
Appeal Decision

Site visit made on 3 June 2013

by Simon Warder MA BSc(Hons) DipUD(Dist) MRTPI

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

Decision date: 20 June 2014

Appeal Ref: APP/Q1445/A/14/2215587

The Jive Monkey, 5 Steine Street, Brighton, BN2 1TE

- 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 Oazo Ltd against the decision of Brighton and Hove City Council.
 - The application Ref BH2013/02747, dated 9 August 2013, was refused by notice dated 6 November 2013.
 - The development proposed is change of use of nightclub (Sui Generis) to 7 units of student accommodation (Sui Generis).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The national Planning Practice Guidance came into force on 6 March 2014. However, it has not had a bearing on the considerations in this appeal.
3. The Council assessed the proposal as a house in multiple occupation. However, since the proposal would allow more than six persons to be accommodated, I have determined the appeal on the basis of the sui generis use for student accommodation as stated in the application and appeal submissions.
4. The proposal is within the East Cliff Conservation Area. Whilst the scheme does include external alterations to the building, amended plans were submitted which satisfy the Council's earlier concerns over the effect of the proposal on the character and appearance of the Conservation Area. I see no reason to disagree with the Council's position and have framed the main issue accordingly.

Main Issue

5. The main issue in this case is the effect of the proposal on the living conditions of future occupants with particular regard to the adequacy the natural light and outlook and the size of the accommodation.

Reasons

6. The appeal property is currently vacant, but was last used as a nightclub. The appeal proposal would create four units of student accommodation on the first floor, two on the ground floor and one unit of accommodation and a communal living and kitchen/dining area at the lower ground floor level.
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7. The appellant contends that it is appropriate to allow a relaxation of the standards normally applied to general housing, given that students are likely to spend shorter periods of time in the accommodation. In this respect my attention has been drawn to an appeal decision for student accommodation in Islington (appeal reference APP/V5570/A/10/2129052). The appellant has also referred to the particular requirements of English language students. Whilst I accept that some relaxation of general residential standards may be appropriate for student accommodation, the appeal proposal contains no mechanism for limiting occupation to English language students. Therefore, even if it could be demonstrated that such accommodation should be assessed against a lower standard, it would not be appropriate to apply it to the appeal proposal. The appellant also argues that the proposal meets the standards for student accommodation published by other Councils, but has not supplied details of those standards. As such, I can accord them negligible weight.
8. Notwithstanding the absence of detailed standards, Brighton and Hove Local Plan (LP) policy QD27 and paragraph 17 of the National Planning Policy Framework (the Framework) both seek to protect the amenity of future occupiers of buildings.
9. The only natural light in the communal area would be a pavement light at one end of the room. Based on the image at Appendix 1 of the Daylight report submitted by the appellant¹ it is not clear whether this has been taken into account in the Average Daylight Factor assessment. Notwithstanding the amount of natural light, occupants of this room would have no outlook. In three of the four units at the rear of the building the only windows would look out onto a confined courtyard some 2m wide and enclosed on all sides. The wall on the opposite side of this courtyard is five storeys height. Whilst the daylight assessment shows that these rooms would generally receive adequate daylight², the outlook would be severely restricted with little view of the sky from the lower ground floor and ground floor units in particular.
10. In dealing with outlook in the Islington appeal, the Inspector noted that the distance between the affected windows and the wall opposite was 5m to 13m. Whilst the facing building was taller, the shortest distances were to pinch-points rather than continuous obstructions. In this case, the degree of confinement created by the courtyard would be significantly greater and, in my judgement, would have an oppressive effect on the outlook of occupiers of the three affected units.
11. The proposed units vary in size and configuration. However, those on the first floor would be particularly narrow and small. The application plan states that these rooms range in size from 8sqm to 12sqm excluding the en-suite bathrooms, although the Council's evidence is that they would be slightly smaller. In any event, with furniture in place, the floorspace available for occupants to move around in would be little more than 1m wide and, in some positions less than that.
12. Neither party has provided evidence of adopted space standards for student accommodation and the Inspector in the Islington appeal does not specifically

¹ Delta Green Environmental Design, Revision 1, 6 February 2014

² The assessment finds that, in one of the ground floor units, only part of the floor area would receive adequate daylight.

address the issue of space standards. Nevertheless, the amount of space available to occupants of the first floor units would be very restrictive. The lack of natural light and outlook in the communal area would not make it an attractive alternative space in which to spend long periods of time. Therefore, even allowing that students may spend less time in the accommodation than other occupiers, I consider that the shortcomings in space and outlook would not provide occupants with satisfactory living conditions.

13. The Islington appeal Inspector balanced the positive aspects of scheme against its limitations. I recognise that each of the units in the current appeal would have an en-suite shower room and have no reason to doubt that the scheme would be fitted out to a high standard. I have also had regard to the support for the scheme from a number of education providers in the area including EC Schools. Nevertheless, in undertaking the balancing exercise in this case, I find that the shortcomings outlined above clearly outweigh the positive aspects of the proposal.
14. Therefore, I conclude that the proposal would not provide satisfactory living conditions for future occupiers with regard to the amount of floorspace in the first floor units and the outlook of three of the four units at the rear of the building. Consequently, the proposal would conflict with LP policy QD27 and paragraph 17 of the Framework.

Other Matters

15. There is support for the proposal on this basis that it would replace the last use of the building as a nightclub which is considered to be inappropriate to the area. It would also tidy up and bring back into use a neglected building. Furthermore, I have no reason to doubt the unmet demand for student accommodation in the area and note that the appeal site is very conveniently located for a number of education providers. However, my concerns are not with the principle of the use of the building for student accommodation. Rather, they are with specific aspects of the appeal scheme. It has not been satisfactorily demonstrated that the claimed benefits of the proposed use could not be achieved by an alternative scheme which addresses the concerns set out above.
16. Reference has been made to a recent approval for student accommodation at George Street. I have not been provided with details of that scheme, but understand that the Council had no concerns about the outlook or natural light available in the bedrooms in that case. That being so, it can be distinguished from the appeal proposal.
17. There is nothing to indicate that the local plan policy referred to above is in conflict with the Framework.

Conclusion

18. For the reasons outlined above, the appeal should be dismissed.

Simon Warder

INSPECTOR