



Appeal Decision

Site visit made on 24 June 2013

by Jennifer Tempest BA(Hons) MA PGDip PGCert CertHE MRTPI IHBC

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

Decision date: 15 August 2013

Appeal Ref: APP/Q1445/A/13/2190024

39 Mafeking Road, Brighton, East Sussex BN2 4EL

- 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 B Edwards against the decision of Brighton & Hove City Council.
 - The application Ref BH2012/01268, dated 16 April 2012, was refused by notice dated 26 June 2012.
 - The development proposed is change of use office/store to 1 bedroom house.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue in this case is the effect of the proposal on the supply of small business units in the area.

Reasons

3. The appeal premises have a total floor area of around 60 m². This is stated on the application forms to be light industrial floorspace. Although the lawful use of the premises was confirmed in 2004 as being light industrial, the description of development on the application forms give the existing use as an office and store. The plans and grounds of appeal describe the first floor use as a flat which the Council confirm is unauthorised. The parties confirm that an application made in 2008 was permitted to extend the building to provide first floor office space.
4. Policy EM5 of the Brighton and Hove Local Plan 2005 (the Local Plan) restricts the loss of redundant office floorspace whilst Policy EM6 seeks to retain small industrial, business and warehouse units with a floor area of under 235 m². The appeal site was the subject of an appeal determined in 2005 (APP/Q1445/A/04/1167026). The appeal was dismissed for reasons which included the loss of industrial floorspace. Although the Local Plan was not adopted at the time, it was at an advanced stage of preparation and the Inspector gave its policies including EM6 significant weight.
5. The Council refer to paragraph 22 of the National Planning Policy Framework (the Framework) published in March 2012. This requires planning policies to avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose. Local Plan Policy EM6 sets out that it is necessary to demonstrate redundancy

through various means including local marketing at a price reflecting condition and commercial value. Other criteria include the availability of other starter units in the area.

6. Policies EM5 and EM6 set out what is required to demonstrate genuine redundancy. The evidence which the appellant has provided with regard to marketing is neither detailed nor up to date. There are no precise records of the marketing undertaken, whether the price reflected condition and commercial value or of the responses received. There is no evidence that any marketing has taken place since 2010. I do not consider that the letters from MTM Property Services Ltd are sufficiently detailed or recent to satisfy the Council's policies. Reliance on marketing of another property nearby of a similar nature is not sufficient to remedy the lack of detail with regard to the appeal premises. Further, no evidence is provided on the availability of other similar business premises. Therefore, the proposal does not meet the terms set out for compliance with either Policy EM5 or EM6.
7. The Local Plan is now some eight years old and the economic climate has changed since it was adopted. The appellant refers to the Certificate of Lawfulness granted in respect of the property. This, together with the investment in the first floor office accommodation, confirms that there has been a demand for small scale business premises in this area in the recent past. The lack of parking for a commercial unit was not sufficient to prevent the extension being developed. I therefore consider that it is reasonable for the Council to seek compliance with their development plan policies, despite the current economic climate.
8. I have taken into account paragraph 51 of the Framework which states that decision makers should normally approve planning applications for change to residential use and any associated development from commercial buildings (currently in the B use classes) provided that there are not strong economic reasons why such development would be inappropriate. However, I have not been presented with any detailed evidence regarding an identified need for additional housing in this area which the Framework also requires in these circumstances.
9. I note the residential nature of Mafeking Road and the Council do not suggest that the proposed use would be inappropriate in this location. However, this is not sufficient to overcome the failure to comply with the policies of the development plan.

Conclusion

9. For the reasons stated above I conclude the appeal should be dismissed.

Jennifer Tempest

INSPECTOR