document.

Overall conclusion

11. For the reasons given above I conclude that the appeal proposal would not sufficiently facilitate sustainable active travel. Accordingly, the appeal is dismissed.

D Cramond

INSPECTOR