



Appeal Decision

Site visit made on 12 September 2018

by Patrick Whelan BA(Hons) Dip Arch MA MSc ARB RIBA RTPI

an Inspector appointed by the Secretary of State

Decision date: 3rd October 2018

Appeal Ref: APP/Q1445/W/17/3191860
25 Wheatfield Way, Brighton BN2 4RQ

- 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 Mr Oliver Dorman, Rivers Birtwell, against the decision of Brighton & Hove City Council.
 - The application Ref BH2017/03088, dated 13 September 2017, was refused by notice dated 1 December 2017.
 - The development proposed is the change of use of an existing C4 small house in multiple occupation to a sui generis large house in multiple occupation.
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Decision

1. The appeal is dismissed.

Main Issue

2. This is the effect of the proposed change of use on the living conditions of surrounding occupiers, with particular regard to noise and disturbance.

Reasons

3. Notwithstanding the description of development in the banner heading, and the 2016 certificate of lawfulness for the use as a small house in multiple occupation (HMO), both parties agree that the appeal concerns a 6-bedroom, semi-detached house occupied by 6 students under a university head-lease, which the Council regards as a dwelling house in Use Class C3. The number of occupiers would increase from 6 to 8. Saved policy QD27 of the Brighton & Hove Local Plan 2005 (LP) denies planning permission for development which would cause material nuisance and the loss of amenity to adjacent residents. LP policy SU10 requires development to minimise the impact of noise on neighbours.
 4. I appreciate that the increase in the number of occupiers by 2 is relatively small. However, this would bring the number of potential occupiers to 8. The adjoining house and the neighbouring house on the free side appear to be, like the vast majority of the houses in Wheatfield Way, occupied by single households. In this context, the use of a house by 8 unconnected individuals would be at odds with the prevailing pattern of occupancy in the street.
 5. The pair of semi-detached houses is configured with their front entrances splayed towards each other, alongside enclosing flank walls at the foot of the sloping front gardens. Despite the boundary hedge between the gardens, the
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- effect of the additional comings and goings would be particularly noticeable to the occupiers of the front rooms of the adjoining house.
6. The back entrance to the house is approached by a driveway shared with the house on the free side, which has window openings in its flank. The back door is reached by a stair and landing on the rear wall, which because of the slope of the land, is substantially above the garden level.
 7. The Inspector of the previous appeal¹ on this site for a change of use from a C4 HMO to a large HMO for 9 occupiers noted that this part of the road, being at the end of the cul-de-sac, has a quiet character with little traffic. My concern is that the intensity of the additional comings and goings to the front and back of the house from the additional occupiers, together with the additional general noise associated with ordinary living activities with the occupancy by 8 unconnected individuals would result in an unacceptable level of noise and disturbance to the occupiers on both sides. The reduction to 8 occupiers does not, in my view, overcome the findings of the Inspector in the previous appeal.
 8. The appellant contends that there would be little material difference in the degree of connection between 6 students, which the Council considers a C3 Use, and 8 students under this proposal, especially as the property would be well-managed. However, the intensification of the use would be significantly greater, and its effects in terms of noise and disturbance harmful to the neighbours to both sides, even taking account of some shared activities and academic schedules. Moreover, there is no certainty that future occupiers would be students.
 9. The appellant would upgrade the party wall, although I note that the adjoining occupier says he has already installed sound insulation. This may overcome any potential for sound transmission through the house, but it would not mitigate the additional noise through open windows or doors, from the comings and goings at the entrances of the house, or from the intensified use of its back garden.
 10. I acknowledge the space and layout of the kitchen and dining area, however, the effects of the intensified use outside and in the additional comings and goings would remain. I saw the bin store and a high timber fence along the boundary to the adjoining back garden. However, these would not reduce the effects of the additional noise and disturbance from the extra occupiers by a sufficient degree to make the intensified use acceptable.
 11. I note that the proportion of HMOs in the vicinity is low, but my concern is less with the effect on the wider area than it is with the effect of the intensification of activity upon the immediate neighbours. I appreciate that many family households now include young, semi-independent adults. However, there are significant differences between the occupation of a house by a single family household, and its occupation by unconnected individuals, of this number.
 12. I conclude that the proposed change of use would harm the living conditions of surrounding occupiers, with particular regard to noise and disturbance, placing it in conflict with LP policies QD27 and SU10. While the proposal would provide additional accommodation and it may alleviate pressure to provide additional HMOs in the area, this does not outweigh the harm identified above.

¹ Appeal Ref: APP/Q1445/W/17/3167805

Conclusion

13. For the reasons given above, and taking into account all matters raised, I conclude that the appeal should be dismissed.

Patrick Whelan

INSPECTOR

