



Appeal Decision

Site visit made on 3 September 2024

by Martin Andrews MA(Planning) BSc(Econ) DipTP & DipTP(Dist) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 October 2024

Appeal Ref: APP/Q1445/W/24/3339569 25 Wheatfield Way, Brighton BN2 4RQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Chris Michot, Rivers Birtwell, against the decision of Brighton & Hove City Council.
 - The application Ref. is BH2023/02941.
 - The development proposed is a change of use of a small house in multiple occupation (C4) to a large house in multiple occupation (*Sui Generis*) with the relocation of the entrance to the side.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposal on the living conditions for neighbouring occupiers, with particular reference to noise and disturbance.

Reasons

3. The appeal building is one half of a semi-detached pair of bungalows, Nos. 25 & 27, set down from the road on its west side and at the end of a cul-de-sac. First floor accommodation including a rear dormer and hip to gable extension was constructed in 2016 under permitted development. Wheatfield Way has paired properties of the same original design on both sides of the road, but with those on the east side at a higher level because of the hillside location. They include Nos. 22 & 24 directly opposite.
4. For the appellant it is argued that the property complies with locational and site requirements such as HMO density in the locality; no 'sandwiching' of a Class C3 dwelling, and no continuous HMO frontage. Furthermore, *'shared houses play a valuable role in the local housing supply by providing affordable and accessible housing to significant demographics, such as students, hospitality workers and young professionals'*. I acknowledge all these matters.
5. However, the Officer's Report sets out the planning history of the property. In summary, the key points are that No. 25 has been in lawful use as a C4 small (6 bed) HMO from about 2016, but since then a number of planning applications to increase the capacity to a large HMO (*Sui Generis*) have been refused by the Council and dismissed at appeal.

6. More recently, application ref. BH2023/01926 for a 7 bed HMO was refused permission and the subsequent application now before me in this appeal is a revised scheme that in part seeks to address the reason for refusal by relocating the front door. This would move from next to the front door of No. 27 to the side of the building facing the driveway and the flank wall of No. 23.
7. However, that property has a shared driveway with No. 25 to the garages and back garden of each building and its side wall has windows to habitable rooms. The proposed relocated entrance to the building would improve the situation for the residents of No. 27 but almost certainly increase noise and disturbance for the occupiers of No. 23. This would occur from not only the comings and goings but the likely increased use of the entrance, garage and garden because of the more convenient and greater opportunities for informal assembly.
8. Furthermore, although this and additional soundproofing would to some extent ameliorate noise and disturbance for the occupiers of No. 27, it does not address the more fundamental objection of the Council that the premises and their location are unsuitable for a larger *Sui Generis* HMO because of the potential for increased noise and disturbance to surrounding properties.
9. Inspectors in the aforementioned earlier appeals since 2017 have supported the Council's view of a *Sui Generis* HMO being unacceptable in this location and in conflict with the relevant policies of the development plan. It is not without significance that the line is drawn at a capacity of 6 bed occupancy as the legal breakpoint for a change of use to the larger HMO as regards any impact.
10. The appeal building is a 'student let' and the associated problems that frequently occur with a combination of this demographic and HMOs are well documented and indeed mentioned at length in the objections of neighbours in respect of the appeal application. Leaving behavioural issues temporarily aside, Wheatfield Road is part of a residential suburb not well served either by public transport (with a consequential increased reliance on cars) or recreational facilities.
11. The narrowness of the road precludes parking on both sides and with the end of cul-de-sac location, the number of turning movements is already at a higher level. All these factors in my view combine to warrant the limitation of the intensity of use of the property.
12. With that said, the nub of the appellant's case is that the proposed increase in occupancy from 6 to 7 is incremental and would make no material difference to the effects of the appeal property being used as an HMO. However, the Officer's Report again correctly makes the salient point already made by Inspectors at previous appeals for a larger HMO at No. 27.
13. This is that every additional resident in an HMO, with its group of unconnected adults, tends to increase the activity level and resultant noise and disturbance by more than would be the case with a typical family member. This is because of their more frequent comings and goings; different lifestyles and patterns of behaviour, and on balance a greater need for refuse storage refuse and parking facilities.
14. I therefore find that the proposed change of use from a small 6 bed Class 4 HMO to a 7 bed *Sui Generis* HMO would have an unacceptably harmful impact on neighbours' living conditions. As such it would be in harmful conflict with

Policy DM20 of the Brighton & Hove City Plan Part 2 2022 and paragraph 135f) of Government policy in the National Planning Policy Framework December 2023.

15. For these reasons the appeal fails.

Martin Andrews

INSPECTOR