



Appeal Decision

Site visit made on 8 March 2023

by N Praine BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th April 2023

Appeal Ref: APP/Q1445/W/22/3304558

58 High Street, Brighton & Hove, Portslade BN41 2LG

- 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 Mr Colin Jones against the decision of Brighton & Hove City Council.
 - The application Ref BH2022/01733, dated 23 May 2022, was refused by notice dated 27 July 2022.
 - The development proposed is retrospective and is described as a temporary change of use from a single family dwellinghouse (C3) to short term holiday accommodation (Sui Generis) for 12 months.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council's appeal statement explains that since the refusal of the application, the Council's Local Plan has been superseded by the adoption of the Brighton and Hove Council City Plan Part Two 2022 (the CPP2).
3. The effect of this is that the relevant policies are now considered to be Policies DM2 and DM20 of the CPP2. The main parties have referred to these policies, and I do not consider any party would be unfairly prejudiced by my appraisal of the appeal scheme in the light of this policy update.

Main Issues

4. The main issues are the effect of the proposed development on the:
 - Supply of housing in the borough; and
 - Living conditions of the neighbouring occupants with particular reference to noise and disturbance.

Reasons

Housing Supply

5. Policy DM2 of the Brighton and Hove City Council Plan Part Two 2022 (the CPP2) resists the loss of Use Class C3 dwellinghouses. The proposed development would conflict with this policy in principle.
6. Against this backdrop, I am also mindful that the Council has a housing supply shortfall of 6,915 dwellings (equivalent to 2.1 years of housing supply). This under delivery of dwellings is of importance and a matter I attach weight to.

7. The appellant explains the proposed development would be short term and seeks consent for a temporary period of 12 months. However, it is common ground between the parties that the appeal site has been used as holiday accommodation since May 2020.
8. I have considered whether a temporary permission for 12 months would be acceptable. However, if I were to impose this, it would not expire for nearly 4 years after the use began. I also appreciate the appellant works abroad and may need to return at short notice.
9. While one dwelling would be temporarily lost for a further period of 12 months, its loss would nevertheless harm housing supply at a time when the Council is underdelivering its housing supply. I attach moderate weight to this harm and there is limited evidence before me that the proposed development meets an identified public need to outweigh the harm I have identified.
10. I note the private circumstances of the appellant and the possibility that they may need to return to the dwelling at short notice. However, it has not been clearly shown that the appellant would not be able to reasonably access accommodation elsewhere in the local area in the event they return.
11. The appellant has referred to a planning decision for a temporary change of use from a dwellinghouse to a non-residential use in connection with education. The details of the case or how its merits were balanced are not before me, however, the Council suggest the building was long term vacant, in a state of disrepair and provided educational facilities for vulnerable individuals. These considerations, therefore, appear to be different to the current appeal scheme.
12. As indicated above, I have come to a balanced view in respect to this appeal by considering its own individual merits. This other decision, which is for a differing use with differing merits, has limited bearing on my overall findings in respect to this main issue.
13. Consequently, there is limited evidence before me to suggest that the proposed development should be retained as short-term holiday accommodation or that it would meet any exception as set out in Policy DM2 of the CPP2.
14. Accordingly, I conclude that the proposed development unacceptably results in the loss of a dwelling to the detriment of the supply of housing in the Borough. The development conflicts with the relevant provisions of Policy DM2 of the CPP2 which seeks to deliver housing to meet the needs of the Borough.

Living Conditions

15. The appeal property is a two-storey end terrace dwelling with a garden area to the rear. It sits within a broadly residential area, however, there are commercial uses within the locality.
16. It is stated that the property can accommodate up to eleven people and would be used for short-term holiday accommodation. I acknowledge that short-term holiday accommodation is likely to have a different nature of activity on site, including comings and goings when compared to a family dwelling house.
17. I note the representations made by interested parties concerning noise and disturbance. I am also aware of alleged police involvement and the Council's Environmental Health Service being called to the site. However, I do not have

any detailed evidence before me as to the frequency of such disturbances or the outcome of any investigations. In response the appellant states there has only been one incident, and this was quickly dealt with.

18. The appellant also confirms the site is managed by an agent, and information booklets and instructions are provided to guests. The accommodation has a no parties policy and guests are advised they may be evicted should they breach this policy. A Noise Management Plan (NMP) could be submitted for agreement with the Council, via condition, and the appellant has also suggested additional measures to reduce noise and disturbance as set out in their appeal statement.
19. While the efficacy of these measures is questioned, had the appeal been acceptable in all other regards, the implementation of additional measures and a NMP would allow for further monitoring of the situation and an opportunity to look again at the evidence at the expiry of the temporary period.
20. The development would therefore not cause unacceptable harm to the living conditions of the neighbouring occupants with particular reference to noise and disturbance, subject to conditions. Accordingly, it would comply with the relevant provisions of Policy DM20 of the CPP2 which seeks, amongst other things, to ensure that development respects the living conditions of neighbouring occupiers.

Other Matters

21. I have considered the other matters raised by interested parties. However, none of the other matters raised outweigh or alter my conclusion on the main issues. As I am dismissing the appeal, I have not pursued these matters further.

Conclusion

22. I have found that the development proposed would not be unacceptably harmful in respect to the living conditions of neighbouring occupiers, subject to conditions and its temporary nature. However, the absence of harm is a neutral matter which neither weighs for or against the appeal proposal.
23. As such, the proposal is contrary to the development plan as a whole and there are no other material considerations of sufficient weight to indicate a decision should be made other than in accordance with the development plan. I therefore conclude that the appeal should be dismissed.

N Praine

INSPECTOR