



## Appeal Decision

Site visit made on 14 October 2024

**by Robin Buchanan BA (Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 30 December 2024

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**Appeal Ref: APP/Q1445/W/24/3336535**

**8, 10 and 12 Walpole Road, Brighton BN2 0EA**

- 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 Brighton College against the decision of Brighton & Hove City Council.
  - The application Ref is BH2023/01038.
  - The development was described as 'proposed loft conversion, installation of windows, construction of a minor rear extension and amalgamation of units at 8, 10 and 12 Walpole Road for use as a school boarding house (Use Class C2)'.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. After the Council made its decision and after the appeal was submitted, the Council adopted a (previously draft) College Conservation Area Character Statement. Accordingly, it now has full weight. A copy was included with the Council's appeal statement so the appellant and interested parties have had an opportunity to consider it. I have, therefore, taken it into account.
3. A noise assessment and a daylight and sunlight analysis were submitted with the appeal. These reports respond to reasons for refusal cited in the Council's decision notice and do not change the development applied for. The Council and interested parties have had a chance to consider both. I have, therefore, taken them into account.
4. Part of the development applied for has been carried out, including that some rooms shown in the proposed plans differ in use, size, layout or number of beds compared to what I saw or the existing plans show. Amended plans were not submitted with the appeal. I have, therefore, considered the proposed plans. This is the same basis as the Council made its decision and the public were consulted.

### Background and Main Issues

5. The site is three consecutive former family sized mid-terrace houses at Nos.8, 10 and 12 Walpole Road. They have been used by the appellant, Brighton College, as three separate school boarding houses (BHs). At Nos.10 and 12 this has been by implementing planning permissions granted by the Council. The Council has therefore already accepted that it was not necessary to retain these two houses given the need for boarding accommodation evidenced by the appellant at the time, including that they may never be used as houses again. It has also already considered the effect of those two boarding houses

on the character and appearance of the area, including College Conservation Area, the living conditions of nearby residents and the standard of accommodation, including bedrooms and communal space. These were not relevant considerations at No.8 because that boarding house use has been with a lawful development certificate granted by the Council, informed by evidence of previous and existing use of No.8 at the time. The BHs are a realistic fall-back in this appeal. What was an end of terrace house at No.20 Walpole Road is also used by the appellant as a school boarding house.

6. The development applied for is to amalgamate the BHs internally and externally into a single school boarding house (BH). It includes reconfigured or additional bedrooms to increase the number of pupil boarders and reconfigured indoor and outdoor communal space. The Council does not object to the minor rear extension or to the installation of windows and nor do I.
7. The main issues are, therefore:
  - the effect of the BH on the character and appearance of the area, including College Conservation Area (CCA);
  - its effect on the living conditions of nearby residents having regard to noise and disturbance; and
  - whether the BH accommodation would be of an acceptable standard for pupils with regard to bedroom size, layout, natural light, ventilation and outlook, and also in size and layout of the indoor communal space.

## Reasons

### *Character and appearance*

8. The site is in a mainly residential, mixed use area of Brighton known as Kemptown. The BH would not materially change the overall character or appearance of this wider neighbourhood. But the Council is concerned about a smaller area, mostly within CCA including a short section of Walpole Road and its immediate surroundings. It did not object to the BH for heritage reasons but I have a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of, in this case, CCA<sup>1</sup>.
9. The special interest of this designated heritage asset is in two distinct parts: Brighton College buildings and grounds, which are mainly non-residential, and eight streets which are residential in character<sup>2</sup>. These streets are lined mostly by family sized terraced houses with largely unaltered or intact original features; such as front elevations and roof slopes and regimented, mostly parallel plot layouts with relatively narrow and short rectangular back gardens divided by walls.
10. This includes a row of late Victorian or Edwardian houses along one side of part of Walpole Road, such as was Nos.8, 10 and 12. Though they are not key historic buildings or statutory or locally listed buildings they have a positive influence on the significance of CCA. The boundary of CCA is quite tightly defined to enclose a compact rectilinear area, with a smaller portion along one side and at one end containing a moderate number of houses. Modest change can therefore have a profound effect on this part of CCA and CCA overall.

