



Appeal Decision

Site visit made on 28 January 2025

by **S Harley BSc(Hons) M.Phil MRTPI ARICS**

an Inspector appointed by the Secretary of State

Decision date: 7 February 2025

Appeal Ref: APP/Q1445/W/24/3353006

12 Marlborough Mews, Brighton BN1 3EB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mrs Carolyn Goodman against the decision of Brighton & Hove City Council.
 - The application Ref is BH2024/01231.
 - The development proposed is change of use from a dwelling house (Use Class C3) to short term visitor accommodation (sui generis).
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Decision

1. The appeal is allowed and planning permission is granted for change of use from a dwelling house (Use Class C3) to short term visitor accommodation (sui generis) at 12 Marlborough Mews, Brighton BN1 3EB in accordance with the terms of the application, Ref BH2024/01231, and the plans submitted with it, subject to the conditions in the attached schedule.

Preliminary Matters

2. Although the appeal form states the appellant is the Goodman Discretionary Settlement Trust it has subsequently been confirmed that the appellant is Mrs Carolyn Goodman.
3. The Council has received complaints about anti-social behaviour in Marlborough Street. Some of these were incorrectly attributed to occupiers of the appeal property and the Council redacted false allegations from the planning permission comments. However, the Council identified an unauthorised short term visitor accommodation use (holiday lets) at No 12. The appeal proposal seeks retrospective permission to regularise the use.
4. The main Parties have had the opportunity to comment on the revised National Planning Policy Framework which came into force in December 2024.

Main Issue

5. The main issue is whether the use of the property as short term visitor accommodation results in the unacceptable loss of residential accommodation falling within the C3 Use Class¹ in planning policy terms.

Reasons

6. Marlborough Street is a predominantly residential street of terraced two storey houses which follow the slope from Upper North Street down to a main shopping

¹ Town and Country Planning (Use Classes) Order 1987 as amended

area on Western Road. Marlborough Mews is a development of houses: some front Marlborough Road; others are arranged around a private access which leads from Marlborough Road beneath a first floor link into a shared parking area. The appeal site is part of this development. It fronts onto Marlborough Street and is attached to No 11 Marlborough Mews. Although there does not appear to be a party wall with No 25 Marlborough Street the physical gap between them is barely perceptible from the street.

7. The appeal site is close to facilities and public transport links in a highly accessible location. At my site visit I was able to see the internal layout of the property. The third bedroom is small but accommodates a single bed and has built in storage space. There is a small external private amenity area and an allocated space in the shared parking area. The property is eminently suitable for a small Class C3 dwelling of the sort which is in considerable demand in the city.
8. The property was rented since 2012 within the terms of Class C3 which was defined as *“Use as a dwellinghouse (whether or not as a sole or main residence)”*. The appellant’s evidence indicates that in early 2021 the Council was notified of the intention to use the property as a holiday let. The Council requested further information including where the property would be advertised, the number of days a year it would be let and how it would be marketed, which was provided. The Valuation Office then advised the appellant that *“The Valuation Office have been informed by the local council that the above property is now a holiday let.”*
9. In response to the appeal the Council says it is not clear which department was contacted and that there is no record of any contact in 2021 with the planning department.
10. Policy DM2 of the Brighton & Hove City Plan Part Two 2022 (the CPP2) replaced Policy HO8 of the former Local Plan². Both Policies resist any net loss of existing residential accommodation falling within the C3 Use Class. The supporting text to Policy DM2 explains it is justified by the very constrained supply of housing land and that there is a considerable demand for family sized two and three bedroomed homes. Allowing the appeal would result in the loss of one unit of Class C3 residential use.
11. Neither Party has suggested that the exceptions at Policy DM2(a) to (e) apply and I see no reason to conclude otherwise. The exception at Policy DM2(f) allows for the previous use of the property to be a material consideration. There are conflicting views as to whether the Council received the information regarding the change of use. I give greater weight to the appellant’s evidence that the Council, even if not the planning department directly, did receive information about the intended change of use. On this basis, I conclude in this particular instance that DM2(f) is satisfied. Accordingly, notwithstanding the loss of a unit of residential accommodation falling within the C3 Use Class I find no unacceptable conflict with Policy DM2 in the particular circumstances of the appeal before me.
12. Policy DM20 of the CPP2 seeks to protect the living conditions of occupiers of neighbouring properties. Residential accommodation within the C3 Use Class would be likely see occupants living and working in the city for substantial parts of the year accessing and contributing toward the range of services associated with permanent residential use. In contrast, a short-term holiday let would have

² Brighton & Hove Local Plan 2005

different effects on local services, and it would be transient in terms of its occupants who would be less engaged with the local community.

