

Appeal Decision

Site visit made on 23 March 2017

by **D J Board BSc (Hons) MA MRTPI**

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

Decision date: 28 April 2017

Appeal Ref: APP/Q1445/W/16/3164482
126 Newick Road, Brighton, BN1 9JG

- 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 Mrs Barbara Smith against the decision of Brighton & Hove City Council.
 - The application Ref BH2016/02887, dated 30 July 2016, was refused by notice dated 4 November 2016.
 - The development proposed is C3-C4.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the change to a House in Multiple Occupation (HMO) on the character of the surrounding community.

Reasons

3. Policy CP21 of the Brighton and Hove City Plan (CP) sets out that a change of use to an HMO would not be permitted where more than 10% of dwellings within a 50m radius of any application site are already in such use. This is in order to ensure that a suitable range of housing types remains available in the area to maintain mixed and balanced communities. This is reinforced by paragraph 50 of the National Planning Policy Framework (the Framework) which promotes a mix of housing types to suit local demand.
4. The change of use would normally be permitted development. However, the Council made an Article 4 direction to remove that right. The reason for this was the Council's concerns regarding retaining a suitable mix of housing types and retaining family homes.
5. In this case the Council has applied CP policy CP21. In particular it has identified from mapping that within a 50m radius of the appeal premises that 15% of the properties are HMOs. The appellant has queried the policy and submits that it is both restrictive and arbitrary. However, these guidelines are within an adopted policy that has been consulted on and examined. Therefore they should be given significant weight and used in deciding if permission should be granted. In addition I agree with the view taken by my colleagues in other decisions¹ that the line has to be drawn somewhere. In doing so it may

¹ APP/Q1445/C/16/3146395

always appear to be arbitrary where it is set but that does not negate the need to set such a level for decision making.

6. The submission and the application form identify that the appeal property is currently a single family dwelling (C3). The radius around the appeal site already exceeds the 10% set out in CP21. If allowed the appeal scheme would add to the amount of dwellings over that limit in this area. I therefore consider that to allow this appeal would have a harmful effect on and undermine the Council's aim of maintaining a balanced supply of housing types and supply of family dwellings and accommodation to rent. It would increase further the identified imbalance that currently exists in the mix of housing types available in this part of Brighton.
7. I appreciate that the dwelling is located in an area that is generally well located for housing and that the appellant could provide accommodation to a suitable standard that would meet a need and that HMOs do not solely provide student accommodation. In addition I understand that there have not been any neighbour objections to the proposal. However, none of these matters alters or outweighs the clear conflict with the development plan to which I attach significant weight.

Other matters

8. The Council's decision notice focuses on the principle of the use. Its statement and report refer to the effects of the change of use, should it be allowed and the resultant conflict with policy QD27 of the Brighton and Hove Local Plan. This policy sets out that planning permission will not be granted for development that would cause a material nuisance and loss of amenity to adjacent occupiers and existing residents. The appellant refers to a nearby appeal decision on this matter.² However, this decision appears to refer to the change of a small HMO to a larger HMO. By contrast the appeal scheme seeks to change an existing single dwelling into an HMO. Further when that appeal was decided policy CP21 had not been found sound and adopted. As such they are not directly comparable. Therefore I cannot agree with the appellant that the reasoning in that case should apply to this proposal.
9. The appellant has raised a number of other appeal decisions³ and applications⁴. I do not have the full details of all of these schemes. However, some of these appear to relate to different developments and some are in different districts or boroughs. As such they are not directly comparable to the scheme before me. I have considered the proposal before me on its merits. Therefore these examples do not alter my overall conclusions on the case before me.

Conclusion

10. Therefore for the above reasons and having regard to all other matters raised I conclude that the appeal should be dismissed.

D J Board

INSPECTOR

² APP/Q1445/A/14/2214205

³ APP/Z1775/A/11/2164766; APP/Z5060/A/11/2167184; APP/D1780/A/11/2143903; Chichester Girls High School Decision page 6 Grounds of Appeal

⁴ LPA ref BH2013/01141