



Appeal Decision

Site visit made on 17 December 2020

by P J Staddon BSc, Dip, MBA (Distinction), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 February 2021

Appeal Ref: APP/Q1445/W/20/3255365
12 Stafford Road, BRIGHTON, BN1 5PF

- 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 Investsave Ltd against the decision of Brighton and Hove City Council.
 - The application Ref BH2020/00940, dated 27 March 2020, was refused by notice dated 22 May 2020.
 - The development proposed is 'Change of use from small house in multiple occupation (C4) to large house in multiple occupation (Sui Generis)'.
-

Decision

1. The appeal is allowed and planning permission is granted for the change of use from a small house in multiple occupation (C4) to a large house in multiple occupation (Sui Generis) at 12 Stafford Road, Brighton BN1 5PF in accordance with the terms of the application, Ref BH2020/00940, dated 27 March 2020, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) Precise details of a scheme of measures to mitigate noise impacts, including measures already installed, shall be submitted to and approved in writing by the Local Planning Authority. All works which form part of the scheme shall be completed before the 2 ground floor bedrooms are occupied and shall be retained thereafter.

Procedural matter

2. Shortly before I was due to carry out the appeal site inspection, the appellant's agent advised that a number of tenants at the property were unwell. In the light of the Covid-19 restrictions and associated protocols, I considered that it would not be appropriate to undertake an internal inspection of the property. However, given the main issue in this case, along with the clarity of the submitted plans and photographs, I considered that a site visit confined to the external areas would allow me to adequately assess the appeal proposal. Brighton and Hove City Council (the Council) and the appellant were consulted on, and agreed to, this course of action.

Main Issue

3. The main issue is the effect of the proposal on the living conditions of occupants of neighbouring properties in relation to noise, disturbance and general activity.

Reasons

4. The appeal property is a double bay fronted Victorian mid terrace property which is currently in use as a 6 bedroom house in multiple occupation (HMO). The existing plans show the ground floor accommodating a lounge, study, games room and kitchen / dining area which opens to a modest patio area at the rear of the property, beyond which are the small rear gardens of terraced houses on Exeter Road. There are 4 bedrooms at the first floor level and a further 2 bedrooms within the converted loft space. When I visited, the property appeared to have been recently refurbished and has an attractive and well maintained period appearance, retaining many of its architectural features.
5. The property is located on the north-east side of Stafford Road in the residential area of Pentonville, which lies just to the north-west of Brighton railway station and the city centre. Stafford Road is predominantly residential in land use and character, comprising mainly family dwelling houses with a smaller number of HMOs and some properties that appear to have been subdivided into flats. It is an attractive residential street and within walking distance of shops and facilities.
6. The appeal proposal would increase the HMO to 8 bedrooms by converting the ground floor games room and study room to provide further bedrooms, each with an en-suite WC / shower room. The shared lounge, kitchen / dining area and patio garden would be retained. Some minor alterations are shown at the first floor level to create a laundry facility. There would be no changes at the upper (loft) level.
7. The statutory development plan is the Brighton and Hove City Plan Part 1, which was adopted in March 2016, along with a range of saved policies from the earlier 2005 Brighton and Hove Local Plan (hereafter collectively referred to as the Local Plan).
8. Local Plan policy CP19 addresses housing mix and seeks to ensure that an appropriate mix of housing (in terms of housing type, size and tenure) is achieved across the city.
9. Policy CP21 addresses 'student housing and housing in multiple occupation' and states that the Council will actively manage the location of new HMOs. Section ii) of the policy sets out that HMO proposals, including those for a change of use to a sui generis House in Multiple Occupation use (more than 6 people sharing), will not be permitted where they result in more than 10 per cent of dwellings within a radius of 50 metres of the application site, falling within use as Class C4, mixed C3/C4 or other types of HMO in a sui generis use. The supporting text¹ explains that this control will be exercised to ensure that healthy and inclusive communities are maintained across the city.
10. In this case, the proposal to increase to a large HMO (8 bedrooms) would add to the mix of housing available in the local area and it would be in a sustainable

¹ Paragraph 4.235 - Brighton and Hove City Plan Part One (adopted March 2016).

location. It would not result in any breach of the concentration threshold set out in CP21 and, indeed, the Council's own records confirm that only about 1 per cent of properties (1 out of 93) are in HMO use. The proposed use is therefore acceptable in principle in terms of the relevant land use policies contained within the Local Plan.

