
Appeal Decision

Site visit made on 10 August 2016

by **R M Pritchard MA PhD MRTPI**

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

Decision date: 23rd August 2016

Appeal Ref: APP/Q1445/W/16/3149843

30 Newmarket Road, Brighton, BN2 3QF

- 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 Ms Angela Gail Brooks against the decision of Brighton & Hove City Council.
 - The application Ref BH2015/04196, dated 20 November 2015, was refused by notice dated 19 April 2016.
 - The development proposed is to change the use from a six bedroom small house in multiple occupation (Use Class C4) to a seven bedroom house in multiple occupation (*Sui generis*).
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Decision

1. The appeal is dismissed.

Main Issues

2. I consider the main issues to be whether the proposed change of use would -
 - i. Contribute to too great a concentration of Houses in Multiple Occupation (HMOs) in the surrounding area; and
 - ii. Provide an adequate standard of accommodation for its future occupants.

Reasons

3. The appeal site is a mid-terrace, two storey property but with additional accommodation in the loft and basement. It currently comprises six bedrooms – two on each of the three upper floors - two shower rooms on the ground and first floors and a kitchen, living and dining rooms in the basement. The property is located in a residential area to the north of Brighton city centre. Surrounding properties are a mix of family dwellings and what, in recent years, has been an increasing proportion of Houses in Multiple Occupation (HMOs). The latter appears to be related to the appeal site's proximity to Brighton University which is around a ten minute walk away.
4. The appeal property is currently in use as a 'small' six bedroomed HMO (Use Class C4), although at the time of my visit, it had recently been refurbished to a good standard but was unoccupied. The proposed development would change the use of the basement living room to a seventh bedroom thereby converting the property to a large HMO (Use Class *Sui generis*).

5. Policy CP21 of the Brighton and Hove City Plan deals with the issue of changes of use to HMOs, including those HMOs, as proposed here, which fall outside a specific Use Class Order and are thereby *sui generis*. The policy will not permit such changes of use where more than 10% of dwellings within a radius of 50 metres of the application site are already in HMO use. Policy CP21 has been reinforced by an Article 4 Direction, adopted in April 2012, which requires such proposals to obtain planning permission, and which applies to the appeal site. Both Policy CP21 and the Article 4 Direction are aimed at securing balanced communities and have been accompanied by the objective of locating student housing in those areas of the city which are most suitable in terms of accessibility and its impact on the amenity of surrounding area.
6. The Council has undertaken a survey of the area adjacent to the appeal site. It found that 38% of properties within 50 metres are already in use as HMOs. The proposed development is thereby contrary to Policy CP21.
7. Notwithstanding this conflict, the appellant emphasises the convenience of the appeal site's location, the good quality of the conversion and the marginal nature of the increase in occupation proposed. However, the Council argues that it is exactly this type of incremental intensification that eventually leads to an over-concentration of HMOs with associated problems of more activity, increased noise and disturbance, and greater pressures on parking and refuse collection. These issues are among those matters which Policy QD27 of the Local Plan identifies as among the criteria against which proposals for development must be assessed.
8. Furthermore, the Council has directed me to a recent appeal decision (PINS Ref APP/Q1445/C/16/3145546) at a property very close to the appeal site where a colleague dismissed an appeal against an enforcement notice. Among her principal grounds for dismissing the appeal were '*...that the siting of HMOs in Newmarket Road is not well balanced with existing single family dwellings*'.
9. In addition to its issue with the greater concentration of HMOs in the surrounding area, the Council has also raised the quality of accommodation that would result from the loss of the basement living room. The effect of that loss would be to restrict the communal living area to the single dining room. This has a floor area of under 14m² but its practical area is restricted by factors such as the stairs and access to the galley kitchen – which is too narrow for a table and chairs. The Council questions whether such a room can be sufficient for a property housing seven adults.
10. I agree and I also accept the Council's argument that, whilst the property may meet the minimum space and other environmental health standards for HMOs, the planning system has a wider responsibility towards ensuring that the quality of accommodation will provide more than the bare minimum for its occupants. The appellant claims that the second living room in the basement is rarely used but that claim runs somewhat counter to the emphasis on letting the property to a group of friends, whom I would suggest may often wish to eat and socialise together. The remaining dining room will be tight in accommodating all the occupants of the house at the same time. I therefore conclude that the additional bedroom would lead to a deterioration in living conditions sufficient to be contrary to Policy QD27.
11. I give some weight to the marginal impact of the proposal such as might cause me to consider that this factor alone could be insufficient to warrant the

dismissal of the appeal. However, when combined with the inadequate standard of accommodation that would result, I conclude that the proposal's conflict with both Policies CP21 and QD27 is sufficient to justify dismissing the appeal.

Conclusion

12. For the reasons given above I conclude that the appeal should be dismissed.

R M Pritchard

INSPECTOR

