



Appeal Decision

Site visit made on 8 April 2025

by **C Coles MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 23 May 2025

Appeal Ref: APP/Q1445/W/24/3356666

90 and 92 Southall Avenue, Brighton & Hove, Brighton BN2 4BB

- 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 Terry Mole of Tangerine Property (Sussex) Ltd against the decision of Brighton & Hove City Council.
 - The application Ref is BH2024/01621.
 - The development proposed is change of use of a pair of semi-detached small houses in multiple occupation (C4) to large houses in multiple occupation (sui generis) with loft conversions and rear extensions.
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Decision

1. The appeal is allowed and planning permission is granted for change of use of a pair of semi-detached small houses in multiple occupation (C4) to large houses in multiple occupation (sui generis) with loft conversions and rear extensions at 90 and 92 Southall Avenue, Brighton & Hove, Brighton BN2 4BB in accordance with the terms of the application, Ref BH2024/01621, subject to the conditions in the attached schedule.

Main Issue

2. The main issue is the effect of the proposal on the mix and balance of the community in the area.

Reasons

3. The appeal properties are a pair of semi-detached houses with hipped roofs and single storey rear extensions. The properties are small houses in multiple occupation (C4). No 92 Southall Avenue (No 92) was granted permission for C4 use under appeal Ref APP/Q1445/W/20/3260967(3260967).
4. Policy CP21 of the Brighton and Hove City Plan Part One (Policy CP21) specifically addresses the issue of changes of use to planning use class C4, a mixed C3/C4 use or to a sui generis House of Multiple Occupation (HMO).
5. The policy restrictions moving between the use classes are the same as moving into one of the use classes. Policy CP21 prevents the change of use to any of the aforementioned use classes where more than 10 per cent of dwellings within a radius of 50 metres of the application site are already in use as Class C4, mixed C3/C4 or other types of HMO in a sui generis use.

6. 90 Southall Avenue (No 90) is compliant with Policy CP21. No 92 was allowed to change to C4 use on appeal 3260967 which took the density of properties within 50 metres of the site in use class C4, C3/C4 or sui generis use to 10.25%, 0.25% above the maximum allowed under Policy CP21. This decision was implemented.
7. The proposal would add an extra two occupants per dwelling but would not alter the density of properties in the aforementioned use classes which remains the same as when appeal 3260967 was determined. I have not been provided with evidence that the density figure of 10.25% permitted under appeal 3260967 and which is marginally above the policy threshold has caused significant harm to the mix or balance of the community in the area or that an additional two occupants per dwelling would cause any additional harm.
8. Accordingly, I conclude that the proposal would not have a materially adverse effect on the mix and balance of the community in the area. There would be compliance with the overall aims of Policy CP21 in this regard.

Other Matters

9. The Council raises no concerns with the design and appearance of the proposed development, the standard of accommodation, the impacts on neighbours or sustainable transport. I have no reason to take a different view. Although I have noted the comments from interested parties regarding noise, parking, light spill, overlooking and a loss of privacy, no substantive evidence has been presented on these matters and based on the information presented they do not form grounds to dismiss the appeal.
10. I have been provided with photos of upended bins outside the appeal site. However, the appellant has stated the bins were upended after particularly windy conditions and I note the appeal includes the creation of bin stores to the front garden to prevent this happening again. There are also landscaping and driveway improvements which should help mitigate some of the concerns raised regarding parking.
11. Interested parties also raise concern on how Policy DM7 of the Brighton & Hove City Plan Part Two (Policy DM7) was applied in determining the application, with specific reference to the percentage of dwellings in use as HMOs in the wider neighbourhood area, and also the wording of Policy CP21. However, I have no evidence the Council have misapplied Policy DM7 and my determination of this appeal must be informed by interpretation of policies as they are written.

Conditions

12. To provide certainty, a high standard of finish and to ensure satisfactory living conditions for occupants of the properties, I have attached conditions to ensure the development proceeds within a specified time frame, for materials to match those of the existing dwelling and based on the plans as submitted.
13. I have imposed conditions relating to parking provision and secure, covered cycle spaces to accord with the Council's parking standards and to encourage sustainable modes of transport.

Conclusion

14. For the reasons given above I conclude that the appeal should be allowed.

C Coles

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 449.E.01, 449.P.01, 450.E.01, 450.P.01, 450.EC.01, 450.EC.02, 450.PC.01, 450.PC.02, 450.PC.03.A
- 3) The materials to be used in the construction of the external surfaces of the extension shall match in material, colour, style, bonding and texture those used in the existing building.
- 4) The development hereby permitted shall not be occupied until the cycle parking facilities shown on the approved plans have been fully implemented and made available for use. The cycle parking facilities shall thereafter be retained for use by the occupants of, and visitors to, the development at all times.
- 5) The development hereby permitted shall not be used/occupied until the new/extended crossover and access has been constructed.