11. However, the Council's refusal reason alleges that the additional 2 bedrooms will have unacceptable impacts on the living conditions of neighbouring properties, with regard to noise, disturbance and general activity. The Council makes particular reference to impacts on the 2 immediately adjoining Stafford Road properties (Nos 10 and 14) which share party walls with the appeal property, and the 3 properties to the rear on Exeter Road (Nos 3, 4 and 5).
12. It is apparent from the submissions before me, including a body of objections from local residents and a councillor, that the existing C4 use has been the subject of previous difficulties and complaints concerning the behaviour of some tenants. The representations make reference to late night parties and anti-social behaviour, claimed to have occurred over some years. The appellant explains that these matters related to individuals that are no longer at the property and that this matter has been resolved by pro-active management. It asserts that these issues relate to individuals' behaviour rather than the specific type of residential use. The appellant also states that it now intends to focus on accommodating professional tenants.
13. Whilst the proposal is for a large sui generis HMO with 8 bedrooms, the additional 2 single bedrooms on the ground floor would only be a limited increase in intensity of use over and above the existing C4 use of this substantial property. The Council has provided no substantive technical evidence to support its noise and disturbance assertions, but appears to presume a direct relationship between the intensity of use, i.e. bedroom numbers, and the likelihood of disturbance to neighbours.
14. However, it does not necessarily follow that this would be the case and I share the appellant's view that, in most cases, such impacts are largely a product of individuals' behaviours and landlord management, rather than a direct consequence of the type of residential accommodation, or the precise number of bedrooms within a HMO.
15. In this case, the appeal property is a substantial period building and there is no evidence to suggest that introducing 2 additional bedrooms on the ground floor would necessarily cause unacceptable impacts for neighbours. The property also benefits from a centrally located front door, such that all 'comings and goings' are not immediately next to the neighbouring properties. The appellant has also offered a wide range of noise mitigation measures, including party wall soundproofing, double glazing, acoustic floor underlay, a soft closure front door mechanism and acoustic fencing in the rear garden, and submits that these measures, some of which have already been installed, could be secured by a planning condition.
16. I am also mindful that the Council has separate controls through its HMO licencing, and other powers to control noise nuisances, should there be any environmental problems arising at this, or any, other property.
17. Taking the above factors together, I therefore consider that any effects arising from 2 additional occupants living at this large property would not likely be

significant. Accordingly, I assess that the proposal would not conflict with policy QD27 of the Local Plan which seeks to prevent material nuisance and loss of amenity for existing residents. I also find that, subject to a planning condition to secure the noise mitigation measures put forward by the appellant, the proposal would comply with saved policy SU10 of the Local Plan which seeks to ensure that new development minimises noise impacts.

Other matters

18. A number of third parties have made reference to parking concerns. However, the Council has no objections on this matter and there is no evidence to suggest that the proposal would result in any parking difficulties that would justify withholding permission.

Conditions

19. In addition to the standard time limit condition, I have imposed a further condition requiring implementation / confirmation of the noise mitigation measures that the appellant has promoted, to protect the living conditions enjoyed by occupants of neighbouring properties.
20. Based on the submissions before me, it is unclear which measures have already been implemented through the recent refurbishment project. However, I have framed the wording of the condition accordingly.

Conclusion

21. For the above reasons, the appeal is allowed, subject to the conditions set out in paragraph 1 of this decision.

P. Staddon

INSPECTOR