
Appeal Decision

Site visit made on 26 February 2021

by Les Greenwood MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 March 2021.

Appeal Ref: APP/Q1445/W/20/3260983

95 Halland Road, Brighton BN2 4PG

- 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 Afshin Diznabi against the decision of Brighton & Hove City Council.
 - The application Ref BH2020/00642, dated 26 February 2020, was refused by notice dated 13 July 2020.
 - The development proposed is a change of use from a dwellinghouse to a small house in multiple occupation (HMO) for a maximum of 5 people.
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Decision

1. The appeal is dismissed.

Main issues

2. The main issues are whether the proposal would: (i) support the retention of a mixed and balanced community in the immediate vicinity of the appeal site; and (ii) provide a satisfactory standard of living conditions for its occupiers, in terms of internal room sizes.

Reasons

Mixed and balanced community

3. Halland Road is a suburban residential street. No 95 is typical of the houses here - a 3 bedroom semi-detached house with no on-plot parking. The proposal is to change the use of the house from a Class C3¹ dwellinghouse for a single household to a Class C4 House in Multiple Occupation (HMO) to be occupied by people not forming a single household. An application was necessary in this case because permitted development rights for this type of change of use have been removed by the Council's adoption of an Article 4 Direction² for the area. The appeal application also proposes a small ground floor extension, to which the Council does not object.
4. Brighton & Hove City Plan Part One Policy CP21(ii) states that changes of use from Class C3 dwellings to HMOs will not be permitted where more than 10%

¹ As defined in the Town and Country Planning (Use Classes) Order 1987 (as amended)

² Article 4 of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended)

of dwellings within a radius of 50m of the application site are already in use as HMOs. The Council has submitted a plan confirming that 2 of the 19 properties within that 50m radius circle are HMOs, so that the existing percentage is just over the 10% policy threshold. That plan furthermore indicates that there is another HMO just outside the 50m radius, which tends to confirm that there is already a significant concentration in this particular area.

5. The appellant refers to another Council plan that shows a relatively low concentration of HMOs in the wider area, but this is not directly relevant to the very specific criterion set out in the policy. I agree with the appellant that the rail line at the back of the Halland Road properties on No 95's side of the street forms a barrier so that houses on the other side should not be counted in making the Policy CP21(ii) assessment. That does not, however, affect the calculation.
6. HMOs often look much the same as single household dwellings, but they are a different type of accommodation and an overconcentration in one location will affect the balance of the community. I conclude that, although this proposal is for a small change, when considered cumulatively with other similar uses it would undermine the aim of Policy CP21(ii) to support mixed and balanced communities to ensure that a range of housing needs continue to be accommodated throughout the city. I have seen no evidence of a particular need which could override this clear conflict with the development plan.
7. The Council has also cited conflict with Brighton & Hove Local Plan 2005 (LP) Policy QD27, which aims to ensure that development does not cause material nuisance and loss of amenity to adjacent residents. It has not, however, clarified its concerns in this regard. In the circumstances I find no significant conflict with that policy.

Living conditions of future occupiers

8. The Council's concern here is that one of the bedrooms would not be large enough to afford reasonable living conditions, bearing in mind that people living in HMOs are likely to spend a considerable amount of time in their rooms. The submitted plans indicate that this bedroom is about 6.9 sqm whereas the appellant argues that those dimensions were not quite right. The revised measurements indicate a floorspace of just over 7.1sqm.
9. The Council refers to the nationally described space standard³ (NDSS), which sets a minimum standard of at least 7.5 sqm floor area for single bedrooms. The NDSS is a technical document and gives no policy guidance on its application. The National Planning Policy Framework states that policies may make use of the NDSS - where the need for an internal space standard can be justified. The Planning Practice Guidance further advises that the NDSS is optional and that local planning authorities will need to gather evidence to determine whether there is a need for the standard in their area, and to justify setting appropriate policies in their Local Plans.
10. At this time, the Council has not adopted the NDSS into a Local Plan or other policy, so it can be given only limited weight in decision-making. There is therefore no clear policy objection to the size of this bedroom. An alternative

³ Technical housing standards – nationally described space standard (Department of Communities and Local Government, March 2015)

standard exists in the form of the Council's HMO licensing minimum of 6.5 sqm for single bedrooms. Whether this room measures 6.9 or 7.1 sqm, it is reasonably in excess of this lower standard. Although it is certainly compact, I find it to be adequate bearing in mind that there would also be significant communal space available to occupiers in a kitchen and a sitting room.

11. I conclude that the proposal would provide satisfactory living conditions for future occupiers in terms of internal room space. It therefore accords in this respect with LP Policy QD27, which aims to avoid loss of amenity to occupiers of developments.

Conclusion

12. Although I find in favour of the appellant on the second key issue, this is a neutral point which does not weigh significantly in favour of the proposal. The conflict with the development plan identified in the first key issue, coupled with a lack of material considerations to outweigh that policy objection, leads me to conclude that the appeal should not succeed.

Les Greenwood

INSPECTOR