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## Appeal Decision

Site visit made on 24 March 2016

by **Philip Willmer BSc Dip Arch RIBA**

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

Decision date: 27 April 2016

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### **Appeal Ref: APP/Q1445/W/15/3140266**

### **Uniglobe Preferred Travel, 11 South Road, Brighton, East Sussex, BN1 6SB.**

- 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 Uniglobe Preferred Travel (Mr J Burroughes) against the decision of Brighton and Hove City Council.
  - The application Ref BH2015/01281, dated 10 April 2015, was refused by notice dated 24 June 2015.
  - The development proposed is for the change of use of first floor offices B1 (a) to one 1 bedroom apartment and one studio flat.
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### **Decision**

1. The appeal is dismissed.

### **Procedural Matters**

2. The property the subject of this appeal, 11 South Road, is a two-storey building with attic space accommodation. It is located in the Preston Park Conservation Area and is one of a row of grade II listed buildings. It currently comprises a flat within the roof space and offices at ground and first floor level. The appellant proposes the conversion of the first floor offices to a one bedroom apartment and self-contained studio flat for which listed building consent was granted by the Council Ref: BH2015/01282 on the 24 June 2015. The ground floor offices along with the flat in the roof space would be retained.
3. In addition the appeal site is located in a Conservation Area and therefore I am required to take account of section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended. However, the external alterations proposed are de minimis and there is no dispute between the parties in respect of this consideration. I shall therefore confine my deliberations only to the proposed change of use.
4. The Council adopted the Brighton and Hove City Council's Development Plan – *Brighton and Hove City Plan Part One* on the 24 March 2016 (CP Pt.1). The Council has confirmed, and the appellant acknowledged, that it is able to demonstrate a 5-year housing land supply. I have noted from the Inspector's report that there were some weaknesses in the plan in this respect but that she has afforded the Council the opportunity to address these in its subsequent documents. Nevertheless, on the basis of the Inspector's findings and in accordance with the advice in the National Planning Policy Framework (the Framework), I consider that the relevant policies for the supply of housing should be considered up-to-date in this case.

5. Further, I have been advised by the Council of the up to date position with regard to policies that have been replaced as a result of the adoption of the CP Pt.1, and will determine the appeal on that basis.

### **Main Issue**

6. I consider the main issue to be whether the proposed change of use would result in the loss of viable Class B1 premises.

### **Reasons**

7. Policy CP3 of CP Pt.1 seeks to safeguard employment sites and premises in order to meet the needs of the city to 2030 to support job creation, the needs of modern business and the attractiveness of the city as a business location. The Council intends to achieve this through a number of measures including only permitting the loss of unallocated sites or premises in, or whose last use was, employment use (Use Classes B1–B8) where the site or premises can be demonstrated to be redundant and incapable of meeting the needs of alternative employment uses (Use Classes B1–B8). Where the loss is permitted, the priority for re-use will be for employment generating uses or housing (in accordance with CP Pt.1 Policy CP20 Affordable Housing).
8. The current users occupy both the ground and first floor office accommodation. From the appellant's evidence I understand that if the change of use of the first floor were to be allowed then the current business would remain on site with the existing staff being moved to the ground floor which, it is contended, would result in a more efficient business operation by making use of modern technology. Whilst the existing business may no longer require the first floor offices, there is no evidence before me, for example by way of active marketing, to suggest that the first floor offices are genuinely redundant for other employment uses.
9. I appreciate it is proposed that the business would be retained on the ground floor. However, the conversion of the first floor to residential would nevertheless result in the loss of part of the premises currently in employment use contrary to the aims of CP Pt.1 Policy CP3.
10. Listed building consent has been granted for the conversion to residential occupation as proposed. Nevertheless, as the building was originally designed and built for an office use, I am not persuaded that the only practicable way of preserving the special architectural or historic interest of the building would be its conversion as proposed. Further, the fact that an application for listed building consent has been found acceptable for the change of use does not necessarily mean that the continued use of the first floor as offices would cause harm to the heritage asset. There is no evidence before me to suggest that this is the case.
11. I see from the Council's evidence that the Economic Development Officer had no adverse comments with regard to the original application, stating that the commercial space is not, in his opinion, best suited for modern business requirements because of its form, layout and location away from the main business core of the city. Accordingly, the first floor offices would not be attractive to potential occupiers. However, in my experience, the first floor offices may well be likely to provide attractive accommodation to any number of small, emerging or specialist/professional business who do not necessarily wish or need to be located in the main businesses core and may be looking for attractive individual self-contained offices. Even if I am mistaken in this respect, the offices have not been marketed

and therefore their attractiveness or otherwise to potential occupiers has not been tested and cannot be objectively assessed.

12. I therefore conclude that the appellant has failed to adequately demonstrate that the existing Class B1 premises are no longer viable and are genuinely redundant. Accordingly, the proposal is contrary to CP Pt.1 Policy CP3 as it relates to the need to safeguard employment sites and premises.
13. The appeal site is within CP Pt.1 Policy Area DA4. This policy is designed to support housing development and includes a number of specific strategic sites for those houses. However, the appeal site does not lie within one of the strategic sites identified. Furthermore, the overall approach of this policy is to provide for the regeneration of the New England Quarter and London Road Area. I therefore consider that the provision of two small residential units here, even with the retention of the ground floor office, would not in my view make a significant contribution to the wider objectives of this policy.
14. The appeal site falls within an Article 4 Direction - Removal of Permitted Development Rights office to residential (dated 25 July 2014). The Council has advised that the intention of this direction is to allow it to maintain a managed approach to the loss of offices in the Article 4 Direction Area and to ensure that the existing office accommodation that is suitable and not redundant is retained to support the city's economy. Nevertheless, I have noted the appellant's evidence suggesting that there are characteristics that are particular to this site that justify a different consideration for the appeal proposal. In particular the appellant identified the character of the appeal site being a listed building separated and detached in townscape terms from the main office area consisting of multi-storey purpose built office buildings. As I concluded above, I consider the site is likely to be attractive to small or emerging businesses so there is no reason to depart from the Council's general approach to protect office developments within the area of the Article 4 direction.
15. The scheme design, while retaining an economic role for the building by reason of the ground floor offices, would provide two additional small housing units. The provision of two dwellings here, however, is not to my mind such a significant contribution to housing numbers or the wider social infrastructure of the area as to warrant the change of use as proposed.
16. In the light of the above I have decided, on balance, that there are no material considerations to indicate that a decision contrary to the development plan is applicable in this particular case.

### **Conclusions**

17. For the reasons given above and having regard to all other matters raised, I conclude that the proposal is not in accordance with the development plan, read as a whole, and the appeal should be dismissed.

*Philip Willmer*

INSPECTOR

