
Appeal Decision

Site visit made on 24 June 2025

by **P Burley BA(Hons) MPhil MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 17th July 2025

Appeal Ref: APP/Q1445/W/25/3364161

27 Marlborough Street, Brighton BN1 3EE

- 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 Abigail Louise Stokes against the decision of Brighton & Hove City Council.
 - The application Ref is BH2024/02746.
 - The development proposed is the change of use from a dwellinghouse (use class C3) to short-term visitor accommodation (*sui generis*).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The development involves a change of use and the appellant's Statement of Case confirms that this took place in March 2022 and that the appellant contacted the Council on 4 April 2022 to inform it of the change of use.
3. The appellant has referred to an appeal decision relating to 12 Marlborough Mews. This decision has not been provided to me as part of any party's evidence and, therefore, I am unable to consider it in deciding this appeal.

Main Issue

4. The main issue is the effect of the appeal scheme on the supply of housing.

Reasons

5. Planning decisions must be made on the basis of policy that is in force at the time that the decision is made. In this case the relevant policy is DM2 of Brighton & Hove City Council's City Plan Part Two (October 2022).
6. Policy DM2 resists the net loss of Class C3 residential accommodation unless one or more of the six exceptions listed in the policy have been satisfied.
7. The appellant has said that it would like this appeal to be considered with respect to criterion (f) of Policy DM2 which allows the previous use of the property to be a material consideration. The appellant has not provided any justification as to why this criterion supports its case and has not argued that any of the other exceptions in Policy DM2 should be considered.
8. In its assessment of the appeal application against Policy DM2 the Council's officer report notes that the current use of the appeal site for short-term let

accommodation is a *sui generis* use, is unauthorised and does not benefit from planning permission. It also says that there is no record of previous lawful use of the building as a holiday let and that the current use has only been ongoing since March 2022 which is an insufficient length of time to be immune to enforcement action under Section 171B of the Town and Country Planning Act 1990 (as amended).

9. Furthermore, paragraph 2.17 of the supporting text to Policy DM2 states that where it can be demonstrated that there has been a material change of use from a residential use (as may be the case for some holiday lets), then Policy DM2 may be used for enforcement purposes.
10. In that context, and based on the Council's analysis of the application, I do not consider that criterion (f) is intended to provide a means to justify the loss of residential accommodation on the basis of the length of time that the unauthorised use has subsisted or because the Council has been informed of the change of use, not least when a change of use has taken place in the recent past as is the case here.
11. Accordingly, I do not consider that criterion (f) invites me to place weight on the unauthorised use of the appeal site as *sui generis* short-term visitor accommodation to justify the loss of a Class C3 dwellinghouse. Therefore, I find that the appeal scheme conflicts with Policy DM2 of Brighton & Hove City Council's City Plan Part Two (October 2022).

Other Matters

12. Whilst the appellant has noted that the unauthorised accommodation is operated in a responsible and neighbourly manner, and that it makes a contribution to the local economy, I do not consider that these matters outweigh the conflict with the development plan taken as a whole. The appellant also indicates that many other short-term holiday lets are operated in the area. There is no indication whether those are operated lawfully in planning terms and this appeal can only deal with the appeal site.

Conclusion

13. For the reasons given above the appeal should be dismissed.

P Burley

INSPECTOR