
Appeal Decision

Site visit made on 26 May 2015

by Katie Peerless Dip Arch RIBA

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 9 June 2015

Appeal Ref: APP/Q1445/A/14/2229022
15 Bernard Road, Brighton BN2 3ER

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Paul Griffin against the decision of Brighton & Hove City Council.
 - The application Ref BH2013/04307, dated 18 December 2013, was refused by notice dated 18 June 2014.
 - The development proposed is change of use to HMO.
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Decision

1. The appeal is dismissed.

Main Issue

2. I consider the main issue in this case is the effect of the proposed development on the character of the surrounding community, with particular reference to the need to ensure a mixed and balanced community, and local amenity.

Site and surroundings

3. The appeal property is a terraced house in a residential street where there are a mixture of single family dwellings and houses in multiple occupation (HMOs), many of which are rented out to students. The house at present contains 4 bedrooms for rent to individual occupants, who share a sitting room, kitchen, bathroom and another, separate WC.
4. There is a small garden to the rear from which a sizeable storage area, sited under the rear ground floor room and suitable for bicycles, can be accessed. There is unregulated on-street car parking outside the property. The house has been registered as an HMO with the Council and has been granted the appropriate licence.

Reasons

5. The Brighton and Hove Local Plan 2005 (LP) contains policies HO14 which notes that such accommodation is needed but must be to an acceptable standard and QD27 which seeks to protect the amenities of nearby occupants where a change of use is proposed. The LP is now out of date and is in the process of being replaced by the Brighton City Plan which has been the subject of public examination and is now awaiting the Inspector's Report.

6. This emerging Plan contains policy CP21, which relates to student accommodation and, in part B (ii), notes that applications for a change of use of a single dwelling to an HMO will not be permitted where more than 10% of dwellings within a 50m radius of the application site are already in such a use. This is to ensure that a suitable range of housing types remain available and to maintain mixed and balanced communities.
7. This part of the policy has not been subject to any objections and is in conformity with the aim of delivering a mix of housing types to suit local demand, as explained in paragraph 50 of the National Planning Policy Framework. Other modifications to the City Plan have taken place since the appeal decisions quoted by both the parties in support of their cases were issued and it is now closer to adoption than it was at those times. The examining Inspector has been in consultation with the Council about the various potential modifications to the emerging Plan, but policy CP21 was not included in these discussions. I therefore consider that the policy should be afforded significant weight when reaching my decision.
8. The Council has adopted a direction under Article 4 of the Town and Country Planning Act 1990 (as amended) which requires a change between Class C3 (use as a dwellinghouse) and Class C4 (use as a dwellinghouse by not more than 6 residents as a HMO) to be authorised by a grant of planning permission.
9. The conversion of the appeal property from a family house to a 'small' HMO would, in this particular case, have no perceptible impact on the appearance of the area and, because it is for 4 only people, it is unlikely to result in a level of occupation that would prove disturbing to other residents. However, it is also the case that a grant of planning permission for the proposed 'small' HMO could lead to the use of the property by more than the 4 residents currently proposed, as it would authorise the building to be used for up to 6 individuals, which could prove disturbing for nearby occupiers. Consequently, although there appear to have been no particular problems arising from the use by 4 people, this could change in the future and the Council would have no control over the higher occupancy level.
10. I am also concerned that to allow the conversion would undermine the Council's objective of maintaining a balanced supply of family dwellings and accommodation for rent to individuals. The emerging Local Plan takes account of the most up-to-date information on housing need, including that for the student population of the City. The relatively recently¹ adopted Article 4 Direction confirms that it has been considered necessary to retain planning controls over the loss of family housing to HMO uses. Although the appellant states that there is a shortage of affordable accommodation for individuals who cannot afford to rent a whole house, the above facts seem to me to indicate that this is not necessarily the case.
11. The Council have carried out an assessment of the number of HMO uses in the 50m radius of the appeal site as referred to in policy CP21 and, from the plan submitted by the Council this shows that the numbers considerably exceed the 10% limit set by policy CP21, being over 19%. Although this is a relatively broad brush approach, the percentage figure has nevertheless been set taking the most recent information on housing need into account.

¹ April 2013

12. I therefore conclude that the use as an HMO would undermine the aims and objectives of policy CP21 and have a cumulative effect, further increasing the existing imbalance in the mix of available housing types.
13. I note that the Council intend to keep the 10% limit under review and it may be that the situation on housing need will change in the future. However, at present, the proposal does not accord with the most recent emerging policy and I consider that this material consideration indicates that planning permission should not be granted for the proposal. Therefore, for the reasons given above I conclude that the appeal should be dismissed.

Katie Peerless

Inspector

