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# Appeal Decision

Site visit made on 7 May 2014

**by Cullum J A Parker BA(Hons) MA MRTPI AIEMA**

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

**Decision date: 13 June 2014**

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**Appeal Ref: APP/Q1445/A/14/2213817**

**10 Barrow Hill, Brighton, East Sussex, BN1 7FF**

- 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 Miss Vanessa Parr against the decision of Brighton & Hove City Council.
  - The application Ref BH2013/02100, dated 19 June 2013, was refused by notice dated 25 September 2013.
  - The development proposed is change of use from dwellinghouse (Class C3) to a use falling within Class C3 (dwellinghouse) or Class C4 (house in multiple occupation).
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## Decision

1. The appeal is allowed and planning permission is granted for change of use from dwellinghouse (Class C3) to a use falling within Class C3 (dwellinghouse) or Class C4 (house in multiple occupation) at 10 Barrow Hill, Brighton, East Sussex, BN1 7FF in accordance with the terms of the application, Ref BH2013/02100, dated 19 June 2013 subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan, Existing ground floor plan, Existing first floor plan, and Proposed ground floor plan.

## Main Issue

2. The main issue is the effect of the proposed development on the character and appearance of the area and on the living conditions of neighbours with due regard to ensuring a mixed and balanced community.

## Reasons

3. The appeal site is located in a residential area of Brighton. The appeal building itself is an end of terrace dwelling. It is understood that the building is a three bedroom dwellinghouse, which the submitted drawings show would be converted internally into a four bedroom building with shared kitchen and bathroom facilities.
4. In terms of the appeal site and its context, the Council has listed the buildings they consider are in Class C4 HMO or *Sui Generis*<sup>1</sup>. However, it was not

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<sup>1</sup> These are uses which do not fall into the normal Use Classes such as C3, C4, but can include HMOs over a certain size.

obvious to me during my site visit that these were in such uses. Visually the buildings are well-kept and there is no evidence to suggest that, in the same vein, the proposed use would harm the overall character and appearance of the street scene. Moreover, there is nothing to suggest that the quality of accommodation or the visual appearance would deteriorate in the future just because of the building's use as a HMO. I therefore conclude that the proposed development would not result in material harm to the character and appearance of the area.

5. I acknowledge the Council's aim to ensure mixed and balanced communities. I am also mindful of Policy QD27 of the Brighton and Hove Local Plan 2005 (BHLP), which indicates that permission should not be granted where it would cause material nuisance and loss of amenity. Furthermore, the National Planning Policy Framework (the Framework), which is a material consideration, indicates in the over-arching core planning principles of Paragraph 17 that planning should always seek a good standard of amenity for all existing and future occupants of land and buildings. I note the concerns made by a neighbour relating to another property on Uplands Road where noise and disturbance appear to be an issue.
6. The Council is concerned that, due to its potential usage as a House of Multiple Occupation (HMO), the proposal would give rise to a loss of amenity to nearby residents and subsequently could result in the area becoming 'imbalanced'. This concern appears to be based upon a general stance that occupiers of HMOs, whether students, professionals or other members of the community, could create noise and disturbance. However, there is no technical evidence before me, that indicates that there is a particular proliferation of such problems within the area. As such, there is no substantive basis to conclude that the provision of a HMO in this case would result in a material nuisance or loss of amenity to adjacent users.
7. I note that Policy CP21 of the Brighton and Hove Submission City Plan Part One February 2013 (CP) has been cited. It is understood that the CP is under examination, and has not been adopted. The Council has indicated that no objections were raised to part of Policy CP21, which provides that where more than 10% of properties within a 50 metre radius are in HMO use, then a change of use to a HMO type of use will not be permitted. I am mindful of its advance stage of examination, that no objections have been received to the element of the Policy in question, and its consistency with the Framework. I therefore consider that in this case it should be afforded significant weight.
8. Based on the Council's records, the proposed development would exceed this threshold, which already stands at around 11%. Nevertheless, I have found no harm in terms of living condition of neighbours in terms of noise and disturbance in this case. Moreover, the Framework does not contain a specific threshold on the levels of HMOs, indicating that the focus is on generally seeking a good standard of amenity for occupiers. I acknowledge that the Policy threshold has technically been breached. However, there is no clear evidence that demonstrates that in allowing the current scheme, it would represent a tipping point from the heterogeneous, mixed and balanced community that I saw, to a homogenous and unbalanced one. Given that the proposal would not result in harm to residential amenity or the character and appearance of the area, I do not find that it would fail to contribute to balanced

or mixed communities, which is one of the broad aims of the emerging unadopted Policy CP21.

9. Accordingly, the proposed development is in accordance with the broad aims of Policy QD27 of the BHLP and the Framework as cited above. It would also be in accordance with the underlying aim of unadopted Policy CP21 of the CP, the objectives of which I have aforesaid.
10. I note the observations made by the Council's Environmental Health team in terms of room sizes and licensing. These are matters which are subject to a separate regulatory regime and do not alter my consideration of the planning merits of the appeal before me. I have also considered the concerns raised by a neighbour including parking. The Council in their assessment consider that parking provision was not at a level to warrant refusal of permission. My site visit confirmed that parking provision within the area was unregulated, and did not appear to be a particular issue. Accordingly, none of these factors changes my overall conclusion that the appeal should be allowed.

### **Conditions**

11. The Council has suggested two conditions. I have had regard to Paragraph 206 of the Framework and the Planning Practice Guidance which was issued on 6 March 2014. The existing use of the building is residential. My site visit confirmed that there is sufficient external space to the rear and front of the site for the storage of bicycles and refuse. As such, I do not consider that conditions requiring the submission of specific details for bicycle storage and refuse/recycling to be reasonable in this instance given that such facilities are likely to exist for existing occupants and there is already space within the site for this to be provided.

### **Conclusion**

12. For the reasons given above, I conclude that the appeal should be allowed.

*Cullum J A Parker*

INSPECTOR