
Appeal Decision

Site visit made on 23 August 2016

by **David Reed BSc DipTP DMS MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 15th September 2016

Appeal Ref: APP/Q1445/W/16/3150849
Unit 6, Crowhurst Road, Brighton BN1 8AF

- 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 Bestway Wholesale Ltd against the decision of Brighton & Hove City Council.
 - The application Ref BH2016/00443, dated 5 February 2016, was refused by notice dated 16 May 2016.
 - The development proposed is the retrospective change of use of internal floorspace on first floor from vacant office space to operational residential use (Class C3).
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Decision

1. The appeal is dismissed.

Preliminary matter

2. At the time of the site visit, one flat was established and occupied.

Main Issues

3. The main issues are:
 - the effect of the proposal on the Hollingbury Industrial Estate; and
 - whether the flats would provide satisfactory living conditions for their occupiers.

Reasons

Hollingbury industrial estate

4. The proposal is to establish 2 no. two bedroom flats on a mezzanine floor within the large Bestway cash and carry warehouse known as Unit 6 Crowhurst Road on the Hollingbury Industrial Estate. One is already in place. The mezzanine floor, now disused office space, is situated at first floor level on the southern side of the building overlooking a delivery and parking area with open space beyond. The associated changes to the external appearance of the building would be minimal.
5. The proposed flats would be wholly contained within the existing warehouse and are intended, initially at least, for use by the Manager and Deputy Manager of the business together with their families. It is not argued that there is a functional requirement for the presence of these staff on site at all times, but

- the proposal would make good use of surplus office space and would provide two permanent units of accommodation suitable for their use.
6. Hollingbury Industrial Estate is one of the main employment sites in the City and is specifically protected by Policy CP3 of the Brighton and Hove City Plan Part One 2016 (the City Plan) for business, manufacturing and warehouse uses. Comparable sui generis employment uses are also permitted providing they do not harm the continuation of the existing uses within the estate, but the policy makes no provision for residential uses, even in an ancillary capacity.
 7. The City Plan identifies a need for additional employment sites over the plan period and the associated Employment Land Study Review 2012 found that the established industrial estates remain popular with high occupancy and low vacancy levels. It is therefore important to protect the role of the Hollingbury Industrial Estate and avoid changes that might prejudice its long term future.
 8. The two flats (one is existing) would be located centrally within the Bestway cash and carry warehouse. It was clear from the site visit that the flats could potentially be affected by noise and disturbance arising from the operation of the warehouse, for example from moving machinery such as fork lift trucks, the refrigerated spaces below the proposed flats and deliveries from heavy goods vehicles outside. No mitigation measures are proposed and the reality is that potentially incompatible uses would be located in close proximity. Whilst the flats would initially be occupied by the managers of the premises, this may not always be the case, and the expenditure involved in creating valuable residential flats within the building may lead in time to pressure for other, non-managerial occupiers, and even those unconnected with the business.
 9. The current occupiers of the warehouse would no doubt avoid any significant conflict between the business operation and the residents of the two flats, but this cannot be presumed for all future occupiers and/or owners of the building who may have different objectives. The long term business/employment use of the building may therefore be prejudiced by the introduction of two permanent and valuable flats within the building, and this risk should be avoided.
 10. The Bestway building forms part of the wider industrial estate which should also be protected from the introduction of potentially incompatible uses. The flats would be some distance away from the other premises on the estate and would be separated from them by the host building. However, illustrating the concern, both the operators and owners of the nearby fruit market building object to the proposal on the basis that they work throughout the night when vehicle movements and other activity might lead to complaints which may in time prejudice their business operation.
 11. The benefits of the proposal for the current occupiers are fully appreciated and currently disused office space would be utilised. However, the proposal would introduce a potentially incompatible, long term residential use into business premises on an industrial estate which forms an important part of the Council's employment strategy. Restricting occupation of the flats to employees of the related business may not avoid all complaints and may not be enforceable in the long term given their permanence and the level of investment involved.
 12. For these reasons the proposal would be likely to prejudice the future use of the Hollingbury Industrial Estate, one of the main employment generating sites in the City, in conflict with Policy CP3 of the City Plan. This seeks to protect the

estate for business, manufacturing and warehouse use and resists changes which might harm the continuation of existing uses within those classes.

Living conditions

13. As explained in paragraph 8 above, there is potential for the occupiers of the flats to be adversely affected by noise and disturbance from the host warehouse. No evidence has been submitted that this is not the case, and assurances from the existing occupiers are not conclusive in this respect. Furthermore, the working hours of the premises and delivery times do not appear to be limited by condition and may change in future, so even the evenings and Sundays may not be relatively quiet periods in the longer term.
14. The Council's Environmental Health Officer is also concerned that there may be localised land contamination due to past commercial use as an engineering works. In addition, due to its age, the building may incorporate asbestos containing materials.
15. Both of the proposed flats would be used as a main home and having two bedrooms would be likely to accommodate families with children. This means that the size and standard of accommodation that would be provided is important. However, the main living room of the second flat would only be about 10.6 m² in size, which would be small for a family. In addition, as pointed out by a third party objector, neither flat would be provided with any external amenity space, thereby offering little opportunity for outdoor children's play or informal recreation.
16. For these reasons the two flats would not provide satisfactory living conditions for their occupiers and it is not clear that the environmental conditions offered would be suitable for long term residential occupation. This would be contrary to saved Policies QD27, SU10 and HO5 of the Brighton and Hove Local Plan 2005. These preclude development where it would cause material nuisance and loss of amenity to the proposed residents, require the impact of noise on occupiers to be assessed and minimised and thirdly require the provision of appropriate private useable amenity space in new residential development.

Conclusion

17. The proposal would provide two units of accommodation in a sustainable location which would be an important benefit of the scheme. However, having regard to the findings in relation to the two main issues, the appeal should be dismissed.

David Reed

INSPECTOR

