
Appeal Decision

Site visit made on 15 April 2015

by G J Rollings BA(Hons) MA(UD) MRTPI

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

Decision date: 18 June 2015

Appeal Ref: APP/Q1445/W/14/3001069
Flat 6, 35 Preston Park Avenue, Brighton, BN1 6HG

- 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 Philip Warford against the decision of Brighton & Hove City Council.
 - The application Ref BH2014/02254, dated 8 July 2014, was refused by notice dated 10 November 2014.
 - The development proposed is a change of use from residential to business office.
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Decision

1. The appeal is allowed and planning permission is granted for a temporary period for a change of use from residential to business office at Flat 6, 35 Preston Park Avenue, Brighton, BN1 6HG in accordance with the terms of the application, Ref BH2014/02254, dated 8 July 2014, subject to the following conditions:
 - 1) The use hereby permitted shall be for a limited period, being the period of three years from the date of this decision.
 - 2) At the end of three years, the use hereby permitted shall cease and all materials and equipment brought on to the premises in connection with the use shall be removed.
 - 3) The development hereby permitted shall be carried out in accordance with the following approved plan: 00.100.

Procedural Matters

2. The appeal property is unlisted but is within the Preston Park Conservation Area. There is no dispute between the parties that the proposed physical works to the property, which would be minor in nature, would not have an adverse effect on the character or appearance of the Conservation Area. Having considered the proposal and visited the site I concur with that view. Accordingly, it is my view that the development proposed would preserve the character and appearance of the designated area and I shall make no further reference to this matter.
3. I have used the address of the appeal site provided on the Council's decision notice and the appeal form, as the address given on the application form does not include the flat number.

Main Issue

4. The main issue is the effect of the proposed change of use on the supply of housing within the city.

Reasons

5. The appeal property is a detached building accommodating several flats. The proposal concerns the change of use of flat 6, which is a one-bedroom residential flat on the second floor of the building. The Council's adopted Local Plan (2005) Policy HO8 resists the loss of residential accommodation. The proposal is not within the scope of any of the policy's exception criteria, and I therefore consider that a change of use would not be in accordance Local Plan.
6. The Council's evidence suggests that there is significant housing demand within the area. The loss of a one bedroom flat would result in a small but material amount of harm with regard to the availability of housing in the city. Given the nature of the proposed office use, there would be limited potential for additional harm, such as additional traffic or parking generated from visitors to the property. I noted that there was no on-site staff parking available and that surrounding street parking was controlled.
7. I have considered the appellant's evidence on the charitable nature of the proposed enterprise, which is described as a small legal practice working with local charities and specialising in the protection of vulnerable people, especially those with learning disabilities. The flat is owned by the proprietor of the enterprise and as such, the enterprise would not need to pay rental costs. All of the charitable work is undertaken by the firm on a pro-bono basis, and as such, the availability of rent-free space would enable the firm to continue and expand the pro-bono work. It is evident that work carried out by the proposed enterprise would provide a significant benefit to the local community, and as such, I have given this significant weight in my considerations.
8. I acknowledge the proximity of the property to the city centre and the likely availability of other, vacant office space which would be suitable for an enterprise of this nature. However, finding alternative free or low cost premises could take some time. The availability of the flat as rent-free premises is in this case linked with the nature of the enterprise and provides an opportunity for a higher level of assistance to the community than were it to occupy alternative premises.
9. I have weighed the benefits of the enterprise against the harm that would result from the loss of the residential unit. Although the proposal would provide benefits for the community, some harm would result from the loss of the residential unit. Given the charitable work carried out by the enterprise and the other considerations as set out above, in this case the totality of the benefits results in exceptional circumstances. Because of the enterprise's exceptional nature, and the highly specific and targeted nature of the work that is carried out by the enterprise, I do not consider that allowing this appeal would result in a precedent for further changes of use of existing residential properties.
10. Given the effect on local housing provision, I do not consider that a permanent permission could be justified, as this could lead to the indefinite loss of housing for which there is also a strong local need. However in this case, given the

exceptional circumstances, I have considered whether a temporary permission period would be an appropriate method of balancing the harm and the benefits. The main parties were consulted on whether a temporary change of use would be appropriate. I have taken into account the Council's comments that a five-year temporary use would be a considerable period of time, and that this would detrimentally affect the future likelihood of reversion to a residential use. I therefore consider, also taking into account the Planning Practice Guidance's (PPG) advice on the appropriateness of further temporary approvals¹, that a shorter period would be appropriate. A period of three years would provide a sufficient window for the growth of the business, but provide reasonable certainty that the premises would revert to a residential use at the end of this period. Taking into account all of these factors, I consider in this instance that the benefits of the temporary change of use would demonstrably outweigh the harm

11. I have given consideration to the comments provided by the Preston and Patcham Society but do not consider that these would alter the overall balance of benefits against harm. I therefore conclude that although the proposed change of use would have a harmful effect of the supply of housing within the city, that this harm would be temporary, and that the benefits would outweigh the harm.

Conclusion and Conditions

12. For the reasons given above, and having regard to all other matters, I conclude that the appeal should be allowed.
13. I have considered the list of conditions provided by the Council against the tests as set out within the Framework, and the PPG. The first two conditions are required to ensure that there is no detrimental impact on the city's housing provision beyond the approved period. Condition 3 is necessary to ensure that the development is built in accordance with the approved plans, and in the interests of proper planning. Given the limited nature of the internal works proposed on the approved plan, I do not consider a condition requiring the restoration of the internal area of the flat to its residential state to be necessary.

G J Rollings

INSPECTOR

¹ PPG Reference ID: 21a-014-20140306.

