



Appeal Decision

Site visit made on 20 February 2025

by **J Hobbs MRTPI MCD BSc (hons)**

an Inspector appointed by the Secretary of State

Decision date: 21 March 2025

Appeal Ref: APP/Q1445/W/24/3348382

1 D Panorama House, Vale Road, Portslade, Brighton & Hove BN41 1BA

- 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 Ms O Golan of Mulberry One Capital Ltd against the decision of Brighton & Hove City Council.
 - The application Ref is BH2024/00772.
 - The development proposed is conversion of Unit 9 into an office use. Provision of new obscure glazed windows (within existing openings).
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. A revised National Planning Policy Framework (the Framework) was published on 12 December 2024. I sought submission from the parties on this matter. I have considered their additional submissions alongside the original representations.

Main Issues

3. The main issues are:
 - whether the proposal would provide acceptable office accommodation, with particular regard to outlook, and noise and disturbance; and,
 - the effect of the proposal on neighbouring residents' living conditions, with particular regard to the fear of crime and anti-social behaviour, noise and disturbance, and privacy.

Reasons

Living conditions – office occupiers

4. Unit 9 is single aspect with 3 large openings facing toward a shared courtyard, which are currently boarded up. However, the boards would be replaced with windows which would be obscure glazed and include large fan light openings.
5. Given the difference in nature of the uses, it would be acceptable for an office to have a worse outlook than an apartment. Furthermore, some obscure glazing of office windows near residential properties would be acceptable. Nonetheless, all the windows within the proposed office would be obscure glazed. The outlook experienced by future occupiers would be very limited and only possible when the fan light openings would be open. Although the windows would let through natural

light, the very limited outlook would be oppressive and overbearing on future occupiers.

6. The appellant has advised that the Council has granted planning permissions for office development with similarly poor outlook. No details have been provided for me to compare those proposals with the appeal proposal. Even if the Council has granted permission for similar proposals, it would not set a precedent for granting permission for harmful development.
7. Several windows from existing apartments open onto the courtyard. Whilst the use of this space is semi-private as it could only be used by residents and their guests, it is not akin to a private garden. Users of this space are likely to be aware of others around them and feel some pressure to reduce noise. The proposed office would increase the number of windows opening onto the courtyard. Noise generated from the use of the courtyard would also have a greater effect on future occupiers of the proposed office, compared to residents on upper floors, due to the proximity of the spaces. Nonetheless, the change would be relatively minor given the number of windows which already open onto the courtyard. Therefore, users of the courtyard would not feel additional undue pressure to keep noise to a minimum.
8. Moreover, as users of the courtyard would be likely to reduce the amount of noise they create, even with the windows open, the noise from the courtyard would not have a harmful effect on the occupiers of the proposed office.
9. I conclude that the proposal would not provide acceptable office accommodation, with particular regard to outlook. The proposal would be contrary to Policy DM20 of the City Plan Part Two, Brighton & Hove City Council's Development Plan, October 2022 (CPP2) which indicates that planning permission for a change of use will be granted where it would not cause an unacceptable loss of amenity to the proposed users. The proposal would also be contrary to CPP2 Policy DM11 where it indicates that development proposals involving the provision of business floorspace should provide for well-designed buildings. Given the design of the proposed office, the proposal would have a harmful effect on future occupiers living conditions.

Living conditions – neighbouring residents

10. Currently, the building is entirely residential. There is a gated access to the car park and a secure entrance to the building. Interested parties have indicated that the car park and building are open for part of the day to allow access for services. Otherwise, to gain access you would need to be let in by one of the residents or have a fob.
11. Future users and visitors of the proposed office would have access to internal areas of the building which are currently restricted to residents and their guests. This would change the character of the development from a secure residential building to a more open mixed-use development. The likelihood of crime or anti-social behaviour occurring as a direct result of the proposed change of use is low. Nonetheless, providing access to internal areas with poor natural surveillance, to people not associated with residents of the building would increase the fear of crime and anti-social behaviour.
12. The proposed office use would increase activity within and around the appeal building. This would include ancillary activities such as refuse and recycling collection. However, the proposed office would be small; as such, the resultant

increase in activity would be limited. Also, any concerns with the noise of electrical equipment could be addressed by a condition attached to any planning permission. Therefore, the proposal would not have a harmful effect with regard to noise and disturbance.

13. Future occupiers of the proposed office would not be able to access the courtyard. Also, the leasehold of the area immediately outside of the office is owned by the appellant who could restrict access to this area. The only view of the courtyard and neighbouring properties would be from the windows within the office and largely over the area covered by the leasehold. Given the proposed obscure glazing, the only opportunity for overlooking of the courtyard would be when the fan light openings would be open. Views of the courtyard would only be possible if future occupiers were stood very close to the window. Also, given the size of the window any views would be limited. Furthermore, the courtyard is shared and already overlook by several windows. As such, the proposal would not have a harmful effect with regard to a loss of privacy.
14. Overall, I conclude that the proposal would have a harmful effect on neighbouring residents' living conditions, with particular regard to the fear of crime and anti-social behaviour. The proposal would be contrary to CPP2 Policy DM20 and Policy CP12 of the Brighton & Hove City Plan Part One, Brighton & Hove City Council's Development Plan, March 2016. These policies indicate that all new development will be expected to incorporate design features which deter the fear of crime and planning permission will be granted where it would not cause an unacceptable loss of amenity.

Other Matters

15. Benefits of the proposal include bringing the unit, which is in an accessible location, into an active employment use. This would support economic growth in the area and promote the effective and efficient use of land in accordance with the Framework. The proposal would also enhance the appearance of the building as it would insert glazing into the openings which are currently boarded up. Nonetheless, given the scale of the proposal, I ascribe modest weight to the benefits. Consequently, the benefits do not outweigh the identified harm.

Conclusion

16. The proposal conflicts with the development plan, when read as a whole, and the material considerations do not indicate that the appeal should be decided other than in accordance with it. Therefore, the appeal should be dismissed.

J Hobbs

INSPECTOR