



# Appeal Decision

Site visit made on 12 May 2010

by **C J Leigh BSc(Hons) MPhil(Dist) MRTPI**

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

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**Decision date:**  
**1 June 2010**

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## Appeal Ref: APP/Q1445/A/09/2118016

### 31 Upper St James's Street, Brighton, BN2 1JN

- 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 S Williams against the decision of Brighton & Hove City Council.
- The application Ref BH2009/02120, dated 22 September 2009, was refused by notice dated 9 November 2009.
- The development proposed is the conversion of existing 3 bedroom maisonette above office premises to one 1 bedroom self-contained flat and one 2-bedroom self-contained maisonette.

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## Decision

1. I dismiss the appeal.

## Main issue

2. The main issue in this appeal is whether the proposed conversion would be consistent with the objectives set out in the development plan that seeks a range of housing types.

## Reasons

3. The appeal relates to an existing residential property that occupies the upper floors of a building fronting St James's Street. There is a separate entrance to the property, with commercial use on the ground floor.
4. Saved Policy HO9 of the Brighton & Hove Local Plan 2005 sets out the criteria to be satisfied to allow planning permission to be granted for the conversion of dwellings into smaller units of accommodation throughout the City. The use of the word 'and' in the list of criteria indicates to me that all the criteria must be satisfied in order to achieve compliance with the Policy. Criterion a) states that the original floor area shall be greater than 115 sq m or the dwelling shall have more than 3 bedrooms as originally built. I am informed by the Council that the internal floorspace of the dwelling is around 102 sq m, which the appellant does not dispute. The proposed development would therefore not satisfy the first criterion, and so would not satisfy Policy HO9.
5. The appellant has drawn my attention to an appeal decision from January 2009 which granted permission for the conversion of an existing dwelling into two dwellings, and where the original property did not satisfy criterion a) of Policy HO9 (ref. APP/Q1445/A/08/2083968). In his decision letter the Inspector observed that, in such circumstances, Policy HO9 is silent in whether planning permission will be granted for dwellings that do not meet one of the Policy's

criteria. My colleague further commented that, in such circumstances, it was necessary to see whether the Council's underlying intention of seeking to retain the existing stock of smaller dwellings suitable for family accommodation would be materially jeopardised. He then went on to observe that – in the case before him – the proposal would be for one small dwelling of similar size and suitability for family accommodation to the house as originally built, together with an additional one-bedroom flat. For this reason he concluded there would be no conflict with the objectives of Policy HO9.

6. That is not the case in the appeal before me. The proposed drawings show the larger (two bedroom) dwelling would be materially smaller than the existing dwelling as originally built and as exists now; the first floor would no longer be part of the dwelling, as it would become the new 1 bedroom flat. In my view, the reduction in floorspace would be to a degree that moves the property away from one containing a dwelling that might be suitable for family accommodation, and so would result in a reduction in the stock of smaller dwellings suitable for such occupation.
7. Thus, there are material differences in the previous appeal and the case before me. It is therefore my conclusion that the proposed development would not be consistent with the Council's objectives that seek to retain a range of housing types, and so would conflict with Policy HO9.
8. I consider the proposed conversion, including the external changes, would have no harmful effect upon the character and appearance of the East Cliff Conservation Area. However, in my judgement the conflict with Policy HO9 is sufficient to warrant the dismissal of the appeal.

*C J Leigh*

INSPECTOR