



Appeal Decision

Site visit made on 19 November 2024

by P Terceiro BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 January 2025

Appeal Ref: APP/Q1445/W/24/3342733

407 Portland Road, Hove, Brighton & Hove BN3 5SG

- 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 Patel against the decision of Brighton & Hove City Council.
 - The application Ref is BH2023/02451.
 - The development proposed is the change of use from 5 bedroom C3 property to a 5 bedroom C4 HMO property.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The revised National Planning Policy Framework and the 2023 Housing Delivery test results were published on 12 December 2024. The parties were invited to provide comments on these matters and I have considered the representations received in my decision.

Main Issue

3. The main issue is the effect of the proposed development on the mix and balance of households in the local community.

Reasons

4. Located within a mixed-use area, the appeal site comprises a semi-detached dwelling, which has been extended to the side and to the rear.
5. Policy CP21 of the Brighton & Hove City Plan Part One 2016 (CP) supports mixed and balanced communities and seeks to ensure that a range of housing needs continue to be accommodated throughout the city. Applications for the change of use to a Class C4 (Houses in Multiple Occupation) or to a sui generis House in Multiple Occupation (more than six people sharing) will not be permitted where more than 10% of dwellings within a radius of 50m of the application site are already in use as Class C4, mixed C3/C4 or other types of House in Multiple Occupation (HMO) in a sui generis use. The appeal scheme is for a small HMO (Class C4) and therefore the provisions of this policy apply.
6. The Council has undertaken a mapping exercise and concluded that the percentage of neighbouring properties in HMO use within the radius area is of some 10.8%. Although this figure is disputed by the appellant, limited evidence has been provided in support of the appeal to contradict the Council's assessment on this matter. On this basis, I find that the proportion of HMOs in the area exceeds the 10% threshold limit set within Policy CP21.

7. The supporting text to CP Policy CP21 clarifies that this policy seeks to address the potential impact of concentrations HMOs upon their surroundings and to ensure that healthy and inclusive communities are maintained across the city, thereby continuing to provide opportunities for a balance of household types. As such, while the number of occupants within the property may be less were it to be used as an HMO instead of as a family home, the proposal would inevitably lead to an increase of HMO accommodation within an existing concentration and result in the loss of a family sized home.
8. Consequently, the proposal would have a harmful effect on the mix and balance of households in the local community, contrary to CP Policy CP21.

Other Considerations

9. The appeal site is subject to an Article 4 direction which came into force in June 2019 and removes permitted development rights for changes of use from residential dwellings (C3) to small HMOs (C4). Therefore, the site does not benefit from permitted development rights under Schedule 2, Part 3, Class L of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). Therefore, this consideration does not weigh in favour of the appeal proposal.

Other Matters

10. Whilst the appellant considers the site to be grossly underutilised, limited evidence has been provided to that effect. Given that the proposal would harm the mix and balance of households in the local community, it would not constitute an efficient use of land nor would it optimise the potential of this site.
11. I understand other developments have been granted by the Council in nearby areas. However, the examples at 6 York Road and 34A Boundary Road relate to certificates of lawfulness for an existing use and therefore not subject to the same planning considerations as the appeal scheme. Limited information has been submitted regarding the schemes at 179A Portland Road and 43 Waterloo Street, so I cannot be sure that they represent a direct parallel to the appeal proposal. In any event, I have determined the appeal on its individual merits on the basis of the evidence before me.
12. The appeal proposal would be located near local shops and services and would be served by public transport. Further, it would meet the needs of groups with a specific housing requirement. These matters, however, do not outweigh the harm to the mix and balance of households in the local community as I have identified above.

Conclusion

13. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. For the reasons given above the appeal should be dismissed.

P Terceiro

INSPECTOR