
Appeal Decision

Site visit made on 26 April 2016

by David Reed BSc DipTP DMS MRTPI

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

Decision date: 16 May 2016

Appeal Ref: APP/Q1445/W/15/3140605
2 Marlow Road, Brighton BN2 5NB

- 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 K Wong against the decision of Brighton & Hove City Council.
 - The application Ref BH2015/02111, dated 9 June 2015, was refused by notice dated 19 October 2015.
 - The development proposed is the conversion of C4 HMO into 2 self contained flats.
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Decision

1. The appeal is allowed and permission is granted for the conversion of C4 HMO into 2 self contained flats at 2 Marlow Road, Brighton BN2 5NB, in accordance with the terms of the application, Ref BH2015/02111, dated 9 June 2015, subject to the attached schedule of conditions.

Main Issue

2. The main issue is whether the proposal comprises the loss of accommodation suitable for family occupation.

Reasons

3. No 2 Marlow Road is a two storey end of terrace property with additional accommodation within the converted loft space. At present the property is used as a small house in multiple occupation (HMO), a C4 use, with a total of six bedrooms, two on each floor. This use dates back to at least 2003 and there is no dispute that it is lawful.
4. The proposal is to convert the property into two self-contained units, a one bedroom flat on the ground floor and a two bedroom maisonette over the first and second floors. No external alterations are proposed but the garden to the rear would be subdivided for separate use by the occupiers of the two units.
5. The Council argue that the proposal conflicts with saved Policy HO9 of the Brighton & Hove Local Plan 2005 which seeks to resist conversions which would involve the loss of smaller dwellings suitable for family accommodation. These are defined as dwellings up to 115 sq m in size or with less than four bedrooms as originally built. Before the loft conversion, No 2 was a three bedroom property about 107 sq m in size, and thus falls within the scope of the policy.
6. However, No 2 is not in use as a single dwelling but as a small HMO within the C4 use class. Whilst the change of use of the property from a small HMO (C4

use) to a single dwellinghouse (C3 use) is possible as permitted development, there is no evidence that such a change is in prospect. On the contrary, the appellant has stated that they have no intention to change the use of the property to a single dwellinghouse and, given the size of the now enlarged property, such a change is unlikely. Consequently, the proposal would not involve the loss of a smaller dwelling suitable for family occupation, even potentially, and therefore there is no conflict with Policy HO9.

7. There is no dispute that both of the residential units proposed would provide a good standard of accommodation. Indeed, the Council accept that the two bedroom maisonette would provide a unit suitable for family occupation, which actually satisfies one of the requirements of Policy HO9 if it were to apply in this case.
8. The Council suggested three conditions should the appeal be allowed with a fourth referred to in the officer report. I agree they meet the relevant tests. In addition to the standard implementation time limit it is necessary to define the plan which has been approved in the interests of proper planning and to ensure the sustainability checklist is implemented to secure a sustainable development. Conditions are also necessary to ensure cycle parking facilities are provided in the interests of travel planning, refuse/recycling facilities to ensure satisfactory storage and collection arrangements and lifetime homes standards are implemented as far as possible to maximise the flexibility of the accommodation. The latter details need to be agreed pre-commencement. Finally a condition is necessary to secure satisfactory private amenity space to ensure acceptable living conditions for the occupiers.
9. Having regard to the above the appeal should be allowed.

David Reed

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans and documents: Drawing no. MAR-02, Planning Sustainability Checklist Ref. 322095
- 3) Prior to first occupation of the development hereby permitted, secure cycle parking facilities shall be provided for the occupants of, and visitors to, the development, in accordance with details which shall have been submitted to and approved in writing by the local planning authority. The approved facilities shall thereafter be retained for use at all times.
- 4) Prior to first occupation of the development hereby permitted, refuse and recycling storage facilities shall be provided in accordance with details which shall have been submitted to and approved in writing by the local planning authority. The approved facilities shall thereafter be retained for use at all times.
- 5) No development shall take place until details of the conversion in relation to the lifetime homes standard have been submitted to and approved in writing by the local planning authority. The approved details shall then be fully implemented prior to the first occupation of the development.
- 6) Prior to first occupation of the development hereby permitted, the rear garden shall be subdivided for use by the two residential units in accordance with details which shall have been submitted to and approved in writing by the local planning authority. The approved arrangements shall then be maintained at all times thereafter.