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<sup>1</sup> Section 72(1) - Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended)

<sup>2</sup> CCA Character Statement

### Character

11. Some residents live in this area because they like not only how it looks but how it feels. In particular, that most houses are in family use or are perceived to be. Little change in occupation can give a settled feel with a strong sense of place, affinity and vested interest as residents, including opportunity to also work in the area. This is considered to help sustain a local community, including businesses or shops and services or facilities such as other schools. These private, personal preferences coincide with matters acknowledged to be in the wider public interest for planning purposes.
12. I have not been informed of any Council development plan policy or other mechanism to control a specific prevalence of school boarding houses or pupil population in residential roads, including in a Conservation Area. But amongst other things, Policy SA6 of Brighton & Hove City Plan Part One, March 2016 (CPP1) seeks to maintain balanced neighbourhoods and communities that meet the needs of all residents and Policy DM20 of Brighton & Hove City Plan Part Two, October 2022 (CPP2) refers to the cohesiveness of Conservation Areas.
13. Although for a meaningful period of time, each cohort of pupils living in the BHs (and likely at No.20) do so primarily as integral to their individual transient presence for education. Of necessity this mostly private, insular functional relationship with Brighton College includes a high degree of managed, mutual interdependence. This meets most, if not all, day to day living needs of pupils mainly within the college campus or a school boarding house environs<sup>3</sup>, with some opportunity for pupils to engage in voluntary or charitable work in the wider community. There is no reason why these living arrangements would not apply to the additional pupils in the BH.
14. The BHs and this pupil population (including at No.20) already overlap beyond the campus into the public, mainly conventional (Use Class C3) dwellinghouse surroundings. This does not necessarily render this, or any further boarding accommodation or pupil population incompatible per se in this part of Walpole Road, the other streets in CCA or in this area. In this appeal there is no apparent reason why additional pupils in the BH, occupying the same number of former houses in this part of Walpole Road, would further undermine local businesses, shops, services or facilities, including schools. Even if in a meaningful way, the families that could have or likely did help to sustain these uses have already been displaced. Houses likely occupied by families would remain the prevailing residential use dispersed across the eight streets in CCA and this area.
15. However, nearly half of the former houses in this part of Walpole Road are now used as school boarding houses. While this would not change in this appeal, it is nevertheless a substantial proportion and concentration of boarding houses with a significant localised pupil population. It is an inherently different form of residential accommodation and living experience to houses used as a permanent place of residence by single families and is recognised as such for planning purposes by separate Use Class C2 designation.
16. Nos.8, 10 and 12 were four bedroom houses so each could have been occupied by a family of up to 4 or 5 people, thus 12 bedrooms and around 12-15

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<sup>3</sup> Brighton College Boarding Handbook 2022-23, including example timetable, and Boarding Information Activity Programme

residents in total. Together, the BHs could have 17 bedrooms occupied by 16 pupils and 3 resident supervising adult staff; so 19 people, mostly pupils<sup>4</sup> and an increase of 5 bedrooms and 4-7 people. The BH would have 20 bedrooms occupied by 27 pupils and 2 resident supervising adult staff who may have a resident partner, so between 29-31 people<sup>5</sup>. Compared to the BHs, the increase of 3 bedrooms, taken with reconfigured bedrooms, would give a notable increase of 10-12 people, mostly pupils. Once this additional pupil population was established there is no evidence that it would subside in the short term, or at all. I have not been informed about the scale of previous residential use of No.20. An interested party states that this boarding house is occupied by 12 pupils, which is not disputed by the appellant or the Council.

