



Appeal Decision

Site visit made on 26 January 2012

by **Ray Wright** BA(Hons) DipTP MRTPI

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

Decision date: 23 February 2012

Appeal Ref: APP/Q1445/A/11/2162769
137D Elm Grove, Brighton BN2 3ES

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by SBS Building Services Ltd against Brighton and Hove City Council.
 - The application Ref BH2011/02312, is dated 1 August 2011.
 - The development proposed is described as 'change of use and alterations to form studio flat – resubmission of refused application ref. BH2011/00537.'
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Decision

1. The appeal is allowed and planning permission is granted for change of use and alterations to form a studio flat at 137D Elm Grove, Brighton BN2 3ES in accordance with the terms of the application, Ref BH2011/02312, dated 1 August 2011, subject to the conditions set out in Schedule A.

Procedural Matters

2. The appeal was lodged on the basis of the Council's failure to determine the submitted planning application. I note that on the same date that the appeal was submitted the Council issued a decision notice setting out its objections to the proposals. I have however determined this appeal on the basis of the Council's failure to give notice of its decision in the prescribed period.
3. The reference in the description of development to the proposal being a 'resubmission' is superfluous and so should not be recorded in my formal decision.

Main Issue

4. The main issue in this case is whether the proposal would provide satisfactory living conditions for prospective occupiers of the flat.

Reasons

5. The appeal building is located to the rear of 137 Elm Grove which is a two storey plus basement property which has been converted into residential flats. It consists of a single storey, vacant workshop building with its frontage and pedestrian access onto the primarily residential Bonchurch Road.
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6. The proposal is for conversion of this former commercial unit into a studio flat, with an open living area with kitchen and offset bedroom space, together with a separate shower room.
7. The Council is concerned regarding the 'small cramped layout' of the studio flat and whether it would provide a suitable unit of accommodation. The Council however do not have any minimum space standards for residential units in its policy or guidance and therefore I have considered this proposal solely on its individual merits. The appellants have indicated how furniture and other essentials of modern living could be arranged within the unit. This to me illustrates that internally the flat could function adequately at least as a single person unit of accommodation.
8. The existing unit has a shop style window and entrance door to the Bonchurch Road frontage. Access to the proposed studio flat would be via steps which lead down from the pavement. As proposed a new window would be added to the bedroom area with the introduction of two rooflight windows, over the kitchen and shower areas respectively. The Council accept that suitable lighting and ventilation to the unit would be achieved but raise concerns regarding the poor quality of outlook and lack of usable outdoor amenity space.
9. In terms of outlook the floor level of the flat would be below that of the adjoining pavement, but only by a metre or so. This combined with the intended reduction in height of the boundary wall on the back of the pavement and replacement with railings would enable, what I consider would be acceptable and appropriate, west facing views across the road.
10. The only outside area associated with the studio flat would be the narrow stair access to the entrance door. There are a number of 'basement' flats in close proximity to the appeal site with similar arrangements, albeit that their front light wells are generally wider. The appellants have indicated the possible provision of an outside seat and bin storage area and I have some sympathy with the argument put forward that this would compare with a small balcony that may be associated with an upper floor modern flat.
11. Both the appellant and the Council have referred me to other sites where flats of different sizes and layouts have been assessed. While some of these may have similarities none are identical to this particular case which, as set out above, I have considered on its individual merits.
12. Overall I consider, in this particular case, that the proposed studio unit would provide a suitable and acceptable unit of accommodation and therefore the proposal does not conflict with Policy QD27 of the Brighton and Hove Local Plan nor does it conflict with the design aims of Planning Policy Statement 1: 'Delivering Sustainable Development' or Planning Policy Statement 3: 'Housing'.

Conditions

13. The Council in their appeal documentation put forward two conditions should the appeal be allowed. I have considered whether these and any other conditions would be required against the advice in Circular 11/95 and for clarity. The standard commencement condition would be required as, in the interests of proper planning, would one referring to the permitted plans. The Council have suggested a condition on provision of cycle storage and the appellants have

indicated that this is acceptable to them and I see no reason to disagree. I consider a further condition requiring additional details to be submitted before the development commences is necessary to ensure the proposals do not harm the appearance of the area.

Conclusion

14. For the reasons given above and taking into account all other matters, I conclude the appeal should be allowed.

Ray Wright

INSPECTOR

Schedule A - Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) Subject to the provision of Condition 3 below, the development hereby permitted shall be carried out in accordance with the following approved plans: PL01, PL02, and PL03C.
- 3) Notwithstanding the provisions of Condition 2 above, no development shall take place until the following details have been submitted to, and approved in writing by, the local planning authority:
 - (i) design, form and proposed materials of the two roof lights;
 - (ii) details of size, form of opening and proposed materials of the new window to the bedroom area and the replacement window to the studio area;
 - (iii) the design, height and colour of the proposed railings to be installed on the west boundary wall.

The development shall be carried out in accordance with the approved details.

- 4) No development shall take place until details of secure cycle parking facilities for the occupiers of, and visitors to, the development hereby permitted have been submitted to and approved in writing by the local planning authority. These facilities shall be fully implemented as agreed and made available for use prior to occupation of the studio flat and shall thereafter be retained.

