

Appeal Decision

Site visit made on 15 May 2017

by **Chris Forrett BSc(Hons) DipTP MRTPI**

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

Decision date: 22nd June 2017

Appeal Ref: APP/Q1445/W/17/3166698

84 Ashurst Road, Brighton BN2 4PH

- 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 Jack Hiett against the decision of Brighton & Hove City Council.
 - The application Ref BH2016/05089, dated 23 August 2016, was refused by notice dated 8 December 2016.
 - The development proposed, from the application form, is that there is no proposed development or works required. The request is for change of use from a single dwelling house (C3) to a small house in multiple occupation (C4).
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the development on the character and amenity of the area and on the living conditions of the future occupiers of the development.

Reasons

Character and amenity

3. The appeal site is located at the head of a cul-de-sac which generally consists of pairs of semi-detached properties. From the submitted plans, the property consists of three bedrooms and a bathroom on the first floor, with a kitchen, a dining room and a further bedroom on the ground floor. However, at the time of my site visit, the dining room was being used as a further bedroom, and bedroom four on the plan was being used as a living room.
 4. The proposal is for the change of use of the premises into a House in Multiple Occupation (HMO). Notwithstanding that, the Appellant has advanced a case that planning permission is not required as the property would be occupied via the Head Lease Scheme through the University of Sussex and that educational establishments are exempt from HMO status.
 5. In relation to whether planning permission is required for a change of use, this is not a matter for me to determine in the context of an appeal made under section 78 of the Town and Country Planning Act 1990. It is open to the Appellant to apply to have the matter determined under sections 191 or 192 of
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- the Act. Any such application would be unaffected by my determination of this appeal.
6. Policy CP21 (part ii) of the Brighton and Hove City Plan Part One (2016) (CP) states that a proposed Class C4 (Houses in multiple occupation) use, will not be permitted where more than 10 per cent of dwellings within a radius of 50 metres of the application site are already in use as Class C4, mixed C3/C4 or other types of HMO in a sui generis use.
 7. From the evidence before me, there are 15 properties within 50 metres of the appeal site of which 3 of them are already in HMO use, which equates to 20% of properties. Should the appeal proposal be allowed, this would increase to over 26% of properties in HMO use, which is well in excess of the CP figure.
 8. Notwithstanding this policy conflict, the site is located at the end of a cul-de-sac which has fields surrounding the properties. Given the undeveloped nature of the surrounding area, and that the property is located at the head of the cul-de-sac, the level of harm as a result of a concentration of HMOs is somewhat reduced. However, even when taking this into account, the development would still result in some harm to the overall character and amenity of the area through a concentration of HMO uses.
 9. In coming to that conclusion, I acknowledge that the property is currently occupied by a family of five and that should the appeal succeed the number of occupants would be reduced to four (students). However, that does not outweigh the policy conflict and harm I have identified.
 10. For the above reasons, the development would result in harm to the character and amenity of the area in conflict with Policy QD27 of the Brighton and Hove Local Plan (2005) (LP), and Policy CP12 part ii of the CP which amongst other matters seek to ensure that HMOs are not concentrated in any area and that healthy and inclusive communities are maintained across the city.

Living conditions

11. The Council have raised concerns over the size of bedrooms two and three and the communal living space of the property and have referred to the Technical Housing Standards - Nationally Described Space Standards (2015) (THS). The THS standards apply to new dwellings. However, in this case, the property is an existing dwellinghouse and the development proposed is a change of use to another type of dwelling (a HMO). Consequently, the THS, as a material planning consideration, is of little relevance.
12. Notwithstanding that, in this case, the two bedrooms which the Council consider to be of an inadequate size are existing bedrooms. At my site visit I saw a double bed in bedroom two, with sufficient circulation space around it. In respect of bedroom three, this is a single bedroom and is of a much smaller size than the other bedrooms. However, whilst space is limited I am satisfied that it would provide an adequate level of amenity for its future occupier in a HMO.
13. Turning to the proposed communal living area, the space available in the room marked as a dining room would allow for furniture such as a sofa and a small dining table. On this basis, I find that the space would be sufficient to ensure that, in combination with the kitchen area, there would be adequate communal living space for the future occupiers.

14. For the above reasons, the development would provide adequate living accommodation for the future occupants of the development and would accord with Policy QD27 of the LP and the aims and objectives of the National Planning Policy Framework which amongst other matters seek to ensure that an adequate standard of living accommodation is provided for the future occupiers of the development.

Other matters

15. The Appellant has raised concern over the timeliness of the determination of the planning application. However, whilst I have some sympathy over the extended timescale for the determination of the application such a delay is away from the planning merits of the case and I give this very little weight.

16. I have also had regard to the concerns raised in the representations from the Council's consultation period on the application, and through the appeal consultation period including matters such as parking issues. However, none of the matters raised add to the reason for dismissing this appeal.

Conclusion

17. Taking all matters into consideration, I conclude that the appeal should be dismissed.

Chris Forrett

INSPECTOR

