



Appeal Decision

Site visit made on 9 August 2022

by B Pattison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 SEPTEMBER 2022

Appeal Ref: APP/Q1445/W/21/3288531

55 Centurion Road, Brighton, BN1 3LN

- 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 Mishbec Limited against the decision of Brighton & Hove City Council.
 - The application Ref BH2021/03422, dated 23 September 2021, was refused by notice dated 11 November 2021.
 - The development proposed is described as the change of use from 5-bedroom C3/C4 to 6-bedroom C3/C4.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. During the appeal, the council provided an update on the status of the emerging City Plan Part Two (April 2020) (CPP2). This confirmed that on 19 July 2022 the Inspector published her Report into the Examination of the CPP2. The Inspector concluded that, with her recommended changes (the schedule of Main Modifications as appended to the Report), the CPP2 is sound and can be adopted. Consequently, whilst the policies within CPP2 will not have full weight until the Plan is formally adopted, the evidence before me indicates that the relevant CPP2 policies should be afforded significant weight.
3. The emerging policies included in the reason for refusal are DM1 and DM20. I will therefore address the relevance of each to this decision. Policy DM1 identifies the council's aim for the delivery of a wide choice of high-quality homes. Policy DM20 seeks to protect the living conditions of existing and future residential occupiers.
4. The appeal property is within the West Hill Conservation Area (CA). There is no dispute between the parties that the proposed physical works to the property, which would be limited to the internal arrangement of rooms, would have an adverse effect on the character or appearance of the CA. Having considered the proposal and visited the site I concur with that view. Accordingly, it is my view that the development proposed would preserve the character and appearance of the CA and I shall make no further reference to this matter.

Main Issue

5. The main issue is the quality of accommodation for future occupiers with particular regard to the size and layout of the proposed communal kitchen/dining/living accommodation.

Reasons

6. The appeal property is a two-storey building, plus basement, occupied as a five-bedroom House in Multiple Occupation (HMO). The ground floor entrance is accessed via a walkway. Below this is a large lightwell which provides natural light to the front basement level window, and an external communal amenity area with a picnic bench. The land is lower to the rear of the property and the rear basement windows provide the kitchen/dining room with a reasonable outlook.
7. The appeal plans show that the ground and first floors are occupied by five bedrooms, measuring between 7.5 square metres and 7.78 square metres, and several shower rooms. During my site visit I viewed a single bedroom and the communal areas at basement level. These include the kitchen/dining room and a separate living room with sofas and a television. The living room provides the sole access to the external communal amenity space within the front lightwell.
8. It is proposed to convert the living room to provide a sixth bedroom. Consequently, the sole communal living area for the HMO would be the kitchen/dining room. A corner sofa would be added to the room to accommodate a 'living' area. The appeal plans show the room measures 17.34 square metres.
9. The kitchen contains a domestic oven with hobs, a sink with draining area, a fridge freezer and a dining table which can accommodate six seats. There are cupboards and kitchen worktops, although the appeal plans indicate that it is not proposed to provide additional storage space or kitchen equipment. During my site visit I observed that areas of the worktops are currently used for storage, which reduces the available space for kitchen tasks. An additional occupier would create further pressure on the kitchen storage space, worktops, and oven. Although I accept it is unlikely that all six individuals would use the kitchen at the same time, in my view the kitchen could not be used effectively by more than three or four occupiers at any one time.
10. The kitchen table would be moved to a central area in the room, which as a result would become more cluttered. Once the kitchen worktops, large corner sofa and kitchen table and chairs are accounted for the circulation space in the room would be significantly reduced. The location of the sofa within the corner of the room would result in this area becoming a corridor space of compromised quality. Whilst not shown on the appeal plans, the appellant confirms that a television could be fixed to a wall opposite the sofa. The appeal plans show that the television would likely need to be very small to avoid clashing with the arc of the kitchen door. I note that views of the television from some areas of the sofa would also be very restricted.
11. Whilst there would be seating for six persons within this room, the overall size of the room would not comfortably accommodate all six occupiers at the same time. It may be that all six residents are unlikely to use the room frequently. However, it is likely that there will be occasions where residents wish to spend time in the room together. The bedrooms do provide desks and it has been put to me that they meet the Government's 'Nationally Described Space Standards' and the minimum bedroom sizes referenced in CPP2 Policy DM1. However, given the constraints I have identified with the communal area, I consider it is likely that occupants would spend a lot of time in their own rooms. They are

not particularly large, and occupiers are unlikely to comfortably host guests within their rooms.

