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## Appeal Decision

Site visit made on 17 May 2016

by **H Porter BA(Hons) PG Dip IHBC**

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

Decision date: 9 June 2016

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**Appeal Ref: APP/Q1445/W/16/3142291**

**171 Elm Grove, Brighton, Brighton & Hove BN2 3ES**

- 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 against the decision of Brighton & Hove City Council.
  - The application Ref BH2015/01877, dated 26 May 2015, was refused by notice dated 23 October 2015.
  - The development proposed is change of use of existing house from C4 House in Multiple Occupation to sui generis HMO.
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### Decision

1. The appeal is allowed and planning permission is granted for change of use of existing house from C4 House in Multiple Occupation to sui generis HMO at 171 Elm Grove, Brighton, Brighton & Hove BN2 3ES in accordance with the terms of the application Ref BH2015/01877, dated 26 May 2015, and the plans numbered 1110 01 (Layouts at 30.10.15); 1110 02 (Layouts at March 14); 1110 03 (Layouts at June 15).

### Procedural Matters

2. Since issuing its decision Brighton & Hove City Council (the Council) has adopted the City Plan Part One, 24 March 2016 (the City Plan). Nonetheless, Policies QD27 of the Brighton & Hove Local Plan 2005 (the Local Plan), as cited in the Council's Reason for Refusal has been retained. Policy CP21 of the City Plan, which deals with student accommodation and Houses in Multiple Occupation, is also relevant and is now of some weight. However, the Policy was fully considered by both parties in their submissions. In these circumstances, I have based my decision on the current adopted policies.
3. The development has commenced and the appeal premises is in use as an 8 bedroom house in multiple occupation (HMO). Upon visiting the site it was evident that there is some discrepancy between the drawings and the development as it currently exists. Notwithstanding the floor numbering on drawing 03 (Layouts at June 15), it is evident that the drawings show Lower ground, ground, first and second floor plans. I also note that Bedroom 1 at ground floor level has been subdivided to include provision of a shower room, as indicated in drawing 02 but not in 03; and various differences in the provision of sinks within bedrooms. Nevertheless, the 8 bedroom layout shown on drawing 03 is essentially in place and I have determined the appeal on this basis.

## **Main Issue**

4. The main issue in this appeal is the effect of the development on the living conditions on current and future occupants, with regard to space and standard of accommodation; and on neighbouring residents, with regard to noise and disturbance.

## **Reasons**

5. The appeal premises is a mid-terrace property fronting Elm Grove, a busy, mainly residential, thoroughfare with easy access to central Brighton. The property has been subdivided internally to create 8 bedrooms over four floors, two of which are within a relatively recent attic conversion. Shower rooms on ground and first floors have been created through subdivision of the front and rear bedrooms respectively; an additional bedroom exists in what was a bathroom on the first floor. At lower ground floor level is a good size kitchen and separate WC and washing machine area. In addition, the front bedroom at this level has been reduced in size to accommodate a bench dining area off the kitchen.
6. Whilst the kitchen area and associated bench seating area is the only communal space within the house, it is of a good size, with ample surface and cupboard space and access onto the rear garden. At the time of my visit one side of the bench seating area was being used to store large suit cases, limiting the opportunity for occupants to sit outside of their bedrooms. However, I note it is unlikely that all occupants would eat together at the same time and there is an additional bench with two seats within the kitchen. The two shower rooms, both relatively small with no natural light, are modern and well fitted. The relatively limited bathroom facilities, however, are supplemented by small sinks within two of the bedrooms and the additional WC on the lower ground floor.
7. The bedrooms vary in size; at the time of my visit each contained a double bed, desk and clothes storage. There was, however, limited circulation space within the lower ground bedroom and the rear bedrooms on the first and top floors. Whilst some of the smaller bedrooms have limited circulation space, and fall below the Standards used by the Council for comparative purposes, they still have enough space for a good provision of furniture and storage. The bedroom within the front roof slope, despite a restricted head height, did provide sufficient usable space. This room was occupied upon my visit, and with the double bed positioned under the roof slope, there was a good amount of full-height space around the desk, sink and wardrobe. During my visit I noted clothes airers were placed within the kitchen area as well as on the top floor landing, the rear garden does provide space for the drying of clothes. Even with the airers, there was still enough space to circulate within the kitchen and through the building.
8. At the time of my visit there were 7 students present and I did not get the sense that the property was overcrowded or overtly cluttered. High ceilings and the front bay and landing windows contribute to a good amount of light and sense of generous proportions within the property; and the rear garden is also available to the occupants as a communal space. Additional incidental storage is provided in the kitchen area, which supplements the limited space within the smallest bedrooms. I am therefore satisfied that the size of what communal areas there are will provide enough overall space for occupants live without feeling cramped. Overall, I do not consider the development has resulted in a cramped and substandard form of accommodation and am

satisfied that there is not unacceptable harm to living conditions of the current and future occupiers in this regard. I therefore do not find the development conflicts with Policy QD27; which seeks to ensure a development does not result in a loss of amenity.

9. The development includes some space for bin storage, and I noted no discernible difference in terms of the proliferation of bins and recycling boxes on the street in comparison with its neighbours. The building has lawful use as a C4 HMO and could therefore be occupied by up to 6 people. An additional two people would not result in substantially more comings and goings from the property or therefore greater disturbance, particularly given the relatively busy nature of the street. I therefore do not consider the development causes any specific harm to neighbouring residents in relation to noise and disturbance and does not conflict with Policy QD27, which seeks to ensure neighbouring amenity is safeguarded.

### **Other matters**

10. I appreciate that Policy CP21 of the City Plan seeks to restrict HMOs where more than 10% of dwellings within 50m of the site area already in that use. I also note the concerns of some local residents with regard to the mix of dwelling types in the area. However, as noted in the Officer's report, the appeal premises is already in lawful use as a C4 HMO, and no change to the concentration of non-C3 dwellings in the area as a result of the appeal proposal would therefore occur. The development therefore does not conflict with Policy CP21 in this regard.
11. I appreciate that in September 2014 the Council's Private Sector Housing Team issued a Licence to increase the maximum number of people at the property up to 8. However, as previous Inspectors have already concluded, the granting of licences is a separate regulatory matter<sup>1</sup>; as such, the licence only carries limited weight in the context of planning considerations relevant to this appeal. Whilst I have afforded limited weight to the granting of the Licence, I have still found that the living accommodation to be satisfactory at the appeal premises.

### *Conditions*

12. The Council have not put forward any conditions for the development. I note representation from the Highway Authority relating to details on the design of secure cycle parking; however, secure cycle storage has already been provided over the basement lightwell, therefore this condition is unnecessary.

### **Conclusion**

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

*H Porter*

INSPECTOR

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<sup>1</sup> APP/Q1445/W/15/3006221 and APP/Q1445/W/15/3139159

