



Appeal Decision

Site visit made on 30 April 2025

by **G Ellis BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 21 May 2025

Appeal Ref: APP/Q1445/W/25/3360132

84A Portland Road, Hove BN3 5DL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Denzil Print Limited against the decision of Brighton and Hove City Council.
 - The application Ref BH2024/02636, was approved on 8 January 2025 and planning permission was granted subject to conditions.
 - The development permitted is the *Change of use from existing single dwelling house (C3) to a 3no bedroom small house in multiple occupation (C4) (retrospective)*.
 - The condition in dispute is No3 which states that: *Within 3 months of this decision, details of secure cycle parking facilities for the occupants of, and visitors to, the development shall have been submitted to the Local Planning Authority for written approval. The agreed facilities shall be fully implemented within 3 months of the approval being given and made available for use. The facilities shall thereafter be retained for use at all times.*
 - The reason given for the condition is to *ensure that satisfactory facilities for the parking of cycles are provided and to encourage travel by means other than private motor vehicles and to comply with policy DM33 of Brighton & Hove City Plan Part Two, and SPD14: Parking Standards.*
-

Decision

1. The appeal is allowed and the planning permission Ref BH2024/02636 for *Change of use from existing single dwelling house (C3) to a 3no bedroom small house in multiple occupation (C4)* at 84A Portland Road Hove BN3 5DL granted on 8 January 2025 by Brighton and Hove City Council, is varied by deleting condition 3.

Main Issue

2. Planning permission has been granted for a change of use of a single dwelling house into a small house in multiple occupation (HMO). The appellant seeks the removal of the condition requiring the provision of cycle storage on the basis that they are unable to comply with the requirements of the condition. The main issue is therefore whether the condition is necessary, reasonable and enforceable.

Reasons

3. Policy DM33 of Brighton & Hove City Plan Part Two, amongst other things, seeks to ensure a safe and accessible environment for cyclists and requires that new developments provide for sufficient levels of cycle parking facilities. The condition aligns with this policy requirement and supports sustainable modes of travel.
4. The change of use was a retrospective proposal and relates to the first and second floors of the building. The application plans do, however, also show the details of the yard area to the rear of the building, and the red line extends around that area to the rear of the commercial premises. The yard includes access to the fire escape

- stairs to the property, refuse storage and rear access from Westbourne Street. The appellant advises, supported by the lease details, that they have no jurisdiction over the external yard and, therefore, are unable to provide cycle storage facilities.
5. Such information did not form part of the planning application, which included no details to indicate that there were restrictions on the use of the yard space. The Council, in the officer's report, questioned if the space was able to accommodate cycle storage and the requirement for the provision to be secured via a condition was highlighted in an email to the applicant's agent prior to the formal decision being issued, to which no response was received.
 6. Based on the details that formed the planning application, the condition was reasonable and related to the development proposed. Notwithstanding this, and having regard to the further information, it is clear that the appellant is unable to make provision for the cycle storage within the existing yard, and consequently, due to the lack of any other available space, the condition would not be enforceable. As such, it is for me to consider the actual proposal, and if it would not be acceptable without the condition, the planning approval would be at risk.
 7. As part of the change of use, no physical alterations were proposed. The Council found that the proposal accorded with the requirements of Brighton & Hove City Plan policies CP21 (Part One) and DM7 (Part Two), which set out a range of criteria for HMOs. There is no evidence before me which leads me to take a different view in terms of the mix of accommodation, and the property is of an appropriate size with communal facilities to provide a suitable standard of accommodation for up to 6 people.
 8. The property does not have any private amenity space, which is unchanged from its use as a single dwelling house, and which accordingly did not have any cycle storage. It is located in an accessible location with a range of facilities in the immediate locality and access to public transport. Whilst facilities to encourage cycling are promoted and sought as part of new developments, with an existing building there can be limitations on accommodating such provisions. The National Planning Policy Framework (the Framework) supports residential accommodation above commercial premises, and the site does not include any car parking to support car usage.
 9. Notwithstanding the decision made on the application, the Council do not provide any reasons as to why the cycle provision is essential. It is also suggested that if an application were made to remove the condition supported by justification, it would not be unreasonably withheld. The option to appeal rather than pursue a Section 73 application is a choice for the appellant.
 10. I therefore conclude that the provision of cycle storage is not fundamental to the proposal, which accords with policies CP21 and DM7 in relation to the requirements for HMOs and would accord with policies CP9 and DM33 as a whole, in supporting the use of sustainable modes of travel and reducing the reliance on motor vehicles.
 11. As set out in paragraph 57 of the Framework, planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise, and reasonable in all

other respects. Having regard to the evidence provided, condition 3 would not be enforceable and is not directly necessary, and as such could be removed.

Conclusion

12. For the reasons given, and taking into account all other matters raised, I conclude that this appeal should be allowed and condition 3 deleted.

G Ellis

INSPECTOR