12. The size of the communal room meets the council's HMO Licensing standards for a kitchen with dining facilities. However, the available evidence indicates that these standards ensure that HMOs meet the minimum standards of accommodation fit for human habitation relating to matters such as fire safety and access to basic facilities, including kitchens, bathrooms, and toilets. The development plan has a wider role to play in ensuring that a good quality of accommodation is secured to provide a good standard of living conditions for future occupiers.
13. Whilst the development would result in only one additional resident, I find that the communal living space available for six occupants would be very limited. Furthermore, the conversion of the living room to a bedroom would remove the sole access to the front external communal space to all residents, except the occupier of that bedroom. These factors would combine to create an unacceptably poor living environment which would significantly harm the occupants' living conditions.
14. For the above reasons, I conclude that the proposed development would not provide satisfactory living conditions for its occupants. Therefore, in this respect, it would be contrary to saved Policy QD27 of the Brighton and Hove Local Plan (2005) (LP) which requires that new development protects the living conditions of future and existing residents. Given the status of the emerging plan and the weight that I attach to it, the proposals would also conflict with draft Policies DM1 and DM20 of the CPP2, the aims of which are set out above.
15. I understand that the appellant is aggrieved that policy DM7 was referred to by the council later in the appeal process whilst it was not included within the original reason for refusal. I note that the supporting text to the policy provides a guideline of 4 square metres of communal space per resident within an HMO, and a minimum of 16 square metres, albeit this relates to a small 4 person HMO. The development would not be consistent with this guidance, and, for the reasons above, the proposal would also conflict with this emerging draft policy which requires that the communal living space and cooking facilities to be provided are appropriate in size to the expected number of occupants. However, given the conflict identified in relation to Policy QD27 of the LP, and draft Policies DM1 and DM20 of the CCP2, this does not change my findings as set out above.

Other Matters

16. Neighbours have raised other concerns in relation to the development, such as in relation to noise disturbance, the storage of refuse, strain on local car parking space and overcrowding. However, given my conclusions on the main issue and that the appeal is dismissed, there is no need for me to address these in further detail.

Conclusion and planning balance

17. It has been put to me that the development plan of Brighton and Hove City Council is out of date and that due to a shortfall in housing land supply, policies which potentially limit housing supply should be considered in the context of paragraph 11(d) of the National Planning Policy Framework (the Framework).

In such circumstances and, in accordance with the Framework paragraph 11(d), as this is an application for the provision of housing, the development policies which are most important for determining the application are deemed to be out-of-date. In this case, there are no Framework policies that protect areas or assets of particular importance that provide a clear reason for refusing the development proposed. Accordingly, and in line with paragraph 11(d)ii, I am required to consider if any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

18. I recognise that HMOs can provide a more affordable housing option in comparison to self-contained housing, whilst also contributing to meeting a range of housing needs. In this case, the appeal proposal would provide accommodation for an additional occupier, and this would in turn contribute towards the supply and mix of housing in the area. I acknowledge that HMOs can also provide a degree of communal living which many occupants prefer to living alone. However, given the scale of the development, the benefits would be limited. In contrast, I have found that the appeal proposal would result in an unacceptably poor living environment which would significantly harm the occupants' living conditions. Accordingly, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
19. The extant and emerging development plan policies that I have found the appeal proposal conflicts with relate to delivering homes of a high quality and ensuring sufficient living conditions for occupiers. Although they are deemed to be out of date in relation to the approach set out in Framework paragraph 11d, this does not mean that they carry no weight, and the amount of weight to be given to development plan policies is a matter of planning judgement for the decision maker. In this instance, I am satisfied that the policies are broadly consistent with the Framework, and I attach significant weight to the conflict I have identified with them. Although the shortfall in housing land supply also attracts significant weight, and the proposal would provide some benefits, including additional accommodation, neither of these matters outweigh the harm I have identified. Accordingly, material considerations do not indicate that the appeal proposal should be determined other than in accordance with the development plan.
20. The proposal would not accord with the development plan as a whole and there are no other considerations, including the provisions of the Framework, to indicate that the appeal should be determined otherwise. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

B Pattison

INSPECTOR