



# Appeal Decision

Site visit made on 2 March 2009.

by **B C Scott BA(Hons) Urban & Regional Planning MRTPI**

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

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**Decision date:**  
**15 March 2010**

**Appeal Ref: APP/Q1445/A/09/2114611**

**164 Queens Park Road, Brighton, East Sussex, BN2 0GG.**

- 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 P Conrad against the decision of Brighton & Hove City Council.
- The application Ref: BH2009/00328 dated 16 February 2009, was refused by notice dated 24 June 2009.
- The development proposed is change of use from C3 (private dwelling) to sui generis (house of multiple occupancy), also to divide existing single room into 2 bedrooms (from bay room at 1<sup>st</sup> floor level).

## Procedural Matters

1. The change of use has taken place. From submissions and my site visit, it seems to me that a roof extension has been added to the appeal building in connection with the change of use and to facilitate the provision of the existing 7 bedrooms, as proposed to be increased to 8 in number. The Council acknowledges that the proposed room sub-division amounts to minor internal alterations. The change of use is stated to have occurred more than four years ago (July 2005) and details of the appearance of the roof extension are not before me. In the circumstances, I deal with the appeal solely on the merits of the change of use.

## Decision

2. I dismiss the appeal.

## Main Issues

3. I consider the three main issues in this case to be the effect of the proposed development on; firstly, transport infrastructure; secondly, housing needs; and lastly, the living conditions of the adjoining occupiers.

## Reasons

### *Transport infrastructure*

4. The appeal property is a two-storey terraced Victorian dwelling with basement (lower ground) accommodation, well within a busy urban area that is served by public transport. It has no car parking provision and, notwithstanding the information in the appeal application, there are no signs of dedicated cycle storage and none is proposed. Roadside parking restrictions are in force outside the dwelling. The proposed change of use has substantially increased the number of adult residents at the property through the provision of roof

accommodation and the conversion of downstairs and other rooms to bedrooms.

5. Saved Policy TR1 of the Brighton & Hove City Local Plan 2005 (LP) requires development to provide for the demand for travel it creates and to maximise the use of public transport, walking and cycling. The provision of public transport infrastructure, including the provision or enhancement of public transport services is an aim that is to be secured through planning obligations for financial contributions, as required by saved LP Policy QD28.
6. The Parties do not dispute the need (or amount) for a financial contribution towards sustainable transport infrastructure improvements to off-set the increase in demand for public transport services arising from the change of use. I have not been provided with sufficient information to enable me to establish whether the contribution the Council seeks would meet the tests set out in Circular 05/2005 *Planning Obligations*. Even so, given the substantial increase in the number of adult residents and the absence of any existing or proposed dedicated cycle storage facility, I have no reason to take a different view about the need for a contribution of some form. Whereas the Appellant confirms a willingness to make the necessary contribution, no obligation pursuant to section 106 of the Town and Country Planning Act 1990, is submitted.
7. In the absence of an obligated financial contribution, I conclude that the proposed change of use would be harmful to transport infrastructure, in conflict with the requirements of policies TR1 and QD28 of the Development Plan.

### ***Housing needs***

8. The appeal property was originally a single dwelling house unit. The proposed change of use replaced it with multiple residential occupancy of the same unit, currently occupied by students. Saved LP Policy HO8 requires development not to result in a net loss of units of residential accommodation. The Council contends that accommodation for students should not be at the expense of Class C3 residential uses, but gives no reasoning about this.
  9. I have very limited information before me, particularly concerning what constitutes for the purposes of the Policy a unit of residential accommodation. The text to LP Policy HO8 makes clear the need to make the best use of the sites and properties available and the importance of retaining existing houses, flats and other residential accommodation. The aim is to ensure that the delivery of additional housing is not undermined by losses to the existing stock. From the submitted floor plans and from my inspection of the appeal property, it seems to me that the appeal proposal amounts to a house let in lodgings that has a different character to a dwelling-house. The fact that the appeal application is made for a change of use from C3 bears this out.
  10. However, I am unclear as to whether it follows that the appeal proposal is not 'other residential accommodation' and that a net loss of residential units has occurred. Moreover, no evidence is produced about the harm that arises if that were to be the situation in the appeal case. For those reasons, I am unable to draw a conclusion on this issue.
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### ***Living conditions***

11. The appeal property is part of a terrace in a busy residential street and it backs onto other dwellings in close proximity. The area has mixture of housing in that many properties are converted into flats and, potentially, some others may be taken to be in shared or multiple use, given their size and configuration and the flexibility applicable to Class 3 uses. The proposed change of use has resulted in an intensification of comings and goings at the appeal property. The thrust of saved LP policies SU10 and QD27 is to protect the amenity of residents from noise nuisance, among other things.
12. The Council and third parties make assertions about noise and disturbance. I acknowledge that noise and disturbance is inherently more likely with the appeal proposal than with a single dwelling, because of the additional comings and goings. Those comings and goings, however, are in a mixed housing area and are not much different to elsewhere in the street, being part of its character. During my site visit, I came to the conclusion that the street is a busy, noisy place within which comings and goings of residents is not particularly evident to adjoining occupiers, whichever type of housing unit is occupied.
13. At the rear of the appeal property I experienced a much quieter environment. The rear garden is high in relation to those behind it, but it is especially small and not suited to much leisure/recreational use. Given its limited nature, I consider that any propensity for disturbance to the adjoining occupiers is not great. I acknowledge the Appellant's view that any problems can be reported to him so that a remedy may be sought in the first instance through the terms of the tenancy agreement that specifically seeks to control such matters. I bear in mind, however, that the character of the management of the appeal property is untested and may change.
14. I give considerable weight to the fact that the appeal proposal has been active for several years, sufficient to provide the basis of a 'trial run'. The Appellant states that he has never received any complaints. No evidential base has emerged to show that there are insurmountable problems. In the circumstances, I find that the concern about noise and disturbance is overstated.
15. I conclude that the proposed change of use would not unacceptably affect the living conditions of the adjoining occupiers, in accordance with the requirements of policies SU10 and QD27 of the Development Plan.

### **Conclusions**

16. Notwithstanding my conclusion on living conditions and my finding on housing needs, my conclusion on the first issue (transport infrastructure) is sufficient reason to dismiss this appeal.
17. I have considered all other matters raised, but none alters my conclusions on the main issues.

*B C Scott*  
INSPECTOR

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