17. On the evidence before me, I can only be certain that two of these four boarding houses and associated pupil population were established in this part of Walpole Road by the Council proactively granting planning permission (Nos.10 and 12). It was not subsequently able to consider a boarding house or pupil population at No.8 through the planning application process. I have not been informed if it granted planning permission or a lawful development certificate for the boarding house at No.20. Though not the relevant fall-back comparison in this appeal, the BH would nonetheless be a large cumulative increase in bedrooms (8) and people, mostly pupils (14-19) compared to Nos.8, 10 and 12 when used as houses.
18. Much of the additional pupil presence would be out of sight inside the BH. But there would be some public or semi-public manifestation during the day or evening, such as increased comings and goings of pupils between the BH and the campus, including potentially more obvious groups or flow of pupils along pavements and movement across this part of Walpole Road. Albeit less frequent, likely more vehicle movements in this part of Walpole Road for parent drop-off and pick-ups (such as at the beginning or end of term or at half term), by visitors or by college mini-buses or coaches. The reconfigured outdoor communal space could also be used by the additional pupils at the same time.
19. The BH would still be a residential building and place for people to live, as would be the BHs and as was Nos.8, 10 and 12 used as houses. However, external signals of the appreciable absolute and proportionate increase in pupils and related activity would likely be noticed by some residents as a significant, unwelcome consolidation of already compromised residential surroundings. In particular, by those living in this part of Walpole Road, especially in the houses next to Nos.8 and 12 who are likely already most acutely aware of the BHs, the boarding house at No.20 and the existing pupil population. Notwithstanding that such pupil and related activity would be transient or intermittent, it would recur routinely. This would undermine and detract from the still (just) prevalent residential context of conventional houses likely occupied by families in normal domestic use and activity in this part of Walpole Road.
20. Intensification of a buildings use by additional pupils may not be development that requires planning permission if, amongst other things, there is no material change of use. The BH would remain in Use Class C2 but the development applied for also includes operational development, such as building works. These are necessary to achieve the additional pupils as a consequence of the

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<sup>4</sup> Appellant's appeal statement Table 2.1

<sup>5</sup> As proposed plans and Table 2.1

amalgamation of the BHs. It would not otherwise be possible to achieve the intensification of use in the BH in the manner proposed, so there is no 'as of right' fallback position for the additional pupils in this appeal.

### Appearance

21. Only a minority of houses in some of the streets in CCA have had front rooflights added to them, including in this part of Walpole Road. There is no evidence that rooflights at Nos.16 and 18 Walpole Road were installed after the Council adopted the CCA Character Statement. Although conservation style rooflights would be used and albeit near Nos.16 and 18, six rooflights in the front roof slope (two each at Nos.8, 10 and 12) would be a significant change to this part of each building and cumulatively in this part of Walpole Road. It would be at odds with objectives of the Council that rooflights 'should not be permitted on the front elevation'<sup>6</sup>. Though high up, partly obscured by projecting front gables or raised party firewall roof parapets, the rooflights would be noticed in passing public view, particularly from the opposite pavement in Walpole Road.
22. Altering a building by works which affect only its interior is not development that requires planning permission. But in this case demolition of some internal party wall is required to amalgamate the BHs into the BH — such as for interconnecting circulation routes, additional or reconfigured bedrooms and reconfigured indoor communal space. Some of these alterations have already been carried out and all of these works shown in the proposed plans are integral to the development applied for. It could not otherwise be achieved in the manner proposed and there is no evidence that these works would otherwise be contemplated or carried out. Though not in public view, the integrity of independent building floorplans has already been compromised and would be further eroded by the remaining internal alterations intended.
23. Two rear boundary walls have been demolished. These had divided the three back gardens of Nos.8, 10 and 12 when used as houses and defined the separate outdoor communal spaces for the BHs. The reconfigured outdoor communal space still has a back garden situation but the main orientation of this now proportionately wide, shallow single space encroaches perpendicular across all three plots combined. There is as a result little semblance of the original pattern and sequence of these back gardens. It is also out of kilter with most houses in this part of Walpole Road, the other streets in CCA and this area. Though not in public view, this distinctly different arrangement is in line of sight to upper floor rear window semi-public view from some adjoining houses.
24. The front elevation of the BH would otherwise be largely indistinguishable from the BHs or Nos.8, 10 and 12 when used as houses. A cogent visual impression of a sequence of three well-maintained terraced houses in this part of Walpole Road would be in-keeping in this streetscene and compatible with the other streets in CCA and this area. This would not, though, mitigate or compensate for unsympathetic internal and external change out of keeping with the prevailing form and layout of residential development in this part of Walpole Road, including a single large planning unit usurping three smaller discrete properties.

