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## Appeal Decision

Site visit made on 26 June 2017

by **S M Holden BSc MSc CEng MICE TPP FCIHT MRTPI**

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

Decision date: 5<sup>th</sup> July 2017

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### Appeal Ref: **APP/Q1445/W/17/3172355**

### **124 Lewes Road, Brighton BN2 3LG**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
  - The appeal is made by Mr Mukherjee of M&G Properties (Sussex) Ltd against Brighton & Hove City Council.
  - The application Ref BH2016/05316 is dated 16 September 2016.
  - The development proposed is an extension to form second and third floor to existing 2-storey student accommodation building (Sui Generis), creating an additional 11 bedrooms, 3 bathrooms and new communal cooking and dining area.
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### Decision

1. The appeal is dismissed and planning permission for an extension to form second and third floor to existing 2-storey student accommodation building (Sui Generis), creating an additional 11 bedrooms, 3 bathrooms and new communal cooking and dining area is refused.

### Procedural Matter

2. The description on the original application form referred to 1 additional bedroom, rather than 11. However, this was corrected by the appellant at the request of the Council during its consideration of the scheme. I have used this amended description in my determination of the appeal.

### Main Issues

3. The Council did not determine the application prior to the appeal. However, its report sets out the reasons why it would have refused the proposal. I therefore consider the main issues are:
  - a) the effects of the extension on the character and appearance of the area;
  - b) whether or not the proposed extension would provide satisfactory living conditions for future occupants;
  - c) whether or not a planning obligation is necessary in order to effectively manage the use of the building as Purpose Built Student Accommodation (PBSA);
  - d) the effects of the proposed use of the building as PBSA on the living conditions of adjoining occupiers in relation to noise and disturbance.

## Reasons

### *Character and appearance*

4. Lewes Road is one of the principal routes into the city centre. No 124 occupies a corner plot at the junction of Melbourne Street and close to the Vogue Gyrotory. To the south of this busy traffic junction Lewes Road is predominantly characterised by two-storey properties, whereas immediately to the north there are a significant number of larger and taller buildings associated with the University and a retail park. There are a small number of three and four storey buildings in the vicinity of the site, but none are within the Council's definition of a tall building. On the contrary, with the exception of a landmark building in the middle of the terrace, the buildings in the terrace of which No 124 is a part are two-storey.
5. The height of the property would be increased to three and four storeys in order to provide the additional accommodation. The building already occupies the entire depth of the plot and to the rear elsewhere in Melbourne Street there are buildings that are taller. Inspectors, who dismissed previous proposals for schemes on the appeal site<sup>1</sup>, considered these other buildings form their own distinct character area, whilst the appeal site reads as an integral element of the frontage terrace. I agree and concur with their view that the height and scale of development to the rear is not a justification for increasing the height of the appeal property at the Lewes Road frontage.
6. Although the tallest part of the scheme would be set back from the front elevation, the upwards extension of No 124 would project above the predominant height of the majority of the terrace that characterises this part of Lewes Road. As these buildings either have flat or shallow-pitched roofs, the additional height would be particularly intrusive and would appear bulky and out of proportion with the adjoining properties. There may be sites elsewhere in Lewes Road that could accommodate taller buildings, as suggested by the Council's Supplementary Planning Guidance Note 15. However, I consider the additional height proposed here would be harmful to the street scene.
7. Furthermore, the contemporary design of the scheme and the roof form of the rear element would be discordant and out of character with the surrounding Victorian/Edwardian buildings. Even though the extension would be partially screened by street trees when looking southwards along Lewes Road, it would be highly visible from the western side of the street and would fail to integrate with the proportions or style of the terrace as a whole.
8. I conclude that the proposal would be harmful to the character and appearance of the area. It would therefore be contrary to Policy CP12 of the Brighton & Hove City Plan Part One (City Plan) which, amongst other things, requires new development to be high quality design that respects the diverse character and urban grain of the city.

### *Living conditions of future occupants*

9. The building currently provides 8 bedrooms. The additional 11 rooms would be on the second and third floors and 7 of them would provide only just over 7sq.m of floor area. These rooms would be the primary accommodation for students and places where they should expect to study during term times.

