



# Appeal Decision

Site visit made on 7 October 2008

by **R J Marshall** LLB Dip TP MRTPI

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

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**Decision date:**  
**24 October 2008**

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## Appeal Ref: APP/Q1445/A/08/2076723 101, North Road, Brighton BN1 1YE

- 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 Zelgrain Ltd. against the decision of Brighton & Hove City Council.
- The application Ref BH2006/03707, dated 23 October 2006, was refused by notice dated 25 April 2008.
- The development proposed is described as "Change of use from A1 to A4 (relating to application: BH2006/00707)".

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### Decision

1. I allow the appeal, and grant planning permission for Change of use from A1 to A4 at 101, North Road, Brighton BN1 1YE in accordance with the terms of the application, Ref BH2006/03707, dated 23 October 2006, and the plans submitted with it, subject to the conditions on the attached annexe.

### Procedural matters

2. I have taken the application description, given in the bullet points above, from the planning application form. The application is best simply described as "Change of use from A1 to A4" and hence this is how it is described in the decision.

### Reasons

3. The main issue in this appeal is the effect of the proposed development on the living conditions of those nearby with particular reference to noise and disturbance. As the site is in the North Laine Conservation Area I shall also have regard to the effect of the proposal on the character and appearance of this area.
4. North Road, off which the appeal site is located, is not far removed from Brighton town centre. This road and the surrounding area, especially to the south, is a vibrant and busy area containing many restaurants, pubs, cafes and shops. To the north, lies a generally quieter and more exclusively residential area.
5. The appeal property comprises a notably small building. It adjoins a public house of a modest size recently granted planning permission. The intention is to combine the 2 properties to create a slightly larger establishment.

6. Given the small scale of the appeal building, and character of much of the surrounding area, the proposed development should not give rise to a substantial increase in activity in the vicinity of the appeal site such that would be likely to cause unacceptable noise and disturbance. In arriving at this view I have taken into account concerns about an open seating area adjoining a house in Cheltenham Place to the north of the site. However, the seating area already exists and I consider it unlikely that the proposed development would result in it being used to a significantly greater extent.
7. I conclude that the proposed development would not cause unacceptable harm to those nearby with particular reference to noise and disturbance. There would thus be no conflict with Policies QD27, SU9 and SU10 of the Brighton and Hove Local Plan 2005.
8. Given the character of existing uses nearby, and the potential to improve the rather rundown appearance of the appeal building, the proposed development would preserve or enhance the character and appearance of the North Laine Conservation Area. Government Guidance on the protection of such areas would thus be complied with.
9. As I am minded to allow the appeal I have considered what conditions should be imposed in addition to the standard time limit for the commencement of development. To protect the living conditions of neighbours I shall restrict the hours of use of the premises. For consistency I shall impose the same hours that apply to the adjoining public house rather than the lengthier period that the appellant appears to seek. Also to protect the living conditions of neighbours I shall limit hours of delivery and require the submission and approval of a scheme to prevent the unacceptable transmission of noise from within the appeal property to neighbouring properties. For the same reason, and also to ensure sustainable development, I shall require the submission and approval of the details of refuse storage and recycling.
10. I shall not impose the suggested condition that no amplified music or other entertainment noise from within the premises shall be audible at any adjacent residential premises. I consider it unnecessary in light of the noise condition referred to above. It would also be insufficiently precise and difficult to enforce. Nor, without clearer evidence that cycle storage would be feasible on such a small site shall I require the provision of cycle storage facilities.
11. For the reasons given above I conclude that the appeal should be allowed.

*RJ Marshall*

INSPECTOR

**Conditions annexe**

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The premises shall not be open or in use other than between the hours of: -  
08.00 - Midnight, Mondays to Thursdays  
Fridays and Saturdays 08.00 – 00.30 the following morning  
09.00 – 23.00 Sundays and Bank Holidays.
- 3) No deliveries shall be taken at the site outside the following times: 07.00 – 19.00 hours, nor at any time on Sundays and Bank Holidays.
- 4) Prior to commencement of the use hereby permitted a scheme for protecting neighbouring properties from noise generated within the appeal premises shall be submitted and approved in writing by the local planning authority. All works which form part of the scheme shall be completed before the use hereby permitted is commenced and shall thereafter be retained.
- 5) Prior to commencement of the use hereby permitted a scheme for refuse storage and recycling shall be submitted to and approved in writing by the local planning authority. All works which form part of the scheme shall be completed before the use hereby permitted is commenced and shall thereafter be retained.

