



# Appeal Decision

Site visit made on 19 June 2009

by **J D Westbrook BSc(Hons) MSc MRTPI**

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

The Planning Inspectorate  
4/11 Eagle Wing  
Temple Quay House  
2 The Square  
Temple Quay  
Bristol BS1 6PN

☎ 0117 372 6372  
email:  
enquiries@pins.gsi.gov.uk

**Decision date:**  
**6 July 2009**

**Appeal Ref:** APP/Q1445/A/09/2099821  
128-129 Lewes Road, Brighton, BN2 3LG

- 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 Mr Peemark Ltd against the decision of Brighton and Hove City Council.
- The application (Ref BH2008/02977), dated 5 September 2008, was refused by notice dated 31 October 2008.
- The development proposed is the change of use of a basement from retail storage to 2 No studio flats. New pavement lights for studio flats below. Erection of bike store to rear and installation of railings to rear.

## Decision

1. I dismiss the appeal.

## Main issue

2. I consider the main issue in this case to be the effect of the proposed change of use on the living conditions of the occupiers of the proposed studio flats by way of light, outlook, pedestrian access and residential amenities.

## Reasons

3. Nos 128 and 129 Lewes Road are two-storey, mid-terraced properties within a group of commercial properties on the east side of Lewes Road. Each property has a basement area that is currently unused. The two basements are connected. The proposal would involve the conversion of each basement into a self-contained studio flat, with access via steps to the rear. There would be new doors and windows to the rear and a new pavement light to the front of each flat. Each flat would have a small terrace area and external store to the rear, and there would be a cycle store above the external store to No 129. To the east of the appeal site is a disused and overgrown builders' yard, and it would appear that the only access to the proposed flats would be through this yard. The yard is apparently not in the ownership of the appellants.
4. The appellants have submitted two daylight analyses of the proposed development. One was apparently submitted without reference to the external bike store and a later study was submitted to include the store. The latter analysis indicates that the proposed studio rooms would meet minimum requirements for daylight levels, albeit only barely and only by increasing the reflectance of the external walls from the initial figure of 0.371 to a revised figure of 0.833. The initial study indicated that the figure of 0.371 was a typical figure for standard constructions. I have no information as to whether the significantly increased figure of 0.833 is readily achievable or maintainable.

Accordingly, I have some concerns about the level of light likely to be available to the future occupiers of the flats, which would, even using the best case scenario as provided, be barely acceptable.

5. There are basement flats in the vicinity of the appeal site, but these appear to have the advantage of a front stairwell and yard. No 130, adjacent to the appeal site, has a basement flat, but this has a large amenity area to the rear. Each of the proposed flats would have only a pavement light to the front and a small amenity space to the rear. Each amenity space would have a significantly restricted outlook dictated by the nature of the access, the existence of decking and/or a cycle store above, and the height of the boundary walls/fences. This limited outlook, when combined with the minimum daylight factors within each flat, leads me to conclude that the flats would not provide adequate living conditions for any future occupiers by way of light and outlook. As such the proposal would conflict with saved policies SU2 and QD27 of the Brighton and Hove Local Plan (LP).
  6. There would appear to be some confusion about access to the appeal properties from Melbourne Street and the provision of bin storage. At the time of my visit, the only access to the flats was through the vacant builders' yard from Melbourne Street at a point adjacent to No 32A. This was a complex and inconvenient route. There is apparently a legal agreement for access to the appeal properties through the builders' yard, but I have no evidence of this or what form this right of access takes.
  7. The appellants have provided evidence of a recent planning permission (ref: BH2008/02965), at No 124 Lewes Road, relating to the demolition of a store room and the creation of a new vehicular access from Melbourne Street into the builders' yard. The drawings submitted with the application indicate that the access would also include a pedestrian access into the builders' yard area for the use of Nos 128 and 129. There is also a bin storage area shown outside of the application site but within the builders' yard, to the rear of No 126 Lewes Road. The scale of the plan available to me does not permit me to identify to which property or properties the bin store would belong. In any case, the pedestrian access as shown would end at a point within the builders' yard, and the bin storage area would be located somewhat randomly within the yard, but outside of the site boundary shown for No 124 and Nos 128 and 129.
  8. In view of the limited information available as to access rights to the appeal properties, together with the degree of separation of the proposed new access from Melbourne Street from the properties themselves, I consider that this current proposal cannot guarantee a short, safe, attractive and direct pedestrian access through the unused and overgrown builders' yard. This, together with concerns over the adequacy and availability of the proposed bin store, leads me to conclude that the proposal would not provide acceptable living conditions for the future occupiers of the flats by way of pedestrian access and residential amenities, and that it would conflict with saved policies QD27 and TR8 of the LP.
  9. The appellants have provided details of planning appeal decisions relating to other sites within the City of Brighton and Hove. These decisions indicate that the relevant inspectors considered that the Council could not demonstrate an
-

up-to-date five-year supply of deliverable housing sites, and that the provision of internally ventilated bathrooms should not necessarily be a reason for refusal of planning permission. I note these points, but in the light of my conclusions on the failure of this proposal to provide adequate living conditions for future occupiers on other matters, I do not consider that these points outweigh my other more fundamental concerns.

*J D Westbrook*

INSPECTOR