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<sup>6</sup> CCA Character Statement

25. Notwithstanding that some of the development has been carried out, in the event planning permission was granted for the BH and the internal and external works were completed, there is no apparent reason why Nos.8, 10 or 12 could not each be reinstated as houses (or as the BHs) should the current or a future owner(s) wish to do so. The appellant has suggested a condition to the intended effect that if it no longer required the BH, three houses and gardens would be reinstated. This might eventually restore an original as built character and appearance status quo at Nos.8, 10 or 12 but would not alleviate adverse impact meantime which could endure for years or be permanent.

#### Conclusion

26. Taking account of all the above, I find that there would be actual and perceived discordant expansion of Brighton College by influx of additional pupils as a consequence of the development applied for. Furthermore, incongruous alterations undermine important physical features of the BHs and Nos.8, 10 and 12 when previously used as houses. In combination with the boarding house at No.20, this part of Walpole Road would be unduly subsumed by a disproportionate residential institutional presence, significant in scale and extent. The absence of greater public visibility or comprehension does not justify intrinsic adverse impact in these regards. Other conditions suggested by the appellant or the Council would not make the development acceptable.
27. These outcomes would harm the character and appearance of this part of Walpole Road and the negative impact on the significance of this part of CCA would not preserve the character or appearance of CCA overall. Consequently, the development does not comply with CPP1 Policy SA6 or CPP2 Policy DM26; nor CPP1 Policies CP12 and CP15 or CPP2 Policies DM18 and DM26<sup>7</sup>. These policies include that development should make a positive contribution to sense of place and the visual quality of the environment, including in use, activity, alterations and dimensions. It should also respect urban grain and historic development pattern, such as plot sizes and conserve, preserve or enhance built heritage in Conservation Areas to guide local distinctiveness.

#### *Noise and disturbance*

##### Noise surveys

28. In the Noise Assessment (NA) ambient outdoor background noise levels have been measured at two places, each over approximately an hour, early to mid-afternoon on a winter weekday. There is no evidence that these snapshots are representative of other recent times of the day or night or at other times of the year. For instance, early morning or evening and weekends, including when children might be trying to sleep, windows might be open or gardens more likely used for normal domestic activity, such as relaxation or entertaining, especially in the summer. These can be quieter times, usually when residents do not expect significant intrusion and anticipate better quality of life.
29. The all day and night time surveys that are relied on are old, from 2012 and 2015. Road traffic noise and outdoor activity in Brighton College campus are no doubt still notable noise sources. But there is no evidence that these surveys reflect current all day and night time noise levels. They anyway only relate to one of the two recent survey locations — in front of No.10, not the

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<sup>7</sup> Not cited by the Council in its reasons for refusal in the decision notice but contained in its appeal questionnaire

rear of No.8 so further from the back gardens or likely some bedrooms in Nos.6 and 14 Walpole Road. These houses would adjoin the BH either side so these residents would potentially be most affected by noise or disturbance. This includes the effect of the reconfigured outdoor communal space on indoor use of these houses, such as speech in rooms or sleep disturbance including with open windows, but there is no evidence that the NA has considered this.

