The Planning Inspectorate

Appeal Decision

Site visit made on 19 January 2023

by D Cramond BSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 February 2023

Appeal Ref: APP/Q1445/W/22/3306494
27 Ashburnham Drive, Brighton, BN1 9AX

- 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 Dehao Wu against the decision of Brighton & Hove City Council.
- The application Ref BH2022/01626, dated 15 May 2022, was refused by notice dated 8 August 2022.
- The development proposed is the change of use from 4no bedroom residential dwelling (C3) to a 4no bedroom small house in multiple occupation (C4).

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 semi-detached property with roof accommodation. It is on a street lined by similar properties at this point within a sizeable residential estate of established character. To my eye there is clearly a mix of family dwellings and houses in multiple occupation (HMOs) in the estate.

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 through limitation of HMOs, 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. Policy DM7 of the City Plan Part Two (CP2) is also concerned with HMOs and sets out a number of criteria to be achieved by any application, albeit the starting point is stated as it being necessary to comply with CP Policy CP21.

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 disputed that some 12.5% of dwellings within 50m of the appeal site are in use as HMOs.

6. 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.

7. 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. HMO residents tend to have less permanence or stake in an area along with differing life-styles, interest in facilities, and age structures from, for example, families. The property is 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.

8. I note above that there is no dispute over the 12.5% / 50 metre calculation but I acknowledge that the Appellant does disagree with the 'wider neighbourhood area' % HMO figure used by the Council. However, I do not need to go into that as compliance with the less than 10% / 50 metre criteria is in policy terms required to be met before one looks to the allowances in CP2 Policy DM7. I see no exceptional circumstances to deal with this case any other way.

9. To my mind marked harm would stem inappropriate change to the mix and balance of the community in the area, to the detriment of local cohesiveness generally and giving rise to erosion of the Council's adopted planning and housing strategy.

10. Given all of the above the conclusion I reach is that the scheme would run contrary to CP Policy CP21, to CP2 Policy DM7 and to the aim of maintaining healthy and inclusive communities.

11. I appreciate that there are limited neighbours objecting to the scheme, the plot has on-site parking, one could debate school future pupil numbers, and the area is a broadly sustainable location to live. I do also recognise that in sheer occupancy terms a family home, especially with lodgers, could have more people than an HMO. Nevertheless, the wish of the Council to restrict excessive HMOs in any one area would seem entirely valid to me. I dare say any number of nearby homes could use the same arguments as the Appellant with the obvious risk of there being a snowball effect notwithstanding the need to determine every case on its own merits. I would underline that I have carefully considered all the points raised by the Appellant. However, these matters individually or collectively are to my mind not directly related to the crux of the matter and do not outweigh the concerns which I have in relation to the main issue identified above.

12. Finally, I would 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

13. 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