



Appeal Decision

Site visit made on 20 October 2021

by S Edwards BA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th November 2021

Appeal Ref: APP/Q1445/W/21/3270638
148 Bevendean Crescent, Brighton BN2 4RD

- 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 Terry Mole (Tangerine Property (Sussex) Ltd) against the decision of Brighton & Hove City Council.
 - The application Ref BH2020/01887, dated 10 July 2020, was refused by notice dated 3 February 2021.
 - The development proposed is change of use from dwellinghouse (C3) to a six bedroom small house in multiple occupation (C4) incorporating the erection of single-storey rear extension (part-retrospective).
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Decision

1. The appeal is allowed, and planning permission is granted for change of use from dwellinghouse (C3) to a six bedroom small house in multiple occupation (C4) incorporating the erection of single-storey rear extension (part-retrospective) at 148 Bevendean Crescent, Brighton BN2 4RD, in accordance with the terms of the application, Ref BH2020/01887, dated 10 July 2020, and the plans submitted with it, subject to the attached Schedule of conditions.

Preliminary Matters

2. The revised National Planning Policy Framework (the Framework) published on 20 July 2021 sets out the Government's planning policies for England. Policies within the Framework are material considerations which should be taken into account for the purposes of decision-making from the date of its publication. The parties were given the opportunity to comment on this matter, and I have had regard to the updated Framework in determining this appeal.
3. Planning permission¹ has been previously granted for the change of use of the appeal premises into a small C4 House in Multiple Occupation (HMO) for up to four people. The change of use was permitted on the basis that at the time, there was a low proportion of properties in use as HMOs within the immediate vicinity of the site.
4. The appeal property is a modest end-of-terrace house, which includes accommodation within the roof space, and is presently occupied by more than 4 individuals. The proposed development is therefore part retrospective and I shall deal with the appeal on this basis.

¹ Local Planning Authority Reference BH2018/00802.

Main Issues

5. The main issues are:

- The effect of the development on the mix and balance of households in the local community, with particular regard to noise and disturbance; and
- Whether the proposal would provide satisfactory living conditions for the intended occupiers of the development, having particular regard to communal internal space.

Reasons

Mix and balance of households

6. Policy CP21ii) of the Brighton & Hove City Plan Part One² (the City Plan) seeks to support mixed and balanced communities and ensure that a range of housing needs continue to be accommodated in the area. In order to achieve these aims, the Policy states that planning permission will not be granted where more than 10% of dwellings within a 50-metre radius of the application site are already in HMO use.
7. The Council has found that 15.4% of the properties situated within the immediate vicinity of the appeal site were identified as being in use as HMOs. Although this figure is disputed by the appellant, this is not supported by alternative findings. As the assessment is carried out at a particular point in time, the proportion of properties in HMO use could inevitably vary, and it is accepted that there may be currently more HMOs within proximity to the site than there have been previously. In these circumstances, and in the absence of substantive evidence to the contrary, there would appear to be a conflict with Policy CP21ii).
8. Notwithstanding the above, it is of note that permission has been previously granted for the property to be occupied as a small HMO by no more than four individuals, and the occupation of the premises would still fall within the scope of Use Class C4 if I was minded to allow the appeal. Whilst the number of occupants would increase from 4 to 6, the additional comings and goings would remain limited. Furthermore, no detailed evidence has been presented to demonstrate that this would give rise to unacceptable levels of noise and disturbance and thus cause harm to the surrounding area.
9. The proportion of properties in HMO use would not increase as a result of the proposed development, and there would be no loss of additional family homes. Although the appeal scheme would enable an intensification of the C4 HMO use on the site, I am satisfied that it would not adversely erode the mix and balance of households in the local community or harm the surrounding area, with regard to noise and disturbance. Accordingly, and despite the conflict with Policy CP21ii) of the City Plan, there are in this particular instance material considerations which justify taking a different view.

Living conditions

10. As noted in the previous appeal decision³, the bedrooms are of an adequate size for single occupancy, but are not generous in terms of space, and the

² Brighton & Hove City Plan Part One – Brighton & Hove City Council's Development Plan (March 2016).

³ APP/Q1445/W/19/3230412.

occupants are therefore more likely to spend more time using the property's communal space. The appellant has sought to address the concerns raised by the Inspector, as the proposal before me includes the construction of a single storey rear extension to provide additional communal space. The internal layout of the communal living area shown on the proposed plan is only indicative and it is clear that, having regard to the appellant's submissions, alternative solutions exist, for instance to ensure that a television is included in the seating area.

11. The construction of the extension would ensure that there is an adequate level of communal space for up to six residents and, on this basis, the living conditions for the intended occupiers of the development would be satisfactory. The appeal scheme would therefore accord with Policy QD27 of the Brighton & Hove Local Plan 2005⁴ which, amongst other things, seeks to ensure that proposals do not cause material nuisance and loss of amenity to occupiers of the development.

Conditions

12. I have considered the conditions suggested by the Council, making minor amendments where necessary, to ensure compliance with the relevant tests as set out in the Framework and the national Planning Practice Guidance⁵. No objections were raised by the appellant regarding the conditions suggested by the Council.
13. The appeal scheme is part retrospective, and the standard commencement condition is therefore not considered necessary. However, I shall impose a condition specifying the relevant drawings which the development must accord with, in the interests of certainty and to provide clarity. As the development is part retrospective, I shall also impose conditions requiring the construction of the rear extension and provision of cycle storage facilities within a set timeframe. These conditions are considered necessary to provide satisfactory living conditions and encourage sustainable modes of transport.
14. A condition requiring the kitchen diner and living area to be retained as such is necessary to ensure that there is adequate communal space for the occupants. The requirement to use matching materials for the extension is considered necessary to ensure that the addition remains in keeping with the host building.

Conclusion

15. Despite the conflict with Policy CP21ii) of the City Plan, I have found that the appeal proposal would not adversely erode the mix and balance of households in the local community or cause harm to the living conditions of neighbouring residents. Subject to the construction of the single storey extension, the living conditions for the intended occupiers of the development would be acceptable. For the reasons given above, and having regard to all other matters raised, I therefore conclude that the appeal should be allowed.

S Edwards

INSPECTOR

⁴ Retained Policies March 2016.

⁵ Paragraph: 003 Reference ID: 21a-003-20190723.

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: drawing no.01 (dated 08.07.2020).
- 2) The single storey extension hereby permitted shall be completed and made available for use by the occupants within 3 months of the date of this decision. The extension shall thereafter be retained for use by the occupants of the development at all times.
- 3) The cycle parking facilities shown on drawing no.01 (dated 08.07.2020) shall be fully implemented and made available for use within 3 months of the date of this decision. The cycle parking facilities shall thereafter be retained for use by the occupants of and visitors to the development at all times.
- 4) The ground floor rooms annotated on drawing no.01 (dated 08.07.2020) as kitchen diner and living area shall be retained as communal space and shall not be used as bedrooms.
- 5) The external finishes of the development hereby permitted shall match in material, colour, style, bonding and texture those of the existing building.

END OF SCHEDULE