



Appeal Decision

Site visit made on 9 February 2015

by S J Papworth DipArch(Glos) RIBA

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

Decision date: 13 February 2015

Appeal Ref: APP/Q1445/A/14/2220337

14 Dyke Road, Brighton BN1 3FE

- 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 Ms Kerry Howard against the decision of Brighton & Hove City Council.
 - The application Ref BH2013/04080, dated 29 November 2013, was refused by notice dated 17 March 2014.
 - The development proposed is conversion of existing D1 use into C3 2No bedroom flat with internal alterations (part retrospective).
-

Decision

1. I allow the appeal and grant planning permission for conversion of existing D1 use into C3 2No bedroom flat with internal alterations at 14 Dyke Road, Brighton BN1 3FE in accordance with the terms of the application, Ref BH2013/04080, dated 29 November 2013, and the plans submitted with it.

Main Issue

2. This is the effect of the change of use on the living conditions of prospective occupiers with particular regard to daylight and sunlight, outlook, and access to amenity space.

Reasons

3. Policy QD27 of the Brighton & Hove Local Plan states that planning permission for any development or change of use will not be granted where it would cause material nuisance or loss of amenity to the proposed, existing and/or adjacent users, residents, occupiers or where it is liable to be detrimental to human health.
4. Although not a matter for objection in the reason for refusal, the premises are listed Grade II along with the rest of Wykeham Terrace, and lie within the Montpelier and Cliftonhill Conservation Area. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special regard to be had to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses, and section 72(1) of the same Act requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of the conservation area.
5. Number 14 Dyke Road was a commercial property, and that is the planning use. At the time of the site inspection the works necessary to convert it to

residential use had been substantially carried out so that the effect as regards the Council's concerns could be judged. In fact, notwithstanding its postal address, it is the basement to 1 Wykeham Terrace, and the appellant says that the internal staircase was removed some time ago. Also, unlike the other basements in the Terrace that were pointed out as being in beneficial residential use, either separately or as part of the upper house, this one has its entrance onto Dyke Road, away from the entrance to the main house.

6. The lounge, kitchen and circulation spaces are to the front and are well lit from a bay window, despite it being set in a conventional basement-area at this point, relative to the higher level of the Wykeham Terrace entrances. To the rear there are two bedrooms, number 1 has an *en-suite* bathroom and a full sized window facing into the light-well to properties on Queen's Square to the rear, and number 2 has a higher level window facing into a larger courtyard or light-well formed by properties on Dyke Road and Queen's Square. Both outlooks are restricted by the proximity and height of the adjoining buildings although it was possible to gain a sight of sky in both cases. The light colour of the walls to the light-wells provided some natural light, although it appears most unlikely that direct sunlight would penetrate at this relative depth.
7. Looking at the wording of the Local Plan policy, the arrangement does not reach the level of a material nuisance, and although there was a dead pigeon trapped on some netting, steps could be taken to avoid the situation being liable to be detrimental to human health. The occupiers of the bedrooms would have their amenity limited but not lost, and being bedrooms to an otherwise well-lit flat, in a tightly developed town centre location, any perceived reduction would be adequately compensated for. It seems likely that other basements in the terrace would be similarly lit.
8. The Council's reason for refusal also refers to a lack of external amenity space, whereas it is apparent that all of the premises on Wykeham Terrace have access to the communal garden in front. There is no reason to think that this would be denied the occupier of this basement just because of the location of the front door. The appellant says that this is amenity space that is shared with the occupier. In any event, there is open space not far to the north along Dyke Road in either the churchyard for strolling and sitting out, or the park between St Nicholas Road and Buckingham Road.
9. There are benefits to the conversion, in that the residential use more befits the listed status of the building as that is a return to its historic use, similarly the effect on the conservation area is of enhancement through the putting back of the whole building into use as a dwelling. The location is highly sustainable with ready access to shops including convenience stores, transport entertainment and employment. In addition the appellant has provided information on the supply of housing in the City Council area and the progress of the City Plan with particular regard as to whether the full objectively assessed housing need is likely to be met. The effect of the provision of a single dwelling is a limited, but positive matter in this respect, but the need to identify more housing provision adds weight to the balance in favour of the proposal.
10. In conclusion, there are shortcomings in the way of outlook and access to daylight and sunlight for the two bedrooms, but offset against this there are significant benefits and a good level of light to the living room, with access to

communal open space. The balance lies in permitting this conversion as being in line with the aims of the National Planning Policy Framework on sustainable development, as well as the statutory tests in the 1990 Act, and these and the other considerations outweigh the limited outlook from the bedrooms. Since the physical works appear substantially complete there is no need for conditions on commencement or to name the drawings for greater flexibility in permissions prior to implementation, and no conditions are necessary to cover the occupation of the premises for Class C3 use. For the reasons given above it is concluded that the appeal should be allowed.

S J Papworth

INSPECTOR