13. The occupation as short term visitor accommodation often has materially different activity patterns and at different times than occupiers of a single dwellinghouse. This has potential to cause noise disturbance and anti-social behaviour if the usage is not carefully managed. Indeed there has been instances of anti-social behaviour along Marlborough Street although there is little conclusive evidence to suggest it has arisen from occupants of the appeal property. In principle, it may be feasible to mitigate potential noise and nuisance by way of a management plan and restriction on occupancy numbers could be secured by condition. A parking space is available and overspill parking is controlled by the existing Controlled Parking Zones nearby. Subject to appropriate conditions there would be no unacceptable conflict with Policy DM20 of the CPP2.
14. Policy CP6 of the Brighton and Hove City Plan Part One 2016 (CPP1) supports the local tourism industry including visitor accommodation. The property currently provides additional visitor accommodation close to the centre which would accord with the aims of Policy CP6.

Other Matters

15. There may be other properties in use for short term visitor accommodation both locally and in the wider area. For example I observed a site notice relating to a similar proposal at No 27 Marlborough Street. However, I have seen little conclusive evidence to indicate an unacceptable over supply of such accommodation.
16. The Council has cited the appeal decision APP/Q1445/W/23/3325524 for change of use to short-term holiday lets which was dismissed by a colleague Inspector. However, that case related to a *proposed* change of use so does not set a precedent for the appeal proposal before me.
17. I acknowledge the concerns raised by third parties about the potential impacts of transient occupants. However, I agree with the Council that limits on the number of occupiers and that a Management Plan should be implemented. These measures would mitigate the effects to a level acceptable in planning policy terms.

Conditions

18. I have considered the conditions suggested by the Council in the light of the Planning Practice Guidance. Given the size of the bedrooms I conclude that the number of occupants should be no more than five. The appellant has indicated in the application documents that the property is managed proactively, that future occupants are vetted before their stay and that the property is managed by a professional management company. I also consider it necessary and appropriate that, as indicated in the Officer Report on the application, a Management Plan should be required by condition to mitigate any effects on the living conditions of nearby residents and to cover the eventuality that the property might change hands.

Planning Balance and Conclusion

19. The Council's planning policy position in Policy DM2 of the CPP2 is clear that the need to retain residential accommodation is a significant issue for the city to which

I give considerable weight. However, in this instance the site specific circumstances lead me to conclude that the exception at Policy DM2(f) is engaged so that there would be no unacceptable conflict with conflict with Policy DM2 in terms of the loss of residential accommodation within C3 Use Class. Whether or not there is other available accommodation in the City the property provides attractive short term accommodation for visitors which helps to add prosperity to the local economy and accords with Policy CP6 of the CPP1. Whilst it is not possible to guarantee no anti-social behaviour would ever occur, limits on numbers of occupants and a Management Plan will mitigate the effect on the living conditions of nearby residents.

20. I have concluded that there is no unacceptable conflict with Policy DM2 of the CPP2; that the scheme complies with Policy CP6 of the CPP1; and that with a Management Plan and occupancy limits in place there would be no unacceptable conflict with Policy DM20 of the CPP2. Overall the proposal complies with the development plan taken as a whole and there are insufficient material considerations to indicate a decision other than in accordance with it. The appeal should succeed.

S Harley

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall be carried out in accordance with the floor plans submitted as part of the application.
- 2) The short term visitor accommodation hereby approved shall be occupied by no more than five persons at a time.
- 3) Within three months of the date of this decision a Management Plan which sets out measures to limit noise and disturbance arising from the use hereby permitted, including contact details of those responsible for the management of the property and for addressing any problems that may arise, including at night time, shall be submitted in writing for the approval of the Local Planning Authority. The approved scheme shall be implemented within three months of the Local Planning Authority's approval and shall be operated at all times the property is used for the short term visitor accommodation hereby permitted.

If a Management Plan has not been submitted within three months, or the approved Management Plan is not subsequently implemented within three months of approval, the use as short term visitor accommodation shall cease.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

End of Schedule