



Appeal Decision

Site visit made on 5 January 2024

by N Perrins BSc (Hons), MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31.01.2024

Appeal Ref: APP/Q1445/W/23/3320792

39 Upper North Street, Brighton BN1 3FH

- 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 Dr Sriram Vundavalli against the decision of Brighton & Hove City Council.
 - The application Ref: BH2023/00225, dated 25 March 2023, was refused by notice dated 12 April 2023.
 - The development proposed is for the change of use from a residential dwelling (C3) to a holiday let (sui generis).
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The description of development differs between that given on the planning form and the Council's decision notice. I have used in the header above wording from the Council's decision notice to more accurately describe the development.

Main Issue

3. The main issue is whether the change of use of the property to a holiday let would result in the unacceptable loss of a residential dwelling.

Reasons

4. The appeal site is a three-storey end of terrace property located on the south side of Upper North Street. It is in a highly accessible location close to public transport and a range of shops and amenities. The surrounding area comprises a mix of residential use and commercial premises. The site is within the Montpelier and Cliftonhill Conservation Area.
5. The appeal use has already commenced without planning permission replacing its former use as a dwelling, which appears to be the lawful use. It is evident from the information before me that the city has an acute housing shortage at the present time and any net loss of dwellings requires careful consideration. Policy DM2 of the Brighton & Hove City Plan Part Two adopted 2022 (the Local Plan Part Two) sets out that the Council will resist any net loss of existing residential accommodation unless one or more of six exceptions apply. The six exceptions require such development to demonstrate that (a) the accommodation cannot be rehabilitated or redeveloped to achieve satisfactory

housing standards, (b) the proposal would result in the net gain of affordable housing, (c) the loss would enable sub-standard residential units to be enlarged to meet residential space standards, (d) the change of use will provide a local community service / facility that meets an identified need, (e) it can be demonstrated that the change of use is the only practicable way of preserving the special architectural or historic interest of a listed building or other building of heritage significance or (f) where the previous use of the building would be a material consideration. It is evident from the information before me that no justification has been submitted to demonstrate compliance with any of the DM2 exceptions. The loss of a residential unit in the context of the city's acute housing shortage without sufficient justification is therefore a matter I give significant weight.

6. I have also considered the proposal against Policy CP6 of the Brighton & Hove City Plan Part One adopted 2016 (the Local Plan Part One), which seeks to support the city's tourism economy by ensuring there is wide range of sufficient visitor accommodation available. Policy CP6 is, however, primarily focused on the provision of new hotels as opposed to holiday let accommodation and therefore not directly applicable in this case. Moreover, even with overarching support for hotel accommodation in the city, the proposal is still required to accord with other relevant development plan policy, such as Policy DM2.
7. With regard to the foregoing, the change of use of the property from residential to holiday let has not been justified in accordance with the requirements of Policy DM2 of the Local Plan Part Two. The loss of the residential unit contrary to Policy DM2 is a significant issue in the context of the city's acute housing shortage. Therefore, any general support for hotel accommodation as set out in Policy CP6 of the Local Plan Part One does not outweigh the harm that arises from the loss of a residential unit. In conclusion, the appeal proposal is contrary to Policy DM2 of the Local Plan Part Two.

Other Matters

8. The appellant has set out the background to their purchase of the site in 2021, which identifies that it was intended to be used as buy to let or holiday let. The information provided highlights that they sought to engage with the Council to establish whether there would be any issues with using the property for holiday let use. However, it appears from this that the appellant did not directly discuss the proposal with the Council's planning department and instead the discussions were mainly regarding other matters such as business rates. The full details of those conversations are not before me and therefore not for me to comment in terms of the adequacy of the Council's communications on this matter in 2021.
9. Notwithstanding this, the proposal to change the use of the building from residential to a holiday let requires planning permission as a matter of planning law. The Council, having been made aware of the breach, were entitled to request a planning application to be submitted to look to regularise the matter. However, in this case insufficient information was provided to demonstrate that the change of use complies with the relevant development plan policy. Whilst I acknowledge the appellant's concerns with the Council's communication and whether they were given the appropriate advice at the point of purchase, this is not a material consideration sufficient to outweigh the conflict with Policy DM2 of the Local Plan given the city's acute housing shortage.

10. I have also considered the appellant's suggestion for limiting the holiday let use of the property to, for example, 4 months of the year; such a restriction would change the nature to the proposal from that applied for to one that is either a mixed use or an ancillary use. Accordingly, imposing such a restriction is outside the scope of this appeal given that the development applied for is seeking planning permission for exclusively a holiday let. The appellant would need to apply to the Council under a fresh planning application to consider whether a mix of use between residential and holiday lets would be more acceptable in planning terms than the proposal before me in this appeal.
11. I note that objections have raised a series of other concerns such as the impact of the use on noise disturbance, occupiers obstructing the street with leisure activities, increase in rubbish and increased parking stress. Whilst I acknowledge these concerns, they are common issues for a city centre location and, as confirmed in the Council's officer's report, could be controlled by relevant conditions if the proposal were acceptable in all other respects.
12. I have also had regard to Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 given that the site is within a conservation area. However, as the proposal is for a change of use of the internal parts of an existing building, I do not find there to be any harm to the character and appearance of the Conservation Area.
13. The ability to control amenity matters at the property and finding no harm in respect of the other issues are, however, only neutral factors such that they cannot outweigh the identified harm.

Planning Balance and Conclusion

14. As set out above, it has not been demonstrated that the exceptions contained in Policy DM2 of the Local Plan have been met. It is evident that there is an acute housing shortage in the city and proposals involving the net loss of residential accommodation such as this appeal need to be carefully considered and require robust justification to be acceptable. In this context, and taking all matters into consideration, I conclude that the adverse impacts of the development would significantly and demonstrably outweigh the benefits. The material considerations in this case do not indicate that the proposal should be determined other than in accordance with the development plan.
15. For the reasons given above I conclude that the appeal should be dismissed.

N Perrins

INSPECTOR