

Appeal Decision

Site visit made on 8 December 2021

by D Cramond BSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30th December 2021

Appeal Ref: APP/Q1445/W/21/3274349

17 Upper Bevendean Avenue, Brighton, BN2 4FG

- 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 Rivers Birtwell against the decision of Brighton & Hove City Council.
 - The application Ref BH2020/01717, dated 25 June 2020, was refused by notice dated 21 April 2021.
 - The development proposed is alterations to existing covered walkway, erection of single-storey rear extension to replace existing conservatory and fenestration alterations at an existing large house in multiple occupation (Sui Generis) to facilitate a maximum occupation of 9 persons.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. I use the Council's description of development which is more precise than the application form.

Main Issue

3. The main issues are the effects of the development on 1) the mix and balance of the community; 2) residential amenity for neighbours; and 3) the character of the locality.

Reasons

4. The appeal property is a two-storey semi-detached building with roof level accommodation. It lies in an area of broadly similar properties which has established residential character and a pleasing streetscene through the disposition of homes, gardens and green spaces. The appeal property has a Certificate of Lawfulness (BH2017/00050) for a large HMO with lawful occupation for up to 7 persons. The 'existing' plans and the Appellant's Statement refers to 8 bedrooms and residents but no evidence of authorisation for this number is before me and I use the Certificate of Lawfulness as a starting point for my determination. The appeal proposal is as described above.

Mix and balance of the community

5. On this issue Policy CP21 of the Brighton & Hove City Plan Part One (CP) is relevant. Amongst other matters the policy seeks to maintain healthy and inclusive communities with a good mix and balance. To this end, in summary, it restricts HMOs of all types where more than 10% of dwellings within a radius
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of 50 metres are already in such use. In this instance the Council's calculations, which I have no reason to question, and are not disputed by the Appellant, puts the percentage at 17.65.

6. On this basis it is clear that a new HMO at the appeal site would run contrary to the policy. The Appellant's case is that as the property is already a large HMO, via the Certificate of Lawfulness, Policy CP21 should not be held against the proposal. I would disagree. Whilst it is a matter of fact and degree, in my planning judgement in this case I would consider that moving from a 7 person HMO to a 9 person HMO would be an increase in scale such that a material change of use would arise through intensification. A clear consequence of this change of use, even without any fresh loss of a family home, would be a further adverse shift of imbalance within the community and a greater threat of further decline in inclusivity.
7. I would conclude on this issue that the proposal would run contrary to CP Policy CP21, a policy which is not merely about safeguarding a particular family home on an application site but has to be about the bigger picture objectives which I touch on in paragraph 5 above.

Residential amenity for neighbours

8. To my mind the increase from up to 7 occupants to up to 9 occupants would not be insignificant in terms of comings and goings and the scope and likelihood of additional noise and general disturbance. This would be particularly so in an area which is, as rightly recognised by the Appellant, suburban; it is not a busy urban environment. From both the percentage figures set out above and the commentary of some who objected to the planning application, this would appear to be a 'stressed' immediate locality and I would consider the appeal proposal would only add to this unfortunate situation. I would add that the scheme for new internal sound proofing, and new dense structures, would not sufficiently mitigate the wider impacts I envisage given external space, windows, and arrivals and departures.
9. Saved Policies QD27 and SU10 of the Brighton and Hove Local Plan (LP) are relevant. Taken together and amongst other matters, they seek the general protection of amenity for residents in an area and this includes seeking to minimise noise and disturbance. I conclude under this main issue that the appeal scheme would conflict with these two policies.

Character of the locality

10. I mention above that the locality is suburban. One aspect of this is that there is no great evidence of built form sprawl from dwellings into back garden areas. There are some extensions and some detached garages or outbuildings for example, but the original form of the dwellings are generally clearly read and the open areas of gardens contribute to a characteristic and pleasing development pattern.
11. The appeal proposal's intended footprint would, on the face of it, only be very marginally greater than exists at present. However, that existing footprint includes lightweight structures and materials rather than formally constructed and finished living accommodation. The impression of an outbuilding linked by a minimal, and lower, walkway would be altered to one over-large and uncharacteristic extension projecting well beyond what might be deemed the norm for this street. Even if one saw some architectural merit via the planned

works in the matching of scale, materials and fenestration the change in character would negatively weigh more heavily in my opinion.

12. I do appreciate the argument that proper 'indoor' linkage might embody the living room more suitably to residents' advantage but this would also not outweigh my concerns on this issue of character protection. In any event there may be other ways, for example with room re-arrangement, to accommodate up to 7 residents with more integral living accommodation.
13. LP Saved Policy QD14 and CP Policy CP12 are pertinent. Taken together and amongst other matters, they seek well designed extensions and alterations that would respect local urban grain in terms of spaces and sizes, protect local distinctiveness, and safeguard the character of the locality. I conclude that the scheme would run contrary to these policies in terms of this main issue.

Other matters

14. I have carefully considered all the points raised by the Appellant but these matters individually or collectively do not outweigh the concerns which I have in relation to the main issues identified above.
15. I confirm that policies in the National Planning Policy Framework have been considered and the development plan policies which I cite mirror relevant objectives within that document.

Overall conclusion

16. For the reasons given above I conclude that the appeal proposal would have unacceptable adverse effects on the mix and balance of the community, on residential amenity for neighbours, and on the character of the locality. Accordingly, the appeal is dismissed.

D Cramond

INSPECTOR