
Appeal Decision

Site visit made on 24 June 2025

by **P Burley BA(Hons) MPhil MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 8th July 2025

Appeal Ref: APP/Q1445/W/25/3361017

23 Portland Street, Brighton BN1 1RN

- 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 Nicholas Reid against the decision of Brighton & Hove City Council.
 - The application Ref is BH2024/01708.
 - The development proposed is the change of use from C3 to dual use C3/C4.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant has submitted a revised version of the existing and proposed plans which clarifies how much of the loft bedroom has a ceiling height of 2.3m. These drawings do not amend the appeal scheme and I am satisfied that no party is prejudiced by me accepting them.
3. The planning application form states that the change of use has already taken place and I have considered the appeal on that basis.

Main Issues

4. The main issues are whether the appeal scheme supports mixed and balanced communities and provides acceptable living conditions for the occupiers of the development with regard to internal living space.

Reasons

Mixed and Balanced Communities

5. Policy CP21 of Brighton & Hove City Council's City Plan Part One (2016) (CPP1) states that applications for a change of use to a mixed C3/C4 use will not be permitted where more than 10% 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. The Council has stated that the percentage of neighbouring properties in HMO use within the radius area is 13.16%. The appellant does not dispute this.
7. Policy DM7 of Brighton & Hove City Council's City Plan Part Two (2022) (CPP2) states that applications for a mixed C3/C4 use will be permitted where the proposal complies with Policy CP21 and all of the five criteria in Policy DM7 are met. Both the Council and the appellant have noted that the appeal scheme does

not satisfy criterion c) of Policy DM7 which relates to the creation of a continuous frontage of three or more HMOs.

8. Neither Policy CP21 nor Policy DM7 set out any exceptions by which a proposal that does not comply with the criteria in those policies could be found to be acceptable. Therefore, I consider that the appeal scheme conflicts with both policies.

Living Conditions

9. Another criterion of Policy DM7 requires compliance with the Nationally Described Space Standards (NDSS) which are set out in Policy DM1 of CPP2.
10. The Council has stated that if a room that is currently used as a study is used as a fourth bedroom it would be below the minimum space standard for a single bedroom. It has also said that it has not been provided with information to demonstrate that there is sufficient headspace for the bedroom in the roofspace.
11. The appellant has said that it is content for a planning condition to limit the occupancy of the HMO to a maximum of three persons and has provided examples of where planning permission has been granted for HMOs in Brighton subject to a condition which restricts occupancy.
12. It has also noted that 10.7m² of the bedroom in the roofspace would have a ceiling height of 2.3m which exceeds the minimum floor area of 7.5m² for a single bedroom in the NDSS.
13. Overall, I find that the appeal scheme would provide acceptable living conditions for the occupiers of the development with regard to internal space. In this respect it would not conflict with Policies DM1, DM7 and DM20 of CPP2 insofar as they relate to living conditions.

Other Matters and Planning Balance

14. The appellant has argued the breach of the criteria in Policy CP21 and Policy DM7 does not translate to demonstrable harm to local amenity. With reference to the potential issues noted in paragraph 2.57 of CPP2 and the property's history of operating as a small HMO with three tenants, the appellant has said that this demonstrates that any potential issues such as noise nuisance, parking pressure, or community disruption are minimal.
15. Whilst I acknowledge that the appeal site may have operated without demonstrable harm in respect of these considerations to date, this does not guarantee that such issues will not arise in the future.
16. Furthermore, these are not the sole considerations underlying the Council's policy; the supporting text to Policy DM7 also notes (paragraph 2.61 of CPP2) that a balance must be struck between maintaining HMOs and permitting reversion to C3 family homes given demand for additional family housing in the city.
17. On that basis I conclude that the appeal scheme conflicts with CPP1 Policy CP21 and CPP2 Policy DM7. The lack of harm to the living conditions of the occupants of the development is neutral in the overall planning balance. I do not consider there to be any material considerations of sufficient weight to outweigh the conflict of the appeal scheme with the development plan when taken as a whole.

Conclusion

18. For the reasons given above the appeal should be dismissed.

P Burley

INSPECTOR