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<sup>1</sup> APP/Q1445/A/12/2170303 and APP/Q1445/A/12/2184195

Student occupants would therefore be likely to spend a greater proportion of their time in their rooms than they would in a bedroom within a family home, in which there would probably be more shared space. It therefore seems to me that, even in the absence of any minimum space standards adopted by the Council, these rooms would be too small to provide satisfactory living conditions for students.

10. The communal kitchen/living area would have only 28sq.m of floor space, which is not a generous size to serve the needs of 19 residents. Its location on the third floor would make it inaccessible and inconvenient, particularly for occupants of the ground and first floors, who would have to climb several flights of stairs to reach it. Furthermore, the use of these shared facilities by all occupants would make the two bedrooms on this floor more likely to experience noise and disturbance from other residents. I therefore consider the proposed shared kitchen/living space is neither sufficiently spacious, nor practically sited within the building, to provide adequately for the number of intended occupants.
11. For these reasons I conclude that the proposal would provide unsatisfactory living accommodation for future occupants. It would therefore fail to comply with saved Policy QD27 of the Brighton & Hove Local Plan (Local Plan) which, amongst other things, seeks to provide an adequate standard of amenity for future occupants of new development.

#### *Management agreement*

12. Policy CP21 of the City Plan seeks to meet the demand for accommodation from increasing numbers of students, whilst also creating mixed, healthy and inclusive communities. The policy therefore sets out a series of criteria which schemes for PBSA must meet in order to be acceptable. Criterion (i)A.6 requires a management plan, the aims of which are to ensure that the accommodation is only occupied by students and that it is managed effectively. The plan should include measures to mitigate anti-social behaviour and secure appropriate behavioural standards in order to prevent unacceptable noise and disturbance of adjoining occupiers and other residents in the vicinity of the site. No planning obligation to secure an appropriate management plan was submitted with the proposal.
13. The site is considered to be a suitable location for PBSA as it is close to the universities and alongside a sustainable transport corridor. I accept that it would be preferable to secure a management agreement through a planning obligation, to which one of the city's education providers is a party. However, this is not essential to restrict the occupancy of the building to students. It could be achieved through the imposition of an appropriate condition and the appellant has indicated that this would be acceptable to him.
14. In the event that the appeal was successful, the Council suggested two conditions to assist in the management of the accommodation. Firstly, by requiring a Move-In Move-Out Strategy to be approved and secondly, a management plan to address site management, the conduct of occupants and waste/refuse management. I am satisfied that such conditions would provide the Council with adequate controls and make the development acceptable in planning terms.

15. In these circumstances, I conclude that a planning obligation is not necessary and that, subject to the imposition of appropriate conditions if the development was acceptable in all other respects, the proposal would not conflict with the requirements of Policy CP21 of the City Plan.

*Living conditions of neighbours*

16. The existing building is already being used to provide accommodation for 8 students. The number of occupants would more than double with the proposal. This could increase the risk of additional noise and disturbance. However, there was no substantiated evidence to demonstrate that the current use of the building has resulted in nuisance problems for other residents in the vicinity of the site. Whilst local residents have expressed concern about the number of students living in the area, that does not amount to a sufficient reason for rejecting the current scheme. In addition as set out above a condition requiring a management agreement, which would address the conduct of occupants, would provide a means of mitigating potential harm.
17. I conclude that the proposal would not result in unacceptable noise and disturbance that would be harmful to the living conditions of the occupants of surrounding residential dwellings. In this respect the proposal would comply with saved Policy QD 27 of the Local Plan which seeks to protect residential amenity.

**Conclusions**

18. The proposal would provide accommodation for students within the city for which there is an identified need. Subject to the imposition of appropriate conditions, the site could be managed effectively and not cause undue disturbance for adjoining occupiers. These matters weigh in the scheme's favour.
19. However, I have found that the upward extension of the building would be harmful to the character and appearance of the area and that the accommodation would provide unsatisfactory living conditions for future occupants. The benefits arising from the scheme would not outweigh these harms.
20. For this reason, and having regard to all other relevant matters raised, I conclude that the appeal should be dismissed.

*Sheila Holden*

INSPECTOR