

---

## Appeal Decision

Site visit made on 7 September 2020

**by C Jack BSc MA MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 29 September 2020**

---

**Appeal Ref: APP/Q1445/W/20/3252424**

**21 Lower Bevendean Avenue, Brighton BN2 4FE**

- 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 Dr Ashkan Pitchforth against the decision of Brighton & Hove City Council.
  - The application Ref BH2019/03703, dated 13 December 2019, was refused by notice dated 29 April 2020.
  - The development proposed is a change of use from 3 bedroom dwelling (C3) to dental practice (D1).
- 

### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The description of development on the application form includes information that does not describe the development itself. For clarity, I have therefore taken the more concise description above from the Council's decision notice.
3. The Town and Country Planning (Use Classes) (Amendment)(England) Regulations 2020 (The revised UCO) have come into force since the submission of the appeal. The Council and the appellant were provided with an opportunity to comment on the implications of this legislation and, with regard to Paragraph 4 of the Regulations, I have also considered the appeal with reference to the previous use classes in force when the application was made.

### Main Issues

4. The main issues are i) whether or not there is a demonstrated need for the proposed dental practice sufficient to justify the proposed change of use, having particular regard to policies for the retention of housing and the provision of community facilities and ii) the effect of the proposal on the living conditions of neighbouring occupiers, with regard to noise and disturbance.

### Reasons

#### *The need for a dental practice*

5. 21 Lower Bevendean Avenue is a semi-detached house in a largely residential area, albeit there are limited facilities, including a convenience store and takeaway a short distance away. Retained Policy HO8 of the Brighton and Hove Local Plan 2005 (the Local Plan) seeks to prevent the net loss of residential accommodation, unless a defined exceptional circumstance applies, in order to prevent the delivery of new homes being undermined by the loss of

existing ones. None of the defined exceptional circumstances includes change of use to a dental practice. The proposal therefore conflicts with Policy HO8.

6. The 2018 needs assessment for general dental services in Kent, Surrey and Sussex identifies significant deprivation and low uptake of NHS dentistry by adults and children in Brighton. It is not clear that the levels of deprivation and low uptake, or the recommendations of the needs assessment, specifically translate into a need for an additional practice in the locality or whether other actions or interventions might remedy these factors. In addition, while the provided NHS Mandatory Dental Services Procurement: Proposed Lot Profile specifically identifies the Moulsecoomb postcode area BN2 4, in which the appeal site falls, it is not clear whether this procurement relates to an additional dental practice in that area or some other dental service, facility or intervention. Furthermore, the lot profile is undated, and it is unclear from the evidence before me whether procurement is ongoing or whether the shortcomings associated with deprivation and low uptake of NHS dentistry provision in the local area have been otherwise addressed since the final draft of the needs assessment in June 2018.
7. Subject to several criteria, Policy HO19 supports new community facilities, which might reasonably include a dental practice providing services to the community. However, even if an outstanding need for an additional practice was clearly demonstrated, it is not clear that alternative premises that might reasonably address the need for a dental practice in the area, particularly including any available with D1 use, have been adequately considered, such that the loss of a residential unit and associated conflict with Policy HO8 could be avoided. Furthermore, the revised UCO, may now offer further premises options for a dental practice as uses previously in use class D1 fall within the new much broader 'commercial, business and service' use class E.
8. I therefore conclude it has not been demonstrated that there is a need for the proposed dental practice sufficient to justify the proposed change of use, having particular regard to policies for the retention of housing and the provision of community facilities. The proposal therefore conflicts with Policy HO8 of the Local Plan.

#### *Living conditions*

9. There is little information about the likely numbers of trips to and from the dental practice, or the proportions of patients expected to walk, cycle, or attend by car or other means. Similarly, there is little information about the nature of deliveries and services such as waste collection that would be required. However, it is reasonable to expect that these trips might exceed those associated with the current use as a 3-bedroom dwelling. The location in a residential area may support attendance by local residents on foot and, while there is very limited parking on site, there is unrestricted on street parking available close to the site. During my visit, there was good availability of on street parking nearby, including along the one-way street outside the site, and within a short walk from the site, albeit this only represents a snapshot. Moreover, parking demand for from visitors to the dental practice would be likely to be during the day, when overall parking demand in a residential area of this nature is likely to be at its lowest. I also noted a bus stop a short distance along the road.

10. Attendance by patients would be likely to be spread across the day, would be generally limited in number at any one time by the limited number of surgery rooms, and would be unlikely to be very early in the morning or late in the evening. In addition, modern dental equipment would not be so loud or intrusive as to significantly disturb neighbouring occupiers to an unacceptable degree. The general level and nature of comings and goings and day-to-day equipment use likely to be associated with the modest-sized dental practice would therefore have only a limited effect on the living conditions of neighbouring residential occupiers in terms of noise and disturbance. Furthermore, matters such as opening hours, cycle parking, and promotion of sustainable travel for staff and patients could reasonably be controlled by condition in the interests of living conditions, were permission to be granted.
11. I conclude that the proposal would not harm the living conditions of neighbouring occupiers, with regard to noise and disturbance. It would therefore accord with the relevant requirements of Policies HO19 and QD27 of the Local Plan, which together seek to ensure there would be no unacceptable impact from development or change of use on residential amenities, including in relation to the provision of new community facilities.

### **Conclusion**

12. While there would be no harm in relation to living conditions, there would be harm in relation to the retention of housing contrary to the development plan, and it has not been demonstrated that a need exists sufficient to justify a decision other than in accordance with the development plan as a whole. Therefore, the appeal is dismissed.

*Catherine Jack*

INSPECTOR