

## Appeal Decision

Site visit made on 10 May 2016

**by Andrew Steen BA(Hons) DipTP MRTPI**

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

**Decision date: 7 June 2016**

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**Appeal Ref: APP/Q1445/W/16/3141806**

**22 St Mary Magdalene Street, Brighton BN2 3HU**

- 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 Mrs Laura Dwyer-Smith against the decision of Brighton & Hove City Council.
  - The application Ref BH2015/03223, dated 3 September 2015, was refused by notice dated 1 December 2015.
  - The development proposed is change of use from C3 (dwelling house) to C4 (small house in multiple occupation).
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The development has been completed and the property is occupied by students as a small house in multiple occupation.
3. There is an Article 4 Direction in place in this part of Brighton that restricts changes of use such that planning permission is required for the change of use from dwelling under use class C3 to small house in multiple occupation under use class C4.
4. 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 The Council provided a policy update along with copies of CP Policies that superseded LP Policies.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 appellant was given the opportunity to comment on this and I have based my decision on the current adopted policies. Policy QD27 of the LP, which was referred to in the Council's reason for refusal, was not superseded and remains part of the adopted development plan. Policy CP21 of the CP submission document, also referred to in the Council's reason for refusal, has been adopted and now forms part of the development plan.

### Main Issue

5. The main issue in this appeal is 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.
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## Reasons

6. 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 they present government research justifying that concern, alongside other evidence including a summary of Environmental Health records of noise complaints. I understand that these were the reasons given for introducing the Article 4 Direction in this part of the city.
7. In order to address these issues, Policy CP21 of the CP, at section ii), seeks to restrict 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, there is no dispute 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. I understand this proportion is considered too low by the appellant, but has been tested at examination and now forms part of the adopted policy.
8. Properties in St Mary Magdalene Street and surrounding roads are generally well kept and, other than a number of letting boards, it is not obvious which properties are in use as houses in multiple occupation. I agree that not all such properties create noise and disturbance and that the number of residents of a dwellinghouse within use class C3 can be similar to the number in a house in multiple occupation.
9. However, based on the evidence presented by the Council, the change of use would result in the proliferation of houses in multiple occupation that would result in an unacceptable increase in noise and disturbance for neighbouring residents. I conclude that 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 of the CP which seeks to provide for a range of housing needs within the city and Policy QD27 of the LP that seeks to protect the living conditions of neighbouring occupiers.
10. Policy HO14 of the LP remains part of the adopted development plan and seeks to protect non-self contained accommodation, such as houses in multiple occupation, that are of acceptable standard and meet the need for this type of accommodation within the city. The development proposed would not lead to the loss of such accommodation.
11. I note that the site is in a convenient location in relation to shopping and eating facilities and provides adequate accommodation for the residents. Good public transport provision is available a short distance from the site and it is within cycling distance of the city centre and the Universities of Brighton and Sussex.
12. The appeal decision at 30 Colbourne Avenue, Brighton (reference APP/Q1445/A/14/2214205) pre-dates adoption of Policy CP21 of the CP as part of the development plan. In addition, I have been provided with limited information on that case. Other cases have been provided with limited information and relating to other Council areas with different planning policies. For those reasons, I do not consider these are directly comparable to the appeal before me.
13. The National Planning Policy Framework (the Framework) sets out a presumption in favour of sustainable development, defined as development in

accordance with the Framework as a whole. There are no provisions within the Framework that relate directly to houses in multiple occupation, but it does confirm that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

14. Sustainable development has three dimensions that must be considered together, being economic, social and environmental. Residents of the property would bring economic benefits to the local area and would contribute to the need to provide student accommodation in an accessible location close to services and facilities. However, the social and environmental harm arising from the noise and disturbance to living conditions of neighbouring occupiers and the adverse effect on the healthy and mixed community of the area would significantly and demonstrably outweigh these economic and social benefits. For these reasons, I conclude that the appeal should be dismissed.

*Andrew Steen*

INSPECTOR