#### Outdoor activity

30. Notwithstanding the above, in the NA the calculated change in forecast noise levels — between use of the three permitted outdoor communal spaces for the BHs and use of the reconfigured space for the BH — is said to be a marginal increase and just noticeable difference, assuming reasonable normal domestic behaviour and use. On this basis, the resulting noise level would be below the threshold of a 'serious annoyance' World Health Organization (WHO)<sup>8</sup> critical health effect in the back gardens of Nos.6 and 14. However, this 'full occupancy' worst case is based on 29 people not the possible 31. So, on the face of it, both calculations are likely to under forecast each noise level. Even if only by a small amount it could be significant to the WHO critical health effect. Also, the keys in the existing and proposed noise contour maps<sup>9</sup> refer to an unspecified (time) 'day period' and there is no evidence a night period has been modelled.
31. With the dividing back garden walls in situ, occupants of each of the BHs were dispersed across each communal space, including a central part at No.10 with no boundary next to Nos.6 or 14. In the absence of clear explanation in the NA, I understand red asterisks in the noise contour maps to reflect the modelled distribution of occupants. In the existing map this is consistent with the BHs (19 people). However, the proposed map shows not only lower occupancy than in the BHs but significantly less people (15) than would be in the BH (29-31).
32. This apparent under representation of occupancy has also been distributed across the entire reconfigured space. But without dividing walls and because of internal connectivity in the BH, full or even less than full occupancy could occur towards either end of the reconfigured space, closer or next to Nos.6 or 14. These parts of this space include seating and tables for a potentially more sustained, less transient use. The private resident staff patios do not enclose all of the reconfigured space, including the main elevated, more open part which at either end abuts the back gardens of Nos.6 and 14. As a result, while reference sound values for voices would not change, there could be a concentration and intensity of activity, thus noise, in close proximity to No.6 and 14. This has not been contemplated in the NA.
33. But even using the noise levels that have been calculated in the NA, the existing noise contour map shows that part of the back gardens of Nos.6 and 14 already exceed WHO 'moderate annoyance' noise levels from reasonable normal domestic behaviour and use of the three permitted outdoor communal spaces for the BHs. The proposed map shows that even with the under forecast in occupancy distributed across the reconfigured space, moderate annoyance noise levels would encroach further across a more significant proportion of both of these back gardens.

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<sup>8</sup> World Health Organization Guidelines for Community Noise, April 1999

<sup>9</sup> NA Figures 5.6 and 5.7, page 9 (Figure 5.7 is erroneously labelled 'existing')

34. The BH would not be occupied by pupils for about a third of the year during school holidays (18 weeks). Nonetheless, use of the reconfigured outdoor communal space during term times would have adverse effects for a significant majority of the year when residents of the adjoining house would most likely be present. Even if this use did not occur regularly at these times, when it did there could be significant adverse noise impact.

#### Indoor activity

35. New 'adjacencies' would be formed by second floor (loft) dividing party walls in a twin bedroom next to No.6 and a single bedroom next to No.14. Sound insulating plasterboard stud linings on independent steel frames would be installed to the intervening walls in both bedrooms. Even if the loft in either of these houses is living accommodation this would achieve or exceed minimum Building Regulation requirements for airborne sound insulation between dwellings. As a result, reasonable normal domestic behaviour and use of these bedrooms would be inaudible to residents of Nos.6 and 14. Appropriate details could be secured by a condition, including to ensure that these works were carried out and maintained thereafter.
36. The proposed plans show increased occupancy of some bedrooms and different (to existing) use of some other rooms which all already share a party wall with No.6 or 14; in addition, some first floor dividing party wall removed between Nos.8 and 10 and between Nos.10 and 12. However, the same noise attenuation measures would be applied to all existing adjacencies with No.6 and 14. Despite removal of some ground floor dividing party wall between Nos.8 and 10 the centrally positioned reconfigured indoor communal space would have no adjacencies with party walls of Nos.6 or 14. Most of the intervening walls and rooms in Nos.8 and 12 would be retained and there would also be significant separation distances to rooms in either of these houses. Reasonable normal domestic behaviour and use of these rooms and this space would also cause no intrusion to residents of Nos.6 and 14

#### Other noise or disturbance

37. Excessively loud noise or disturbance from unreasonable behaviour or abnormal use of the outdoor communal space or inside the BH could be addressed by Brighton College requirements for pupil conduct<sup>10</sup>. The appellant's suggested Operational Management Plan<sup>11</sup> could be secured by a condition to formalise aspects of this, including hours and nature of use or activity and be supervised by the resident staff and a non-resident matron. The Council has planning powers to enforce conditions but I am not persuaded that it could easily monitor or enforce a restriction on the number of pupils using the outdoor communal space at any one time, as the appellant has further suggested. Nor am I convinced this could be routinely managed conveniently or effectively by college staff or therefore be relied on by this means alone.
38. The Council has environmental health powers to control statutory noise nuisance, such as might arise from excessively loud noise or disturbance from unreasonable behaviour. But the effect of noise on residential amenity as a planning consideration can occur at a lower level. There is no evidence that the measures outlined above would remedy moderate annoyance to the residents

