



Appeal Decision

Site visit made on 6 February 2012

by **James Croucher** MTP MRTPI

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

Decision date: 14 March 2012

Appeal Ref: APP/Q1445/A/11/2164201
47 Temple Street, Brighton BN1 3BH

- 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 Firas Baja against the decision of Brighton and Hove City Council.
 - The application Ref. BH2011/01904, dated 28 June 2011, was refused by notice dated 23 August 2011.
 - The development proposed is change of use from single dwelling (C3) to language school on ground floor (D1) with maisonette above (C3).
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Decision

1. The appeal is allowed and planning permission is granted for change of use from single dwelling (C3) to language school on ground floor (D1) with maisonette above (C3) at 47 Temple Street, Brighton BN1 3BH in accordance with the terms of the application, Ref. BH2011/01904, dated 28 June 2011, subject to the conditions in the appended Schedule.

Reasons

2. The main issue in this case is whether the proposal would provide satisfactory living conditions for its intended future occupants, in relation to the adequacy of access and the absence of outdoor amenity space.
 3. The application site is a three-storey end-terrace property set towards the end of a street of similar properties. Temple Street has a predominantly residential character, whilst nearby Western Road is more mixed in its uses and has a more bustling commercial character.
 4. The proposed ground floor use of the building as a small language school would leave the two upper floors in use as a single residential unit. Whilst the two uses would share the same communal entrance hall, the modest scale of the proposed educational use would be unlikely to generate such volumes of visitors as to render this type of access arrangement unacceptable in terms of noise and disturbance, privacy or convenience. The first floor residential unit would remain entirely private behind its front door, with the proposal resulting in a situation similar to that where a private dwelling opens onto a mixed or public space.
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5. The appellant has referred to a similar arrangement allowed at appeal¹ where offices and a single residential unit were proposed to share a common internal entrance lobby. Whilst I have only limited details of that proposal, the modest scale and nature of the proposed language school would not appear to pose any functional or operational differences to that of a similarly-sized office suite. In this instance, the shared lobby would not be so constrained or confined as to render it inappropriate or impractical, considering the modest size of the proposed language school. Accordingly, whilst I have considered the current appeal on its own merits, the suitability of the proposed lobby arrangement would be equally as acceptable in this instance.
6. The upper floor residential unit would not have access to any outdoor amenity space. The existing rear garden is only of a modest size, and is extensively overlooked by adjacent properties. It has no pedestrian access to the street, meaning that were cycles or refuse/recycling to be stored in the garden, they would need to be brought through the house. Together these factors limit the utility and attractiveness of the existing constrained rear garden for family use. On balance, therefore, the loss of the outdoor amenity area from residential use would not cause any significant harm to the living conditions of future occupiers.
7. Accordingly, the proposed three-bedroom upper floor maisonette would remain as attractive for family occupation as the current property and would provide satisfactory living conditions for its intended future occupants, in relation to the adequacy of access and the absence of outdoor amenity space. Whilst the appellant contends that on the balance of probability the premises would remain in occupation by students, this does not affect my conclusion that the proposal complies with Policies HO9, HO19 and QD27 of the Brighton and Hove Local Plan.

Other matters

8. The appeal premises lie with the Montpelier and Clifton Hill Conservation Area. No external changes are proposed and therefore there would be no effect on the appearance of the Conservation Area, whilst the modest scale of the proposed language school would not affect its character. Accordingly, the proposal would preserve the character and appearance of the Conservation Area.
9. A number of local residents have expressed concerns in respect of noise and disturbance from the building's current residents and in relation to the proposed new use. The Council has suggested limiting the opening hours of the proposed language school, a condition which the appellant raises no objection to. Given the mainly residential nature of nearby buildings, an opening hours condition is therefore appropriate in order to safeguard the living conditions of nearby occupiers.
10. Both the Council and the appellant refer to the advice in Planning Policy Statement 4: *Planning for Sustainable Economic Growth* ("PPS4"). PPS4 provides for a positive approach towards economic development and the Council confirms that it would support an additional language school should an

¹ APP/Q1445/A/11/2155439

appropriate site be found. For the reasons set out above I conclude that the appeal site is appropriate for the proposed use, and therefore there is no need to consider whether other more suitable sites might be available.

Conditions

11. The Council has suggested a number of conditions, which I have considered in light of the guidance in Circular 11/95. It is necessary to impose a condition specifying the approved works. In order to minimise the potential for noise and disturbance to nearby occupiers it is necessary to limit the hours of opening to those suggested by the Council, and to grant permission solely for the use of the ground floor as a language school (and no other purpose within Use Class D1). Reference is made on the drawings to noise insulation measures, but in the absence of any details of these it is necessary to impose a condition requiring soundproofing details to be approved and carried out.
12. The Council has also suggested conditions in respect of cycle parking and refuse/recycling storage. As I have set out above, the premises currently do not benefit from the provision of either of these facilities, a situation which would be made no worse by the appeal scheme. During my site visit I noted that there are on-street cycle parking stands almost immediately outside the premises, and a community refuse/recycling point on the opposite side of the road. Given these circumstances, the additional conditions suggested by the Council are unnecessary.

Conclusion

13. Given all of the above, the appeal should be allowed.

James Croucher

INSPECTOR

SCHEDULE: Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plan: 821/01
- 3) The use of the language school and garden on the ground floor of the property hereby permitted shall not be open to customers except between the hours of 0900 and 1700 on Mondays to Saturdays and at no time on Sundays, Bank or Public Holidays.
- 4) The D1 classrooms and associated staff room as shall only be used for the purposes of a language school with staff room and for no other purpose including any other purpose in Class D1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (or any provision equivalent to that class in any statutory instrument revoking or re-enacting that Order with or without modification).
- 5) No development shall commence until a scheme for the soundproofing of the building has been submitted to and approved in writing by the Local Planning Authority. The measures shall be implemented in accordance with the approved details prior to the occupation of the development and shall thereafter be retained as such.