



---

# Appeal Decision

Site visit made on 20 September 2022

**by B Pattison BA (Hons) MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 01 NOVEMBER 2022**

---

**Appeal Ref: APP/Q1445/W/22/3291648**

**1 Shaftesbury Place, Brighton BN1 4QS**

- 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 Investsave Ltd against the decision of Brighton & Hove City Council.
  - The application Ref BH2021/02126, dated 7 June 2021, was refused by notice dated 3 August 2021.
  - The development proposed is described as change of use of a small house in multiple occupation (C4) to a large house in multiple occupation (sui generis) incorporating the installation of two rear dormers.
- 

## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. The Council's reason for refusal did not refer to policies from the City Plan Part Two (2022) (CPP2) which was adopted on 20<sup>th</sup> October 2022. However, during the appeal, the Council provided an update on the status of CPP2 and alleged conflict with some of its policies. Consequently, the Council now refer to policies DM1, DM7 and DM20 of CPP2.
3. On adoption, the policies in CPP2 replaced the remaining 'saved' policies from the Brighton & Hove Local Plan (2005) (BLP). The BLP policy quoted in the Council's decision has, so far as relevant to this appeal, been replaced by policies DM1, DM7 and DM20 of the CPP2.

## Main Issue

4. The main issue in this appeal is whether the proposal would provide future occupiers with adequate living conditions having regard to the size and layout of the second-floor bedrooms.

## Reasons

5. The appeal property provides three floors of HMO accommodation. The second floor is within the roofspace, and currently has a front dormer window. The appeal plans show the appeal property has six bedrooms. It is proposed to incorporate two rear dormers into the roof in order to extend and sub-divide the second floor to create an additional bedroom. This would take the total number of bedrooms within the property to seven.
6. Despite the appeal plans showing that bedroom 6 would have a floor area of 8.23 square metres and bedroom 7 8.43 square metres, a significant

proportion of this floorspace has a floor to ceiling height of 1.5 metres or less. From the information supplied with the planning application, if the area of the bedrooms with a ceiling height of 1.5 metres or less is discounted - as is required by the Nationally Described Space Standards (2015) (NDSS) - this reduces the areas of the proposed bedrooms to 6.33 and 6.91 square metres respectively. This would mean that the rooms would be overly cramped and oppressive in nature, consequently harming the living conditions of any future occupiers of the rooms.

7. The storage areas within the eaves in bedroom 6 are significantly reduced in height and would not be able to accommodate a full height wardrobe. This would require any future occupier to stoop or crawl in order to access clothing stored within this area. This reinforces my assessment that the proposed accommodation would harm the living conditions of the future occupiers through the provision of inadequate storage.
8. 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 Policies DM1, DM7 and DM20 of the CPP2, which, amongst other aspects, require that the NDSS are applied to new developments and that new development protects the living conditions of future and existing residents.

### **Other Matters**

9. It has been put to me, and the Council has not disputed, that the size of the bedrooms meet the Council's HMO Licensing standards for single bedrooms. 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. 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.
10. Whilst the dormer windows would provide good levels of natural light and outlook over the interesting local townscape, these neutral considerations do not overcome the harm that I have identified from the cramped and restrictive layout of the bedrooms. Future occupiers would benefit from access to the kitchen, dining and living areas on the ground floor. However, the nature of HMO living often involves occupiers sharing the property with other occupiers who they may not have a close relationship with. Occupiers are therefore likely to value the privacy of their rooms, which they may use for studying or working from home, and may choose to spend a lot of time in. Given the small size and cramped nature of the rooms, occupiers are unlikely to comfortably host guests within their rooms. Whilst the other rooms within the HMO may provide a mixture of larger sizes and different aspects, the two rooms at second floor level would not be of an acceptable standard for future occupiers.
11. 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. 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 future occupants' living conditions.
12. There is an extant planning permission (BH2021/03201) for the installation of two dormers and the use of the second floor as a single, double bedroom. The appellant suggests that the extant permission will be implemented in the event that this appeal is dismissed. However, the appellants' market research suggests there is little demand for a shared room as HMO occupiers prefer the privacy of a single room. Whilst this may be the case, it does not provide a compelling reason to justify the creation of two sub-standard single bedrooms.
  13. It has been put to me that many residential properties in the area have loft rooms, without having dormer windows to provide additional outlook, and that converting loft spaces is a common solution to providing more living space in the dense urban environment of Brighton. I have been provided with no further details of nearby loft developments. Regardless, I have considered this appeal proposal on its own merits and concluded that it would cause harm for the reasons set out above.
  14. All other matters including the principle of development, design and appearance, amenity of neighbours and sustainable transport were found acceptable by the Council. However, the lack of harm related to these matters means that they have no weight either for or against the development when it comes to the planning balance.

### **Conclusion**

15. The proposal would conflict 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