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<sup>10</sup> Brighton College Boarding Handbook 2022-23

<sup>11</sup> Also referred to as, or including, a Noise Management Plan

- of Nos.6 and 14 from reasonable behaviour or normal use of the outdoor communal space (or other potential noise intrusion outlined earlier).
39. The residents in No.18 Walpole Road have not experienced sustained noise or disturbance living next to the boarding house at No.20. While there are some apparent similarities to the current appeal, there is no evidence about the internal or external layout of No.20, including the number and use of rooms next to No.18. I cannot, therefore, be certain that these circumstances are directly comparable or that there would be similar moderation of noise or disturbance over time in the BH.
40. The additional pupils in the BH could conveniently walk or cycle the short distance to Brighton College campus. While this would likely be observed by residents, there is no compelling reason why such activity would cause unacceptable intrusion by excessively loud noise or disturbance from unreasonable behaviour, including such as chatter or mobile phone use.
41. Even if pupils in the BH do not drive there is no mechanism before me to ensure this would remain the case given that the appellant otherwise anticipates the scope for some pupil car drivers<sup>12</sup>. The BH would have 6 available permits but there is no mechanism before me to ensure that only 4 would remain associated with the BH, as the appellant suggests, or to confirm no entitlement to additional permits. Subject to these provisos, and albeit I saw that residents on-street parking was well-used, there is otherwise no objective evidence that additional parking associated with the BH (such as pupil, parent, visitor or for college related activity) would overwhelm or displace residents on-street parking in Walpole Road or in nearby roads. This includes because there are public (paid for) short stay parking bays which could meet some of these other needs.
42. Whether additional permits would be issued having regard to on-street parking capacity, and the enforcement of parking (including unauthorised or inconsiderate parking) or waiting restrictions on the public highway, would be matters for the Council or Highway Authority (if not one in the same). While there would likely be some increased inconvenience from additional traffic generation, there is no objective evidence that it would cause an unacceptable impact on highway safety or a severe impact on the road network. The Council (or Highway Authority) did not object for these reasons. Measures already taken by the appellant include a Travel Plan. I am informed that amongst other things it staggers arrivals and departures, though it is not before me in evidence. It is also said to have been 'endorsed' by the Council but even if details have not been formally approved by a condition, they could be.
43. Some noise or disturbance during building works is inevitable and could be for a more sustained period if development projects in the area overlap, including at Brighton College. It would not, though, be permanent and a condition could control hours of working and secure details of a construction management plan to avoid adverse impact at the most anti-social times.
44. Like the BHs, the BH would not be a disparate house in multiple occupation or unmanaged (higher education) student accommodation. If planning permission was granted, use of the BH, including out of college term time, would be controlled by the description of development as a school boarding house

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<sup>12</sup> Brighton College Boarding Handbook 2022-23

(Use Class C2) and, if necessary, planning conditions which could be enforced by the Council. These restrictions would run with the land irrespective of who owned Nos.8, 10 or 12; unless or until altered with any necessary approval, in the first instance from the Council.

### Conclusion

45. In the circumstances outlined above, I am not satisfied the appellant has demonstrated that there would be no harm to the living conditions of the residents of Nos.6 and 14 Walpole Road, or other nearby residents, due to noise and disturbance from use of the single outdoor communal space. Subject to conditions, there would be no significant adverse impact on these residents due to noise or disturbance from indoor activity in the BH. Accordingly, the development applied for is as a whole contrary to CPP2 Policies DM20 and DM40. These include that development should not cause material nuisance, unacceptable loss of amenity or harm the quality of life of existing, adjacent or nearby residents.

