
Appeal Decision

Site visit made on 15 March 2016

by Andrew Steen BA(Hons) DipTP MRTPI

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

Decision date: 29 April 2016

Appeal Ref: APP/Q1445/W/15/3139159
52 Barcombe Road, Brighton BN1 9JR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended against a refusal to grant planning permission.
 - The appeal is made by Mr Oliver Dorman against the decision of Brighton & Hove City Council.
 - The application Ref BH2015/02683, dated 21 July 2015, was refused by notice dated 14 October 2015.
 - The development is described as "the change of use of a small house in multiple occupation (C4) to a large house in multiple occupation (sui generis)."
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The development has been completed and I was able to view inside the property during my visit.
 3. There is some dispute as to the use of the existing building and whether the present lawful use is as a dwellinghouse under use class C3 of the Town and Country Planning (Use Classes) Order 1987 as amended or as a small house in multiple occupation under use class C4 of that Order. I understand that there is an Article 4 Direction in place that restricts changes of use such that planning permission would be required for the change of use between those use classes. The appellant asserts that the property was in use under class C4 on the date the Article 4 Direction became effective.
 4. I note that evidence has been provided as to the use of the property on the relevant date. However, it is not for me, under a section 78 appeal, to determine the lawful use on the date the Article 4 Direction became effective. It is open to the appellant to apply to the Council for a separate determination under sections 191/192 of the Act regardless of the outcome of the appeal. In the absence of any such determination I consider that there is greater force in the Council's argument that the lawful use is class C3.
 5. The Brighton & Hove City Plan Part One (CP) was adopted during the course of this appeal and policies within this plan supersede a number of policies contained within the Brighton & Hove Local Plan (LP). The Council provided a policy update along with copies of CP Policies that superseded LP Policies. The
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appellant was given the opportunity to comment on this and I have based my decision on the current adopted policies.

Main Issues

6. The main issues in this appeal are:

- whether the development and any associated increase in noise and disturbance would undermine the provisions of the development plan aimed at providing healthy and mixed communities across the city; and
- whether the development provides adequate living conditions for occupiers of the property, having particular regard to the suitability of the internal spaces.

Reasons

Mixed and balanced community

7. As set out above, the lawful use of the property is a dwellinghouse under use class C3 and the development would result in the change of use of the property to a house in multiple occupation. It is alleged by the Council that the over-concentration of houses in multiple occupation in an area leads to increased noise and disturbance for other residents and this is the reason given for introducing the Article 4 Direction in this part of the city.
8. In order to address that issue, Policy CP21 of the CP, at section ii), restricts changes of use to houses in multiple occupation where more than 10% of dwellings within 50m of the site are in that use. In this case, the parties agree that the proposed development would result in at least 10% of dwellings within 50m of the site being houses in multiple occupation, such that the proposal is contrary to that policy.
9. I consider that the appeal scheme would result in the proliferation of houses in multiple occupation in this part of the street that would be likely to result in an unacceptable increase in noise and disturbance for neighbouring residents. This adverse effect upon the living conditions of existing residents would not lead to a healthy and mixed community in this part of the city and would be contrary to Policy CP21 which seeks to provide for a range of housing needs within the city.

Living accommodation

10. The appeal premises now comprises nine bedrooms with shared bathroom, shower room and separate toilet, along with a communal living room including kitchen.
11. Each of the bedrooms contains a double bed, small desk and small chest of drawers with some space to hang clothes. There is a limited amount of circulation space in each bedroom. The communal living room comprises kitchen units with a large breakfast bar in the centre providing space to sit and eat. It is unlikely that all nine occupants would want to use the kitchen and eating area at the same time, consequently it adequately provides for the needs of residents in this regard. However, there is no space, other than the bar stools around the breakfast bar, for seating, nor for additional furniture or other personal items within communal areas of the building.

12. I found the bedrooms to be cramped, and the amount of storage space was extremely limited. Combined with the limited amount of communal space provided in the living room, the property is inadequate to provide suitable living accommodation for the number of occupants.
13. On 25 March 2015 the Secretary of State for Communities and Local Government issued a written ministerial statement that introduced a new national space standard when new local policies are set. No such policies are contained within the CP. Most of the bedrooms would comply with the national space standard for single bedrooms, although not all. All the bedrooms contained double beds and none comply with the standard for double bedrooms. Whilst this counts against the development, it was not determinative in coming to my decision.
14. I note that the Council's Private Sector Housing Department have issued a licence for the use of the property as a house in multiple occupation. The Inspector into appeal reference APP/Q1445/W/15/3006221 found that the licence in that case supported their view that the accommodation was satisfactory, but I have been provided with limited details of that appeal in order to compare with this case. However, as the Inspector acknowledged, the licence is a separate regulatory matter and the considerations relating to the licence application differ from those relating to a planning application. Consequently, the existence of the licence can only carry limited weight in the planning considerations of the case and, as set out above, I find the living accommodation inadequate in this instance.
15. For the above reasons, I conclude that the accommodation at the property does not provide adequate living conditions for the intended number of occupants. As such, the proposal is contrary to Policy QD27 of the LP that seeks to ensure adequate living conditions for occupants of properties.

Other matters

16. Reference is made in the appeal documents to the three strands of sustainability referred to in the National Planning Policy Framework, being economic, social and environmental. In this case, the economic benefits of students, the most likely tenants, to the local economy and environmental benefits arising from its proximity to two universities and other facilities would not outweigh the social harms to living conditions of neighbouring and future residents identified above.

Conclusion

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

Andrew Steen

INSPECTOR

