



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: 8 July 2025

Appeal Ref: APP/Q1445/W/25/3364323

34 Park Road, Brighton BN1 9AB

- 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 Rivers Birtwell against the decision of Brighton & Hove City Council.
 - The application Ref is BH2024/03084.
 - The development proposed is change of use of a small house in multiple occupation (Class C4) to a large house in multiple occupation (*sui generis*) including a loft conversion.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the proposal would provide acceptable living conditions for the future occupiers of the dwelling in respect of the communal space available.

Reasons

3. Whilst Policy DM1 of Brighton & Hove City Council's City Plan Part Two (2022) (CPP2) is referred to in the reason for refusal, no evidence has been presented to explain why the appeal scheme conflicts with this policy.
4. The policy which is most important to the determination of this appeal is CPP2 Policy DM7 which states that permission will be granted for a change of use to a *sui generis* HMO when all five of the criteria listed in the policy are met. Criterion e) of part 2 of Policy DM7 relates to the adequacy of communal living space and cooking and bathroom facilities.
5. The area of dispute between the parties is whether the 26m² communal living space is appropriate in size for 7 occupants.
6. Although supporting text is not directly part of an adopted policy, it is part of the adopted development plan. The supporting text to Policy DM7 clearly sets out how this criterion will be assessed, noting that the minimum size of usable communal living space (which includes lounge, kitchen and dining areas) should be 16m², equating to 4m² per person, assuming a small 4-person HMO. For HMOs accommodating more residents, proportionately more communal lounge space should be provided. Other factors such as the usability and configuration of the space will also be taken into account.

7. Therefore, a minimum of 28m² of communal living space should be provided for a 7-person HMO unless material considerations suggest that a deviation from such an approach is appropriate.
8. The appellant states that the appeal scheme would include new areas for storage and an additional shared bathroom and that the assessment of the quality of accommodation must consider these additional benefits in the planning balance. However, the supporting text to Policy DM7 explains that insufficient communal areas increase the time that occupants must spend in their individual bedrooms and can therefore hinder social cohesion within the property. Having regard to that justification, I do not consider that storage space or bathrooms should have a bearing on the sufficiency of communal areas.
9. When I visited the appeal site I observed the usability and configuration of the space and I do not consider that it would function effectively if the dwelling was enlarged to accommodate an additional resident because there would not be sufficient space.
10. Accordingly, I consider that the appeal scheme would not provide sufficient communal living space in both quantitative and qualitative terms and therefore conflicts with CPP2 Policy DM7.
11. The appellant has stated that because the Council does not have a sufficient supply of housing land to meet local needs, paragraph 11(d) of the National Planning Policy Framework (the Framework) is engaged. This means that relevant development plan policies are out-of-date and the 'tilted balance' in favour of granting planning permission should be applied to all decision-taking in relation to applications for the provision of housing.
12. It has then concluded that as the reason for refusal does not identify any policies in the Framework that provide a reason for refusing the appeal scheme, paragraph 11(d)(ii) dictates that permission should be granted unless adverse impacts of doing so would "*significantly and demonstrably outweigh the benefits*".
13. However, in cases where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites, paragraph 11(d) of the Framework is engaged when the policies which are most important for determining the application are out-of-date. Part 2 e) of Policy DM7 does not relate to or affect the supply of housing land and, therefore, I do not consider it to be out-of-date as a consequence of the Council's five-year housing land supply position.
14. Accordingly, paragraph 11(d) is not engaged in this case and I conclude that the appeal scheme conflicts with Policy DM7. Whilst I acknowledge that the additional accommodation would be a benefit of the appeal scheme, not least given the Council's five-year housing land supply situation, it does not follow that a shortfall in housing land supply should result in developments that do not adhere to prevailing standards which are intended to ensure the acceptability of living conditions. Therefore, I find that the appeal scheme does not accord with the development plan when taken as a whole.
15. Even if paragraph 11(d) was engaged, paragraph 135 of the Framework says that decisions should ensure that developments create places with a high standard of amenity for existing and future users. In that context, I consider that the adverse impact of providing accommodation which does not meet minimum space

standards and which would not represent a satisfactory living environment significantly and demonstrably outweighs the benefit of one additional HMO bedspace.

Conclusion

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

P Burley

INSPECTOR