### *Standard of pupil accommodation*

#### Bedrooms

46. The size of all bedrooms would meet or exceed the government's minimum gross internal floor area<sup>13</sup>. However, a significant proportion of floor area in the first floor front centre twin bedroom would be a separate entrance corridor, not part of the main confines of this room or pupil personal space (including bed, desk, chair and storage). All three second floor front single loft bedrooms would be restricted by the roof slope, each with progressively less than even 2.1m headroom for standing or movement. This would make use or activity less conducive in them, especially in two because the roof would impinge on more of these smaller rooms.
47. One personal space in each of two second floor twin loft bedrooms would be unduly hemmed in by the close proximity of circulation space and be inset tight into a recess, confined by walls on three sides with no window. A door opening in the other second floor twin bedroom would unduly interfere with use of a desk and chair, with this part of this room set into a small nook enclosed by walls on three sides with no window.
48. The first floor front centre twin bedroom would have two large sash windows with narrow side casements in a projecting bay. The three second floor front single loft bedrooms would have a reasonably large (for these smaller rooms) centrally placed west facing rooflight with low cill. All of these windows would receive afternoon sunlight as well as daylight, allow ventilation (including during inclement weather by partial opening or trickle vents) and provide meaningful external views from these bedrooms.
49. Each of the second floor twin loft bedrooms would be ventilated by a rear east facing dormer window and front west facing rooflight. A requisite proportion of each of these rooms as a whole would receive sufficient sunlight in the morning and afternoon, as well as daylight. But virtually all of one personal space in two of these rooms, and the part with desk and chair in the other, would not because of layout, window placement and irregular room shape preventing meaningful external views from these parts of these bedrooms.

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<sup>13</sup> Technical housing standards – nationally described space standard, March 2015 (notes added May 2016)

50. Pupils would use bedrooms mainly to sleep, wash, dress and store possessions with, as I saw, a high standard of decoration, fixtures and fittings. During most of the school day and weekend pupils would be elsewhere in Brighton College or absent if not boarding full time. But there would be significant periods when bedrooms could be also used for personal recreation during free time or private study<sup>14</sup>. There is no evidence about re-assignment of bedrooms during a pupil's occupation of the BH, so these conditions could endure for several years or at least for some time until re-assignment. Consequently, while used for any of these purposes some pupils would endure inadequate layout eroding practical use of some bedrooms. Moreover, some cramped personal or study space would also be unduly oppressive or gloomy and over reliant on artificial lighting. These conditions would significantly diminish useability.
51. Although there is no graded Inspection Report before me, the appellant considers that the bedrooms would be sufficient in size and provide good quality sleeping accommodation for pupils under education standards. But these standards I have been referred to acknowledge that they do not override the need for schools to comply with other relevant legislation, such as planning regulations<sup>15</sup>.

#### Indoor communal space

52. This would be a large conveniently shaped, linked sequence of centrally located open plan space, including a common room and kitchen. The efficient layout of fixtures and fittings would not inhibit its use for communal recreation or study and activity not met elsewhere in Brighton College. It would also allow convenient access to the outdoor communal space. The number or capacity of tables, chairs and bench seating intended would be sufficient for concurrent use by all pupils in the BH, in the event this was required or necessary.
53. It is not clear why the Council refers to apportioning this communal space on a m<sup>2</sup> floor area per pupil basis — without any evident comparison or relevant standard it is somewhat notional, as is its calculation of 2m<sup>2</sup> per pupil. Such measurement does not anyway recognise the scope there would be for practical, flexible use of the available floor area. This communal space is not, therefore, likely to be overcrowded in day to day use or unsuitable for its intended purposes.
54. It would not, though, provide the same conducive environment for individual personal relaxation or private study as a discrete bedroom, even if shared with one other pupil. Nor would the reconfigured outdoor communal space because it would also be available to all pupils. Accordingly, neither communal space would mitigate or compensate for the intrinsic deficiencies outlined above.

#### Conclusion

55. Considering all the above, I find that not all bedrooms would be of an acceptable standard with regard to layout, natural light or outlook. This would harm the quality of some pupils living experience. Although the indoor communal space would be of an acceptable standard in size and layout, the development as a whole does not comply with CPP2 Policy DM1. Amongst other things, this policy seeks to provide high quality residential accommodation.

