



# Appeal Decision

Site visit made on 20 February 2009

by **Richard A. Hersey BA DipTP MRTPI**

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

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**Decision date:**  
**10 March 2009**

## Appeal Ref: APP/Q1445/A/08/2090921 148 Elm Grove, Brighton BN2 3DB

- 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 Paul Sherman against the decision of Brighton & Hove City Council.
- The application, ref. BH2008/01101, dated 20 March 2008, was refused by notice dated 28 October 2008.
- The development proposed is *Conversion of shop and garage to form two one-bedroom flats*.

### Decision

1. I dismiss the appeal.

### Main issues

2. I consider that there are four main issues in this case:- (1) the effect of the loss of the shop unit on the availability of local services; (2) the effect of the alterations and extension on the appearance of the building and the street scene; (3) the likely effect on the living conditions of neighbouring residents; (4) whether the development would result in the provision of a satisfactory standard of housing accommodation.

### Reasons

3. The property is a vacant corner shop with two garages accessed from Arnold Street at the side. One of the proposed new flats would occupy most of the area of the existing shop. The other would be converted from the larger existing garage and part of the shop, with the erection of an additional storey above. The smaller garage would be used as a refuse and cycle store. The first floor above the shop would continue as a separate flat.

#### *Loss of shop*

4. Policy SR8 of the Brighton and Hove Local Plan 2005 states that planning permission for changes of use of individual shops from A1 use will be permitted, provided that a) the shop is within easy walking distance of a local, district, town or regional shopping centre; b) it has been adequately demonstrated that an A1 use in that unit is no longer viable; c) there would be no harm to neighbours or the character of the area.
5. The appeal property does not form part of a shopping centre but is one of several small corner shops and mid-terrace shops that are interspersed with

terraces of predominantly residential properties along Elm Grove. It has been vacant since 2002, having been previously used as a carpet shop. Although permission was granted in 2005 for use as a launderette, this permission has not been implemented.

6. I saw that a number of former shops in Elm Grove have been converted to residential use or live/work units. I also saw that there are a significant number of vacant shops. The appellant has submitted representations from marketing agents about the limited demand for retail shops in Elm Grove and refers to evidence from the same agents that was accepted by the Council to justify the changes of use of nearby shops in recent years. Even though there is no detailed information about the efforts to market this property as a shop during the last 18 months as suggested by the Council, I am satisfied from the history of the appeal property and that of similar nearby premises that there is little prospect of the appeal property again being used for retail purposes in the foreseeable future.
7. The premises are within comfortable walking distance of the Lewes Road local shopping centre and only a short bus ride from Brighton Town Centre. Several small convenience shops, specialist retailers and other services remain in Elm Grove. In these circumstances I do not consider that the loss of the appeal property from retail use would result in significant harm to the facilities available to local residents. The proposal would not conflict with policy SR8.

#### *Appearance*

8. It is proposed to remove the existing shop fascia, the large shop window on the Elm Grove frontage and the shop door on the splay corner and to provide a painted render finish with one small window at the front. I share the Council's concern that this treatment would be out of keeping with the appearance of the existing building and would not relate well to the character and appearance of the adjoining residential terrace.
9. On the Arnold Street frontage, the first floor extension would have a sloping roof, reflecting the profile of the existing garage and linking the property at this level to the flank wall of a terrace of houses. Although the profile and the timber cladding would be unconventional, I do not consider that, having regard to its set back position, it would be unduly prominent or harmful to the appearance of this part of the building or the street scene, but on this issue overall I conclude that the development would harm the street scene, in conflict with policy QD14 of the Local Plan.

#### *Effect on neighbours*

10. The first floor extension would fill in the gap at first floor level between the rear of the existing building and the flank wall of 2 Arnold Street. It would involve raising a length of the existing boundary wall to the small sloping garden of the house at 146 Elm Grove to a height of about 5 to 5.5m. Having regard to the already rather enclosed nature of this garden as a result of the two storey section of the appeal property and the side of the Arnold Street properties, I consider that the additional height of the boundary wall now proposed would significantly harm the living conditions of the neighbouring residents and the level of amenity provided by their rear garden. It would also enclose the small terrace at the rear of the first floor flat at no.148. It would create an

unreasonable sense of enclosure that would conflict with the objectives of policy QD27 (protection of amenity) in the Local Plan.

*Standard of accommodation*

11. Although the Council is concerned about the limited size of the terraces that would provide an amenity area for each of the flats and about the provision of internal bathrooms, I do not consider that these limitations would be so significant on a property of this nature as to justify refusal of permission. The appellant has indicated that, as far as practicable, the dwellings would comply with the Council's Lifetime Homes standards.
12. Overall, I acknowledge that the proposal would result in the provision of two new small dwellings and would bring the property back into use. However, although I have found in favour of the appellant on two of the issues, I conclude for the reasons given that the advantages of the development would be outweighed by the harm that I have identified.

*R.A.Hersey*

INSPECTOR

