

Appeal Decision

Site visit made on 20 January 2022

by D Cramond BSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th February 2022

Appeal Ref: APP/Q1445/W/21/3280381

64 Barcombe Road, Brighton, BN1 9JR

- 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 Mr Richard Carr against the decision of Brighton & Hove City Council.
 - The application Ref BH2021/01466, dated 21 April 2021, was refused by notice dated 14 June 2021.
 - The development proposed is the change of use from dwellinghouse (C3) to dual use as a dwellinghouse (C3) and five bedroom small house in multiple occupation (C4).
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposal on the maintenance of a healthy and inclusive community.

Reasons

3. The proposal is as described above. The appeal site comprises a two storey terraced property with roof accommodation. It is on a single sided street at the edge of a sizeable residential estate of established character. There is clearly a mix of family dwellings and houses in multiple occupation (HMOs) in the estate with the latter' occupation no doubt including a relatively large student population given the location of this area as pointed out by the Appellant.
 4. Policy CP21 of the Brighton and Hove City Plan (CP) deals with the issue of changes of use to HMOs. The policy will not permit such changes of use where more than 10% of dwellings within a radius of 50 metres of the application site are already in HMO use. Policy CP21 runs alongside an Article 4 Direction in this area. Both Policy CP21 and the Article 4 Direction are aimed at securing balanced communities and have been accompanied by the objective of locating student housing in those areas of the city which are most suitable in terms of accessibility and its impact on the amenity of surrounding area.
 5. The Council is thus shown to be concerned to address the potential impact of concentrations of HMOs upon their surroundings and to ensure that healthy and inclusive communities are maintained across the city. In this instance it is not
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- disputed that some 14% of dwellings within 50m of the appeal site are in use as HMOs.
6. The Appellant underlines that the appeal property has not been a family home for many years. Both main parties agree on the planning history and ultimately there was acceptance by the Appellant of an Enforcement Notice in August 2021 in terms of unauthorised use as a large HMO. The Appellant explains that this 7 person use apparently had little or no impact on local amenity and that the site also had a history of a foster parents here who focussed on children with difficulties. In reality it has been a considerable number of years since this was a C3 dwellinghouse. The Appellant makes the case that, in paraphrase, allowing the appeal scheme 'would be better than what was before' and also points out that the 14% figure would not change because the property itself would not be included in the sums.
 7. I do take the Appellant's points but I have to come back to the fact that the large HMO use of this property was unauthorised. I must look at the site on its own merits as things presently stand in terms of legal use. The question therefore is whether this family dwellinghouse should, under good planning practice and pertinent policy, be changed to have the option of use as a c4 small house in multiple occupation.
 8. Policy CP21 directly refers to supporting mixed and balanced communities. It would seem self-evident to me the more HMOs that are in a 'stressed' area such as this then the balance can only further unhelpfully skew to a greater number of HMO users and away from other community composition in relative terms. This would not help the mix. Relative to a C3 dwellinghouse a C4 use would also almost inevitably increase directly and cumulatively noise and disturbance to the detriment of healthy and inclusive communities which supporting text to Policy CP21 explains is a key consideration. The property was at some point a family home and its use as an HMO would negate that. The retention and availability of family homes in an area such as this residential estate of unremarkable properties is an important element for a balanced neighbourhood.
 9. Given all of the above the conclusion I reach is that the scheme would run contrary to CP Policy CP21 and to the aim of maintaining healthy and inclusive communities.
 10. I would underline that 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 issue identified above.
 11. Finally, I would confirm that policies in the National Planning Policy Framework have been considered and the development plan policy which I cite mirrors relevant objectives within that document.

Overall conclusion

12. For the reasons given above I conclude that the appeal proposal would have an unacceptable impact on the maintenance of a healthy and inclusive community. Accordingly, the appeal is dismissed.

D Cramond

INSPECTOR