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<sup>14</sup> Brighton College Boarding Handbook 2022-23, including example timetable

<sup>15</sup> Department for Education National Minimum Standards for boarding schools, September 2022 – page 4

## Heritage Balance

56. Brighton College is a successful and popular independent day and boarding school of national standing and long association with the city, including that it provides opportunity for some local children. The Council does not dispute the appellant's assertions that there is a waiting list for pupil places or that it considers it has a need for additional boarding accommodation. I have no reason to find otherwise in these regards. The BH would optimise efficient use of this building stock for education use and be conveniently located opposite the main campus. This would help to ensure sufficient school and post-16 places to widen choice in education, so comply with important policy objectives of the Council's development plan and the National Planning Policy Framework (NPPF)<sup>16</sup>, neither of which differentiates between public or private sector delivery. As is set out in the NPPF, I give great weight to the expansion of an education establishment, in this case Brighton College by the means proposed.
57. Subject to a condition there would be noteworthy ecology enhancements at the site, including for bats which is a protected species. The net gain in biodiversity would comply with relevant development plan and NPPF policies to conserve and enhance the natural environment. While also important, the outcomes in this respect would be modest so this consideration adds further limited weight in support of the appeal.
58. Set against this, the NPPF also includes aims to conserve the historic environment and to achieve well-designed places that are sympathetic to local character and provide distinctive places to live. Heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance. Objectives of the Council's relevant development plan policies are broadly consistent with these provisions of the NPPF.
59. To all intents and purposes, once completed the BH would have permanent adverse impacts on important features of residential development in this part of Walpole Road which contribute to the character and appearance of the area. This would detract from the way in which this development was originally established and has been experienced or understood, so erode the significance of this part of CCA. The harm to CCA overall would therefore be less than substantial and, as required by the NPPF, I give great weight to conserving the significance of this designated heritage asset irrespective of the level of harm.
60. There is, though, no evidence in this appeal about the number of prospective pupils on the waiting list seeking places and if they would all be boarders. Nor has a numerical shortfall in boarding accommodation been specified. Consequently, it is not clear to me how acute these considerations might be or to what extent the BH would remedy either. Nor is it evident to what extent amalgamating the BHs into the BH might reduce further incremental acquisition of houses otherwise intended for this purpose, as is suggested by the appellant (albeit that there is anyway no mechanism before me to ensure this). Assigning weight to these considerations would, as a result, be hopelessly speculative.
61. Accordingly, the appellant has not demonstrated that the harm to the significance of CCA has a clear and convincing justification. In these circumstances I consider that the public benefits of the BH do not outweigh the heritage harm.

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<sup>16</sup> Published 12 December 2024

## **Other Matters**

62. Planning is concerned with land use in the public interest so protection of private interests, such as effect of development on property value or saleability and damage during building works are not material considerations, rather matters for the respective parties. Acquiring property in advance or carrying out development in anticipation or expectation of planning permission, is also a private matter (and risk) for the party concerned, but permission can be sought retrospectively. It is for the Council to decide if it is expedient to take enforcement action to seek to remedy a breach of planning controls.
63. Whether additional Brighton College boarding accommodation could or should be provided elsewhere, or by other means, is not within the remit of this section 78 appeal. Nor are interested party concerns about the alleged apparent intent of the appellant in the development applied for and as it was progressed through the planning application process, including timing, and consultation by the Council. I am required to consider the individual planning merits of the development applied for on the basis of material considerations at the date of my decision. If planning permission was granted in this appeal, it would not automatically set a precedent for other similar development because that would also have to be considered on this same basis.

## **Planning Balance**

64. In addition to harm to the character and appearance of the area, including CCA, there would be adverse impact on the living conditions of some residents of adjoining houses and an unacceptable standard of bedroom accommodation for some pupils. Ensuring satisfactory outcomes in both of these respects should be the aim of new development from the outset. Objectives of the Council's relevant development plan policies in these regards are broadly consistent with provisions of the NPPF to promote well-being, with a high standard of amenity for existing and future users. I consider that both of these important considerations have substantial weight against the appeal.
65. Accordingly, even if the harm to the character and appearance of the area, including CCA, had clear and convincing justification, the benefits of the development would not outweigh this other harm, alone or in combination.

## **Conclusion**

66. The proposal conflicts with policies of the development plan. Other material considerations, including relevant provisions of the NPPF, do not indicate that the appeal should be decided other than in accordance with the development plan. Consequently, for the reasons given above the appeal does not succeed.

*Robin Buchanan*

INSPECTOR