
Appeal Decision

Site visit made on 8 September 2020

by N Holdsworth MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 October 2020

Appeal Ref: APP/Q1445/W/20/3251849
92 Newick Road, Brighton, BN1 9JH

- 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 Oliver Dorman of Rivers Birtwell against Brighton & Hove City Council.
 - The application Ref BH2019/03375, is dated 8 November 2019
 - The development proposed was originally described as change of use of a small house in multiple occupation (C4) to a large house in multiple occupation (sui generis) incorporating a single storey rear extension and conversion of garage to habitable space.
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Decision

1. The appeal is dismissed and planning permission for change of use of a small house in multiple occupation (C4) to a large house in multiple occupation (sui generis) incorporating a single storey rear extension and conversion of garage to habitable space, is refused.

Preliminary Matter

2. The Council did not issue a decision on the planning application but provide putative reasons for refusal with its statement of case. I have had regard to these in establishing the main issues in this appeal.

Main Issues

3. The effect of the proposal on
 - i) the living conditions of neighbouring residential occupants and the character of the area, with regard to noise and disturbance; and
 - ii) the achievement of mixed and balanced communities across Brighton; and
 - iii) the living conditions of future occupants of the development, with particular regard to the adequacy of the internal accommodation.

Reasons

Noise and Disturbance

4. Newick Road comprises small terraces and modest sized semi-detached properties of which the host property is an example. It is orientated away from the nearby A270 and associated commercial development and faces on to a

quiet road with a suburban character and little activity on it. The current 6-person limit means that, whilst noise and disturbance associated with the property is likely to be higher than a typical family house, it does not have a disproportionate impact on the character of the road and the prevailing residential environment.

5. The proposal means that there would be up to 3 additional residents. These would be likely to be adults leading independent lives. This would result in a significant increase in comings and goings outside the front of the property, disproportionate to the scale of this semi-detached house. This intensification would occur in an area where there is already a high concentration of Houses in Multiple Occupation ("HMO's"), with 21.8% within a 50-metre radius of the site, including the adjacent property at No.94¹. Cumulatively this would erode the prevailing quiet suburban character, detracting from the living conditions of existing residents along the road through excessive noise and disturbance.
6. Various technical fixes are proposed including sound insulation and acoustic fencing, and these could be secured by condition along with the retention of existing landscaping. Whilst this would be likely to reduce the impact of noise, particularly on the immediate neighbour at No.90, they would not entirely screen the increased comings and goings noticeable to the front of this building, due to the significant increase in occupants. This would be easily perceptible from both No.90 and other surrounding residential properties due to proximity.
7. To conclude, there would be harm to the character of the area and the living conditions of neighbouring residential occupants due to a likely increase in noise and disturbance. In this respect the proposal conflicts with saved policy QD27 of the Brighton and Hove Local Plan (2005) (Local Plan) which seeks to avoid loss of amenity to existing residents.

Balanced Communities

8. Policy CP21 of the Brighton and Hove City Plan part 1 (City Plan) states that applications for a change of use to a sui generis house in multiple occupation will not be permitted where more than 10% of dwellings within a range of 50 metres of the application site are already in use as class C4, mixed C3/C4 or other types of HMO (House of Multiple Occupation) in a sui generis use. In this case it is common ground that the proportion of HMO's within 50 metres of the site already significantly exceeds the 10% threshold, as previously discussed. Inspectors and the Council have interpreted this policy in various ways. However, on my reading the restrictive approach clearly applies to a scenario where a small HMO (C4) is to be converted to a large one (sui generis).
9. The intention of the policy is to ensure mixed and balanced communities are maintained. Whilst in this case there would be no loss of a family house as the property is already in HMO use, there would be a noticeable increase in the number of HMO residents in an environment where the 10% threshold is already exceeded. This runs counter to the aim of achieving mixed and balanced communities within the terms set out by policy CP21 of the City Plan. The proposal conflicts with this policy.

¹ As stated in paragraph 1.18 of the final comments, from the appellant.

Living Conditions (future residents)

10. The proposal provides 9 bedrooms each with space for a bed, desk and cupboard. These are shown as having useable living area in excess of 7 metres squared. Whilst they do not quite meet the desired floor area for a bedroom as set out in the Nationally Described Space Standard, the breach is minimal. The top floor bedrooms are constrained slightly by the roof slope, but nonetheless meet reasonable expectations of a small bedroom.
11. The kitchen, dining area and sitting room are well sized, open plan spaces with good circulation space and easily large enough to accommodate 9 people even at the same time. Considered as a whole, the internal accommodation is large enough to provide satisfactory living conditions for its future occupants. In this respect there is no conflict with policy QD27 of the Local Plan, which seeks to ensure development is not liable to be detrimental to human health.

Other Considerations and Issues raised

12. There would be a land use benefit in terms of providing appropriate quality housing for up to 3 additional occupants in a good location for services and public transport, representing an efficient use of land. This would help to ease the known pressure on housing within Brighton. However, this does not outweigh the harm identified in the first two issues in this appeal. The proposal conflicts with the National Planning Policy Framework, which requires development to achieve places with a high standard of amenity for existing users.
13. The Council make reference to concern about the minor physical works to facilitate the change of use, but do not specifically raise concerns about the external appearance of the proposed development. I have dealt with the appeal on the basis that the effect on the appearance of the area is not a contested matter between the main parties. There was a previous appeal decision on this site, but that primarily related to whether or not works to the roof fell under permitted development so is of very little relevance to the main issues in this appeal. I note that the Council subsequently issued a lawful development certificate in relation to works at roof level.

Conclusion

14. Whilst the proposal would provide satisfactory living conditions for future occupants it would fail to achieve mixed and balanced communities and would result in unacceptable harm to the living conditions of neighbouring residential occupants and the character of the area through noise and disturbance. The proposal conflicts with the development plan, when it is considered as a whole, and there are no other considerations that outweigh this finding. The appeal should be dismissed.

Neil Holdsworth

INSPECTOR