

---

## Appeal Decision

Site visit made on 24 May 2016

**by Alex Hutson MATP CMLI MArborA**

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

**Decision date: 4<sup>th</sup> August 2016**

---

**Appeal Ref: APP/Q1445/W/16/3142668**  
**99 Blatchington Road, Hove, East Sussex BN3 3YG**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 3, Class M of the Town and Country Planning (General Permitted Development (England) Order 2015.
  - The appeal is made by Mr Keith Bryden against the decision of Brighton & Hove City Council.
  - The application Ref BH2015/03519, dated 29 September 2015, was refused by notice dated 25 November 2015.
  - The development proposed is prior approval for change of use of part of first floor retail unit (A1) to residential (C3) to form 1no self-contained flat with associated creation of first floor terrace.
- 

### Decision

1. The appeal is allowed and approval is granted under the provisions of Schedule 2, Part 3, Class M of the Town and Country Planning (General Permitted Development (England) Order 2015 for the prior approval for change of use of part of first floor retail unit (A1) to residential (C3) to form 1no self-contained flat with associated creation of first floor terrace at 99 Blatchington Road, Hove, East Sussex BN3 3YG in accordance with the terms of the application Ref BH2015/03519, dated 29 September 2015, subject to the following conditions:
  - 1) The development hereby permitted must be completed within a period 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: 15076 S0; 150706 S1; 150706 S2; 150706 S3; 150706 S4; 150706 S5; 150706 S6; 150706 S7; 150706 S8; 150706 P1; 150706 P2; 150706 P3; 150706 P4; 150706 P5; 150706 P6; 150706 P7; and 150706 P8.

### Preliminary matters

2. I have used the description of the proposed development on the Council's decision notice as it provides a simpler and more comprehensive description than that provided on the application form.
  3. I note that the Council adopted the Brighton and Hove City Plan Part 1 (City Plan) in March 2016, subsequent to the date of their decision notice. However, given that the proposal relates to prior approval under the Town and Country Planning (General Permitted Development (England) Order 2015 (GPDO), the
-

policies of the City Plan are not a determining factor in my consideration of the appeal.

### **Main issue**

4. The main issue is whether the proposal would be permitted development, having regard to whether the creation of the proposed terrace would constitute building operations reasonably necessary to convert the building to a dwellinghouse.

### **Reasons**

5. The appeal property comprises a retail unit on the ground and part of the first floor of a three storey building. There is an existing maisonette on part of the first floor and the second floor of the building which is accessed from a separate front door at ground floor level.
6. The proposal seeks prior approval for the change of use of part of the first floor retail unit, that currently contains a storage area, bathroom and an office, to residential, to form a self-contained flat with the associated creation of a first floor terrace. The creation of the first floor roof terrace would involve the demolition of part of a flat roof structure, the erection of a new external wall with patio doors and alterations to the existing rear kitchen window of the existing maisonette.
7. The Council considers the proposal would meet the conditions required under Paragraph M.2.(1)(a-e) of Schedule 2, Part 3, Class M of the GPDO. These conditions relate to transport and highway impacts, contamination risks, flood risks, retail impacts and design and appearance. Based on the evidence before me and my own observations, I have no substantive reasons to consider otherwise.
8. Paragraph M(b) of Schedule 2, Part 3, Class M of the GPDO, sets out that for a change of use from A1 to C3 to constitute permitted development, any building operations must be reasonably necessary to convert the building to a dwellinghouse. Paragraph M.1(f) of Schedule 2, Part 3, Class M of the GPDO sets out that development is not permitted if it consists of demolition, other than partial demolition which is reasonably necessary to convert the building to a dwellinghouse. The Council considers that the works required to create the proposed first floor terrace, notably the demolition of the flat roofed structure, would go beyond those reasonably necessary for the conversion to a dwellinghouse and would therefore not constitute permitted development. The Council support their argument with reference to the clarification of the term 'reasonably necessary' in the Planning Practice Guidance (PPG) in respect of Schedule 2, Part 3, Class Q of the GPDO in respect of the conversion of agricultural buildings to dwellinghouses.
9. The Council does not fully articulate why, in their opinion, the scope of the proposed works would not be reasonably necessary. However, in my mind, the scope of the works would be minor in nature and would be reasonably necessary to provide a quality home and reasonable living conditions for any future occupiers, given that access would be provided to a private amenity space. In addition, even if the clarification of the term 'reasonably necessary' in the PPG could be applied to conversions under Schedule 2, Part 3, Class M of the GPDO, the scope of proposed works appears to me to fall well within those

permitted, that allows, amongst other things, for the installation or replacement of windows, doors, roofs and exterior walls and partial demolition to the extent reasonably necessary to carry out these building operations.

10. I therefore consider that the proposed partial demolition and building operations to create a first floor terrace would be reasonably necessary for the conversion of part of the first floor of the appeal property to a dwellinghouse and would satisfy the provisions of M(b) and M.1(f) of the GPDO.

### **Conditions**

11. I have considered the planning conditions suggested by the Council. However, given that there would be no ground disturbance, I do not consider a condition relating to ground contamination investigations and remediation is relevant or necessary.
12. The location of the appeal property near to local shops, services, facilities and public transport links would likely reduce the reliance of any future occupiers on a private motor vehicle. I have also not been provided with any substantive evidence that resident parking space in the local area is deficient. Furthermore, it has not been demonstrated that even if there was a material deficiency, it would be bound to have a harmful effect on highway safety. Therefore, based on the evidence before me, I do not consider that a condition restricting the entitlement of any future occupiers to a parking permit is necessary. Moreover, such a condition would be difficult to enforce given there would be no effective mechanism in place to inform any subsequent future occupiers of the restriction if the appeal property were to change ownership.
13. Whilst not specified by the Council, I consider that a planning condition in respect of a time limit is necessary, in accordance with Paragraphs M.2(3)(a) of the GPDO. In addition, I consider a condition specifying the relevant drawings is necessary as this provides certainty.

### **Conclusion**

14. For the reasons set out above and having regard to all other matters, I conclude that the appeal should be allowed and approval granted.

*Alex Hutson*

INSPECTOR

